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European Social Charter

European Committee of Social Rights

Conclusions XX-2 (2013)

(“THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA”)

Articles 11, 12 and 13 of the 1961 Charter

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter and the Committee as well as statements of interpretation and general questions formulated by the Committee appear in the General Introduction to the Conclusions.¹

The 1961 European Social Charter was ratified by "the former Yugoslav Republic of Macedonia" on 31 May 2005. The time limit for submitting the 6th report on the application of this treaty to the Council of Europe was 31 October 2012 and "the former Yugoslav Republic of Macedonia" submitted it on 1 February 2013. On 6 November 2013, a letter was addressed to the Government requesting supplementary information regarding Article 13. The Government did not submit a reply.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 4 of the Additional Protocol).

"The former Yugoslav Republic of Macedonia" has accepted Articles 11, 12 and 13 from this group.

The present chapter on "the former Yugoslav Republic of Macedonia" concerns 11 situations and contains:

- 8 conclusions of conformity: Articles 11§1, 11§2, 11§3, 12§2, 12§3, 13§2, 13§3 and 13§4;
- 3 conclusions of non-conformity: Articles 12§1, 12§4 and 13§1.

The next report from "the former Yugoslav Republic of Macedonia" deals with the accepted provisions of the following articles belonging to the thematic group "Labour rights":

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 2 of the Additional Protocol),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

The deadline for the report was 31 October 2013.

¹The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).

Article 11 - Right to protection of health

Paragraph 1 - Removal of the causes of ill-health

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

Right to the highest possible standard of health

The Committee notes from WHO that life expectancy at birth stood at 74,51 in 2009 and 75,1 in 2010. According to the report, life expectancy of men was 72,50 and of women 76,7 in 2011. The EU-27 average that same year stood at 79.

Infant mortality (per 1 000 live births) decreased from 11,74 in 2009 to 7,5 in 2011. The maternal mortality rate was 4,2 per 100 000 births in 2009, increased to 8,2 in 2010 and decreased against to 4,1 in 2011. The principal causes of death are still the cardiovascular diseases, malignant neoplasms and respiratory diseases.

In accordance with the Law on Health Care, protection is based on the unity of the preventive, diagnostic and rehabilitation measures and on the principles of accessibility, rationality and continuity. It includes the basics of the health insurance system, the rights and responsibilities of the providers of health care services, the organisational structure and the utilisation of the health care resources.

The Committee takes note of strategies and action plans adopted, including national strategies on HIV and TB control, sexual and reproductive health, safe motherhood etc. The Strategy for the Development of an Integrated Health Information System (2006-2012) is implemented through the realisation of projects for informatisation of the health sector, establishment of integrated health information system and implementation of a system for electronic health cards.

According to the report, with a view to improving the quality of health protection and the conditions of stay in healthcare facilities, the Ministry of Health purchased new modern medical equipment for the public health institutions. The construction of 17 new infirmaries in the rural areas where previously there was no health institution has been finalised.

Right of access to health care

In its previous conclusion (Conclusions 2009) the Committee took note of the healthcare system. It refers to its conclusion under Article 12§1 and notes that in accordance with the Law on Health Insurance (Official Gazette No. 67/09) all citizens are covered by healthcare.

In reply to the Committee's question regarding waiting lists, the report states that this issue is regulated by the Law on Health Insurance. In practice, there are waiting lists as it is not possible for all patients to use the same health service at the same moment, but no data are available on the waiting times for some medical procedures. Towards the end of 2011, a pilot project was launched aimed at the introduction of an electronic keeping of the list of appointments and interventions through the web application which is maintained by the Ministry of Health. According to the report, it is planned to adopt a Rulebook which will regulate the keeping of the electronic lists of appointments and interventions and the project to be implemented in all health facilities for the use of the specialist services. The Committee wishes to be informed on average waiting times for specialist and hospital treatment.

The Committee also wishes to be informed of the measures taken to strengthen patients' rights, notably with a view to lodging complaints and receiving compensation for injuries caused by the health care system.

According to the report, in 2011 the public spending on public health programmes was in the amount of €20,7 million compared to 2008 when it stood at €9,7 million. The Committee asks the next report to provide such figures as a percentage of GDP.

In its last examination of this provision, the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. The Committee requests that information be included on this issue in the next report.

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in The former Yugoslav Republic of Macedonia the practice requires transgender people to undergo medical treatment (including surgery) as a condition of legal gender recognition". In this respect, the Committee refers to its question on this matter in the General Introduction.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§1 of the 1961 Charter.

Article 11 - Right to protection of health

Paragraph 2 - Advisory and educational facilities

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

Education and awareness raising

In its previous conclusion (Conclusions 2009) the Committee asked for the description of the national legislation on public information, education and participation in the health field. It also asked if and how smoking and alcohol prevention, reproductive health and sex education, road safety and promotion of healthy eating were incorporated into school syllabuses.

As regards public information and awareness-raising and the development of a sense of personal responsibility, the Committee notes that the Law on Public Health is a guiding document. As regards sexual and reproductive health, in 2009, the professional health institutions organised health education lectures, individual counselling for prevention of risky sexual behaviour, contraception advice and a series of workshops for the vulnerable groups of women. A number of activities were implemented as regards educational and promotional materials on sexually transmitted infections, including training of 1 000 teachers, 26 professionals to work with Roma population as well as others trained as field counsellors and health workers who work in the voluntary and confidential counselling and testing centres. The Committee also takes note of the Health Strategy 2020.

As regards health education in schools, the Committee notes from the report that education of students regarding the issues relating to smoking, alcohol, drugs, reproductive and sexual health, safety on the roads and healthy food is a very carefully treated issue. The Committee takes note of the subjects taught at schools, such as 'getting acquainted with the environment'. "Life Skills" is the subject which acquaints students with the meaning and importance of a healthy diet, prevention of diseases, the meaning of sexual health, harassment and abuse, prevention of smoking and alcohol. The obligatory subject 'biology' teaches the students about risks and negative influences of abuse of drugs, alcohol as well as reproductive and sexual health.

Counselling and screening

According to the report counselling and testing services for the population are carried out through the activities of the public health programmes which are adopted each year in the framework of the Law on Health Care. Free preventive examinations are provided within the programme 'health for all' at 68 points in rural areas, including blood pressure and blood sugar checks as well as free counselling on health, diet and healthy lifestyles. The programme for systematic medical checks of the pupils and students provide free health checks for students. Regular immunisation is also made in accordance with the immunisation schedule. During the systematic checkups the general medical examination is performed as well as laboratory tests.

The document 'the Health Protection of the Population in 2011' identifies high blood pressure, tobacco, alcohol and high blood cholesterol as the most common risk factors for the occurrence of cardiovascular diseases, which are, in turn, the most common causes of death. In this context, the Committee takes note of the preventive measures introduced with a view to detecting cardiovascular diseases as well as prostate and breast cancers. 10 Centres for Public Health and the institute for Public Health organise education and awareness-raising forums on

topics such as the prevention of non-infectious diseases, nutrition and health benefits of regular physical activity.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§2 of the 1961 Charter.

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

Healthy environment

Water – the Committee notes a sampling of drinking water was undertaken in urban areas for the period 2008-2011. The analysis of the data from the water supply showed that the sanitary and hygienic condition of water supply facilities and health safety of the analysed water samples is generally satisfactory. The Agency for Food and Veterinary is regularly informed of all invalid drinking water samples.

Air- the Law on Health Care, as amended in 2009 regulates the measures for avoiding, preventing or reducing the harmful effect of pollution of the ambient air on human health and the environment as a whole. Under the Law on Ambient Air Quality (as amended in 2010) the Ministry of Environment is charged to prepare a national plan for the protection of ambient air. According to the report, the state monitoring system for ambient air quality is in accordance with the requirements of EU regulations. The national plan provides for maintenance of ambient air in the zones where the limit values of quality are not exceeded, improvement in the zones where the limit values are exceeded and the adoption of necessary measures for minimisation and complete removal of negative effects on the ambient air quality.

Noise -in accordance with the Law on protection from environmental noise, limit values are defined for noise level with the Rulebook of 2008 on the limit values that are in accordance with the recommendations of the WHO.

Asbestos- the Committee notes that the project (2010-2011) funded by the EU on 'building capacity for banning and abandoning asbestos in the Western Balkans countries has been implemented, which covered the study of the current situation, basic information on asbestos, work on asbestos materials and removal of asbestos waste. The Practical guide was developed on the best practice to prevent or minimise the risk when working with the materials that contain asbestos for employers, workers and labour inspectors.

Tobacco, alcohol and drugs

Smoking remains one of the most important risk factors for health for the major part of population in view of the fact that the diseases of the cardiovascular system and malignant neoplasms remain the leading causes of mortality. In 2008 a global research on the use of tobacco in youth showed that the rate of smokers was the highest in Skopje and the lowest in rural areas.

The amendments to the Law on Protection Against Smoking were adopted in 2011 (Official Gazette No 100/11) with the aim of introducing more restrictive measures. It also regulates advertising and sponsorship. The Committee takes note of the results of the inspection controls pertaining to the application of the Law on the Protection against Smoking.

Alcohol- the sphere of health protection against alcohol abuse is regulated by the Law on Health Care and the Law on Trade. The Law on Trade introduced a ban on selling alcohol to minors, a general ban on selling alcohol in the period from 19:00 to 06:00hrs, registering and licensing for retail of alcohol and other measures. The market inspection and the public health institutions are working in this sphere, and are obliged to keep health records and carry out promotional and

preventive activities. As a result of the restrictive measures, the data indicate a decreasing trend in alcohol consumption.

The Committee wishes to be informed of the trends in tobacco, alcohol and drug consumption.

Immunisation and epidemiological monitoring

In accordance with the recommendations of the WHO, the programme for the elimination of measles, rubella and prevention of congenital rubella infection in the 2010-2015 was proposed. The programme was adopted by the Commission for Infectious Diseases within the Ministry of Health in November 2010, with an implementation period of the envisaged activities 2010-2015.

The Institute for Public Health (IPH) in cooperation with the Centres for Public Health (CPH), the Ministry of Health (MH) and the Commission for Infectious Diseases within the Ministry of Health are developing strategies and operational plans for newly emerged infectious diseases and their threat to the health of the population, which provide for coordinated activities at all levels of health protection and involving the local self-government.

The ALERT – system for surveillance of infectious diseases aimed at a rapid response in case of an epidemic, which started to function in 2006 in three pilot institutes, in 2008 has expanded coverage and as of 2009 the ALERT system continued to function as a legally regulated system implemented by the general practitioners, supported by the Ministry of Health and controlled by the State Sanitary and Health Inspectorate and the Centres for public health. The system provides for the possibility for fast alarming and fast detection of epidemics.

Vaccination is mandatory and free for all children aged 0-18. Vaccination is also performed in case of epidemiological or medical indications. Mandatory vaccination is performed against tuberculosis, hepatitis type B, paralysis, diphtheria, tetanus, pertussis, measles, rubella, mumps. As of September 2008 the vaccination against diseases caused by haemophilus influenza type B was initiated, and in October 2009 the vaccine against diseases caused by the human papilloma virus (HPV) was introduced as a continuous mandatory vaccination.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§3 of the 1961 Charter.

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

The Committee takes note of the information contained in the report submitted by “the former Yugoslav Republic of Macedonia”.

Risks covered, financing of benefits and personal coverage

According to the report, social security encompasses the social security, social protection and child protection systems and continues to cover all traditional risks- healthcare, sickness, injury, invalidity, old age, survivors, maternity, family, unemployment as well as social exclusion and social assistance.

As regards *healthcare*, the Committee notes that with the Law on amendment to the Law on Health Insurance (Official Gazette of RM No. 67/09) all citizens who did not have a prior basis for mandatory health insurance are included in the health insurance system through a special programme whereby budget funds are provided for payment of contributions for mandatory health insurance. The categories of persons concerned include the temporarily unemployed persons while receiving unemployment benefit. The Committee further notes that with the amendments to the Law on Health Insurance dated April 2011 all persons who do not have other basis for health insurance shall be covered and exercise the right to health in insurance in the Health Insurance Fund and they will no longer be obliged to register as unemployed persons in the Employment Service Agency. They shall exercise the right to health insurance as citizens. The Committee thus notes that all citizens are covered by healthcare.

As regards *old age*, the Committee notes from the report that the new Law on Pension and Disability Insurance came into force in August 2012 which clarifies and defines the rights arising from the introduction of the second and third pillars of the pension system. It also contains provisions that strengthen the criteria for exercising the right to disability pension and establishing the level of disability. Furthermore, an integrated system of legal regulation of the data on years of pensionable service was established, the existing legal solutions related to the second pension pillar have been harmonised and the percentage used in defining the pension has been harmonised with the amount of contribution. The Committee notes that the new Law came into force outside the reference period. It asks to be informed about the implementation of this law, in particular as regards the personal coverage of the old-age branch and the minimum level of pension benefit.

The Committee notes from the report that in 2011 there were 280 891 beneficiaries of old-age pension while the number of workers stood at 489 608. The Committee recalls that with a view to establishing whether the personal coverage of social security risks is adequate, it needs information on the total number of insured persons out of the total active population (comprising all employed and unemployed persons).

As regards *unemployment* branch, the Committee notes from the report that in 2011 there were on average 24 213 beneficiaries of unemployment benefit. The Committee asks what is the total number of insured persons out of the total active population.

The Committee notes that no information is provided regarding the personal coverage of sickness and maternity branches.

The Committee holds that if the requested information concerning the personal coverage in case of income-replacement benefits (sickness, old-age and unemployment) – i.e. the total number of insured persons out of the total active population, is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Adequacy of the benefits

The Committee notes from another source¹ that at-risk-of-poverty rate in 2010 stood at 60 885 denars annually or 5 073 per month (€83).

As regards the minimum level of *unemployment benefit*, the Committee notes from the report that the Law on Employment and Insurance in case of Unemployment does not provide for minimum guaranteed lower limit of the amount of the financial benefit but it only defines its upper limit, which cannot be more than 80% of the average monthly net wage in the country. The financial benefit is paid in the amount of 50% of the average monthly net salary of the employee. The Committee further notes from MISSCEO that unemployment benefit is paid as a percentage of reference earnings: 50% of reference earnings for workers who have the right to benefit for up to 12 months, while for workers who are entitled to benefit for longer than 12 months the benefit equals 50% of reference earning in the first year of entitlement and 40% of reference earnings in the remaining time period.

In reply to the Committee's question, the report states that according to Article 67 of the Law on Employment and Insurance in case of Unemployment the unemployed person is not entitled to unemployment benefit when the labour relation has been terminated due to unjustified absence from work for 3 successive working days (breach of the working order and discipline).

In its previous conclusion the Committee held that the situation was not in conformity with the Charter as the minimum duration of unemployment benefit (one month) was too short. It notes from the report in this regard that in view of the unfavourable situation in the country and in cooperation with a number of international institutions, analysis and evaluations have been conducted with a view to shifting the focus from passive to active measures. In defining the duration of unemployment benefit, the proportionality between the minimum and maximum periods of the benefit was taken into account. According to the report, the number of persons who have received the benefit in question for one month only remains low at 0.3% of the total beneficiaries of the benefit. The report states that additional research and analysis will be conducted in the forthcoming period to determine the impact of such measures on the rate of unemployment as well as the financial effects, whereupon adequate solution will be proposed and implemented.

The Committee holds that the situation which it has previously found not to be in conformity with the Charter has not changed. Persons who have been in uninterrupted working relation of 9 months receive unemployment benefit for one month. Therefore, the Committee reiterates its previous finding of non-conformity on the ground that the the minimum duration of unemployment benefit of one month is too short.

As regards *old-age pension* benefit, its amount cannot be more than 80% of 2,7 times the average national salary. As regards the minimum level of pension, the Committee notes from MISSCEO that in 2011 for beneficiaries with pension service of more than 35 years (men) and more than 30 years (women) it was set at the level of 41% of the national average net wage for all employees (6 817 denars (€111) or 85% of the minimum wage). For beneficiaries with pension service of more than 25 years (man) and more than 20 years (woman) it was set at the level of 38% of the average net wage for all employees. For beneficiaries with pension service up to 25 years (man) and up to 20 years (woman) it is set at the level of 35% of the average net wage for all employees in the country (5 796 denars (€95)).

In 2010, for beneficiaries with pension service of more than 35 years (men) and more than 30 years (women) it was set at the level of 41% of the national average net wage for all employees in the republic (7 468 50 denars (121€)).

As regards the minimum amount of *sickness benefit*, the Committee notes from MISSCEO that workers compensation for the first 30 days is paid by the employer from his funds, whereas afterwards it is paid by the Health Insurance Fund. The compensation rate during sickness leave may vary among employers, but it shall be at least 70% of the basis. The amount of the compensation cannot exceed three times the national average monthly salary paid in the previous year.

The Committee infers from the above information that in 2011 the net minimum wage amounted to 8 050 denars (€131) while the net average wage stood at 16 626 denars (€ 272). The Committee observes that at-risk-of-poverty threshold value is only available for the year 2010. As regards the statutory minimum wage it was introduced in 2011.

As regards the minimum level of unemployment benefit, the Committee estimates that in 2011 the minimum wage earner would get 50% of 8 050 denars in unemployment benefit (€66) and 70% of 8 050(€ 92) in sickness benefit. As regards the minimum pension, full pension stood at €111. In 2010 the full pension, as 41% of the average salary amounted to 121€.

The Committee notes that all figures are above the at-risk-of-poverty threshold. However, since the information at the Committee's disposal comes from different sources and may, therefore, not be comparable, the Committee requests that the next report provide the following information for the reference period:

- the at-risk-of-poverty threshold
- the statutory minimum wage
- the national average wage.

The Committee holds that if this information is not provided, there will be nothing to establish that the situation is in conformity.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§1 of the Charter on the ground that the minimum duration of unemployment benefit is too short.

¹http://www.stat.gov.mk/PrikaziSoopstenie_en.aspx?rbrtxt=115

Article 12 - Right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the International Labour Convention No. 102

The Committee takes note of the information contained in the report submitted by “the former Yugoslav Republic of Macedonia”.

The Committee notes that The former Yugoslav Republic of Macedonia accepted Parts II to VI, VIII and X of the ILO Convention No. 102. Part VI is no longer applicable as a result of the ratification of Convention No. 121.

The Committee notes that the second report on Convention No. 102, in addition to the initial report, was submitted by "the Former Yugoslav Republic of Macedonia" in 2011.

The Committee notes that the ILO Committee of experts on the application of conventions and recommendations (CEACR) raised several direct requests (at the 101st ILC session in 2012) concerning unemployment, old age and maternity branches. It wishes to be informed of the answers to these requests.

The Committee recalls that in order to assess whether the social security system stands at a level at least equal to that necessary for the ratification of the ILO Convention No 102, it has to be provided with thorough information regarding the branches covered, the personal scope and the level of benefits offered. The Committee refers to its conclusion under Article 12§1 where it reserves its position as regards the situation in relation to the personal coverage and the minimum levels of income-replacement benefits (sickness, old-age and unemployment, maternity).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in “the former Yugoslav Republic of Macedonia” is in conformity with Article 12§2 of the 1961 Charter.

Article 12 - Right to social security

Paragraph 3 - Development of the social security system

The Committee takes note of the information contained in the report submitted by “the former Yugoslav Republic of Macedonia”.

In its previous conclusion (Conclusions 2009) the Committee asked about the development of different branches of social security. In particular, it asked about the nature of the changes, the reasons given for them and the effects of these changes on the personal coverage as well as the minimum levels of benefits.

The Committee takes note of the reform of the *old-age branch* which was already described in the previous conclusion, namely the introduction of second and third pillars. As regards the first pillar, according to the report it guarantees the payment of the part of old age, disability and survivor’s pensions as well as the lowest amount of pension (minimum pension). As regards the second pillar (the mandatory fully funded pension insurance), it is based on capitalisation of assets and covers private mandatory pension funds and pension companies that manage them. 35% of pension contributions are transferred to the private mandatory pension fund (second pillar) while 65% remain with the Pension Fund of the Former Yugoslav Republic of Macedonia. As regards the third pillar (voluntary fully funded pension insurance), it provides additional savings for old age and thus increases the financial security in old age. Furthermore, it is an opportunity to establish occupational pension schemes. According to the report, by the end of 2011 approximately 12 000 persons became members of the voluntary fully funded pension insurance.

According to the report, with the implementation of the second pillar and the operationalisation of the third pension pillar the whole reform was completed with the adoption of the Law on the payment of pensions and pension benefits (Official Gazette No 11/2012). In this regard the Committee refers to its conclusion under Article 12§1 and asks how this reform has affected the overall personal coverage of the pension system and the minimum level of pension benefit.

As regard *healthcare*, the Committee also takes note of the amendments. The Law on the Amendment to the Law on Contributions for Mandatory Social Insurance (Official Gazette No 67/09) stipulates that the temporarily unemployed persons, while receiving financial benefit for insurance in case of unemployment, shall have a mandatory health insurance and the Employment Service Agency shall be responsible for the payment of the contributions on their behalf for mandatory health insurance for these persons. Moreover, the Committee notes that with the amendments to the Law on Health Insurance dated April 2011 all persons who do not have other basis for health insurance shall be covered and exercise the right to health insurance in the Health Insurance Fund and they will no longer be obliged to register as unemployed persons in the Employment Service Agency. They shall exercise the right to health insurance as citizens. With the transfer of the health insurance to the competence of the Health Insurance Fund, the Employment Service Agency shall be released from the burden of the huge technical work related to the exercising the right to health insurance for unemployed persons.

The Committee notes that with these amendments the health and old age branches of social security were raised to a higher level. The Committee wishes to be informed about the amendments to other branches and their impact on personal coverage and minimum levels of benefits.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in “the former Yugoslav Republic of Macedonia” is in conformity with Article 12§3 of the 1961 Charter.

Article 12 - Right to social security

Paragraph 4 - Social security of persons moving between States

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

Equality of treatment and retention of accrued benefits (Article 12§4a)

Right to equal treatment

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

In its previous conclusion, the Committee asked if and how equal treatment was guaranteed for non-nationals legally residing or working in "the former Yugoslav Republic of Macedonia" and not covered by bilateral agreements. In this regard, the report indicates that the Law on pension and disability insurance provides that the country's own nationals and nationals of other countries, who are employed or self-employed in the State, are all covered by the mandatory pension and disability insurance. In addition to pension and disability insurance, the other benefits (i.e. health insurance, healthcare, maternity, rights in case of accidents at work and occupational disease, temporary unemployment) are covered by bilateral social security agreements that "the former Yugoslav Republic of Macedonia" has signed with the following States: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Netherlands, Germany, Luxembourg, Montenegro, Poland, Romania, Serbia, Slovenia and Turkey. "The former Yugoslav Republic of Macedonia" also maintained bilateral agreements negotiated at the time of the Socialist Federal Republic of Yugoslavia with the following States Parties: United Kingdom, France, Italy, Norway and Sweden. The Committee welcomes the efforts made in this respect, however, there are still no agreements with Albania, Andorra, Armenia, Azerbaijan, Cyprus, Estonia, Finland, Georgia, Greece, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova, Portugal, the Russian Federation, Spain and Ukraine. Therefore, the Committee concludes that the situation is not in conformity with Article 12§4 of the Charter on the ground that equal treatment in matters of social security entitlement is not guaranteed to the nationals of all other States Parties.

In respect of the payment of family benefits, the Committee previously considered that, under Article 12§4, any child resident in a country is entitled to these benefits on the same basis as the citizens of the country concerned. Whoever the beneficiary may be under the social security scheme – the worker or the child – the States Parties are obliged to guarantee, through unilateral measures, effective payment of family benefits to all children resident on their territory. In other words, the requirement for the child concerned to reside on the territory of the state concerned is compatible with Article 12§4 and with its Appendix. However, as not all the countries apply such a system, the States which impose a child residence requirement are under an obligation, in order to secure equal treatment within the meaning of Article 12§4, to conclude within a reasonable period of time bilateral or multilateral agreements with those states which apply a different entitlement principle.

According to MISSCEO, family benefits are paid to foreign nationals provided that their children are lawfully resident in "the former Yugoslav Republic of Macedonia". The report indicates that the bilateral agreements mentioned above cover also family benefits except for Austria and Germany. However, there are still no bilateral agreements covering family benefits with the following States: Albania, Andorra, Armenia, Austria, Azerbaijan, Cyprus, Estonia, Finland,

Georgia, Germany, Greece, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova, Portugal, the Russian Federation, Spain and Ukraine. Therefore, the Committee concludes that the situation is not in conformity with Article 12§4 of the Charter on the ground that equal treatment with regard to access to family allowances is not guaranteed in respect of nationals of all other States Parties.

Right to retain accrued benefits

The Committee notes that the retention of accrued social security benefits is guaranteed in all the agreements concluded by "the former Yugoslav Republic of Macedonia". In its last conclusion, the Committee asked if nationals of States Parties not bound by bilateral agreements may also retain accrued social security benefits. Given that the report does not reply to this question, the Committee concludes that the situation is not conformity with Article 12§4 of the Charter on the ground that it has not been established that the retention of accrued benefits for persons moving to a State Party which is not bound by an agreement with "the former Yugoslav Republic of Macedonia" is guaranteed. Should the next report continue to be silent in this respect, there will be nothing to establish that the situation is in conformity with Article 12§4 of the 1961 Charter.

Right to maintenance of accruing rights (Article 12§4b)

The Committee has previously noted that the accumulation of employment periods and the pro rata calculation of benefits are guaranteed where a bilateral agreement has been negotiated. In this regard, the Committee asked if and how the principle of aggregation of accruing social security rights is implemented for nationals of all other States Parties that are not bound by bilateral agreements with "the former Yugoslav Republic of Macedonia". Given the silence of the report, the Committee concludes that the situation is not conformity with Article 12§4 of the Charter on the ground that it has not been established that nationals of States Parties which are not covered by an agreement with "the former Yugoslav Republic of Macedonia" can accumulate periods of insurance or employment completed in other countries. Should the next report continue to be silent in this respect, there will be nothing to establish that the situation is in conformity with Article 12§4 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§4 of the 1961 Charter on the grounds that:

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;
- it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

Article 13 - Right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

Types of benefits and eligibility criteria

The Committee notes that a new Law on Social Protection (No. 79/09) was adopted in 2009. According to the report "social protection is provided through a system of measures, activities and policies to prevent and overcome the basic social risks to which the citizens are exposed throughout life, to reduce poverty and social exclusion and to strengthen their capacity for their own protection". The law regulates the right to social and medical assistance benefits, including the following:

- social financial assistance for a person capable of work and without material means of subsistence;
- permanent financial assistance (persons incapable of work including the elderly);
- financial assistance to a person who until 18 years of age had the status of a child without parental care;
- financial assistance to a mother who gave birth to a fourth child;
- financial benefit for assistance and care by another person;
- one-off financial assistance or assistance in-kind;
- salary compensation for part-time work due to care for a child with physical or mental disabilities;
- financial assistance for social housing; and
- the right to medical assistance.

The Committee notes that the basic benefits remain similar to those provided by the previous Law on Social Protection and refers to the descriptions contained in the previous conclusion (Conclusions XIX-2) as well as to the detailed information in the report under examination.

In reply to the Committee's question concerning withdrawal of social assistance benefits in case of refusal to fulfill the work obligation (active employment measures, seasonal work, public works) the report indicates that the withdrawal is temporary and that the right can be exercised anew "after the expiry of [a] certain period or the fulfillment of the conditions laid down by law". The Committee requests clarification as to the length of the period in question and recalls that reduction or suspension of benefits may not deprive a person of his/her means of subsistence.

With respect to the obligation to participate in public works for up to five days a month the report explains that such works are organised in the local community in the interest of all citizens and it is an obligation that is not restricted to recipients of social assistance but applies to all citizens "in accordance with their knowledge and capacities in order to apply the principle of solidarity". The Committee understands that refusal to participate in public works may lead to a suspension of benefits and refers to its question above.

The report states that in 2009 8.2% of the elderly over the age of 65 was entitled to "permanent financial assistance". The elderly may also be entitled to one-off assistance and assistance in-kind. As far as the level of the permanent financial assistance is concerned, the Committee

refers to its remarks below. The Committee takes note of the detailed information on social services available to the elderly (day care, institutional and extra-institutional care, etc.).

The situation as regards healthcare for people without resources has changed. Following 2011 amendments to the Law on Health Insurance persons without other insurance cover are no longer required to register as unemployed with the Employment Agency in order to receive health insurance, but may simply submit a "Statement for realized income" on a prescribed form which entitles them to health cover. The Committee understands that the health insurance contributions for the persons concerned, including those who fall out of the social assistance scheme for various reasons, are financed from the state budget. The Committee requests confirmation as to whether this understanding is correct.

Level of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to the report (and MISSCEO) the social financial assistance for persons capable of work and without means of subsistence in 2010 amounted to MKD 2 140 (€ 34.8) per month for a single person household and in 2011 to MKD 2,174 (35.3 €). The amount corresponds to 13.5% of the average net monthly salary of an employee. The full amount is paid during the first two years of receipt, but is reduced to 70% in the following three years and to 50% after that. Persons who are incapable of work and without means of subsistence are entitled to permanent financial assistance which for a single person household amounted to MKD 3 210 (52.2 €) per month in 2010 and to MKD 3,261 in 2011 (53.1 €).
- Additional benefits – while noting the existence of various other benefits such as financial assistance for social housing, one-off assistance or benefits in kind, it does not appear that these are paid to all recipients of basic benefits. However, the Committee notes the possibility of granting subsidies for electricity expenses and other public utilities and ask that the next report provide estimates of total benefits, basic and supplementary, paid to a typical single person household.
- Poverty threshold: the report does not contain information on poverty threshold values, but the Committee notes that the State Statistical Office has published information on the at-risk-of-poverty threshold calculated according to the Eurostat methodology.¹ The threshold published for 2010 and re-calculated by the Committee at 50% of median equivalised income correspond to MKD 4,228 (68.8 €) per month. The Committee recalls that in the meaning of Article 13§1 of the Charter the assistance is appropriate where the monthly amount of assistance benefits – basic and supplementary – paid to a person living alone is not manifestly below the poverty threshold.

While noting that the amounts of social assistance benefits have increased steadily (in particular because they are adjusted annually for inflation) during the reference period, the Committee holds that social financial assistance for a single person household are not adequate as they fall manifestly below the poverty threshold. This also applies to permanent financial assistance paid to the elderly without resources.

Right of appeal and legal aid

Decisions pertaining to the granting of social assistance can be appealed in the first instance to the Ministry of Labour and Social Policy, in the second instance to the Department of Social Protection in said ministry and in the third instance to the Administrative Court. The Committee understands that this Court has the characteristics of an independent body in conformity with the requirements of Article 13, but it asks that the next report confirm this understanding. It also wishes to receive information on the nature and number of social assistance-related complaints lodged before this Court.

The report states that possibilities for legal aid are provided by the Law on Free Legal Aid (No. 161/09). Under this law financially vulnerable persons, including social assistance recipients, may receive legal advice and assistance provided by citizens' associations or lawyers in a special register kept by the Ministry of Justice.

Personal scope

According to MISSCEO the granting of basic social assistance benefits, and notably social financial assistance, is conditional on the recipient having a permanent residence permit and the report appears to confirm this information (except in respect of one-off assistance which is open to both permanent and temporary residents). The report explains that permanent residence permits are awarded to persons with a minimum of five years of continuous residence in the territory on the basis of a temporary residence permit. The Committee holds that this amounts to an excessive length of residence requirement which is not in conformity with the Charter.

Conclusion

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 13§1 of the Charter on the grounds that

- social assistance benefits are not adequate as they fall manifestly below the poverty threshold;
- certain benefits such as social financial assistance and permanent financial assistance are granted to nationals of other States Parties only subject to an excessive length of residence requirement.

¹<http://www.stat.gov.mk/pdf/2012/4.1.12.83.pdf>

Article 13 - Right to social and medical assistance

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

The Committee notes the detailed information on new anti-discrimination legislation adopted in 2010 (Law on Prevention and Protection against Discrimination, No. 50/2010). According to the report, the concept and content of the law is based on current international norms and standards as they follow from instruments adopted by the United Nations, the Council of Europe and the European Union. The new legislation applies to a very broad range of fields including social protection, health insurance and health care.

The Committee asks that the next report contain up-dated information on whether being in receipt of social assistance may lead to a diminution of political or (other) social rights. Political rights include for example access to posts in the civil service and the right to vote and as far as social rights are concerned it is recalled, for example, that confining eligibility for social services to holders of identity documents or certificates of residence in a particular location may give rise to a violation of this provision of the Charter.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 13§2 of the 1961 Charter.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

In its previous conclusion the Committee asked whether services and institutions were provided with sufficient means to give appropriate advice and personal help to persons in need. The report replies in a general manner that within the framework of the National Programme for Development of Social Protection 2011-2021 measures are taken to improve social prevention and to strengthen the capacity of social workers ("professionals") to provide advisory services and personal assistance. Furthermore, since 2010 a programme for basic training of social workers has been in operation with special focus on expert advisory work and personal assistance.

The report also provides information on the opening in 2011 of a Counselling Office which is tasked with meeting the needs of women and children who are faced with domestic violence. Moreover, information is provided on the establishment of a number of Roma Information Centres which carry out information activities aimed at the Roma population, including information and advice on rights and obligations concerning social assistance.

The Committee asks that the next report contain up-dated information on the resources allocated to counselling and advisory services in the meaning of Article 13§3, including public expenditure, number of staff and number of beneficiaries, as well as on geographical coverage of services.

Finally, with respect to equal treatment of nationals of other States Parties the report states that the advice and personal help foreseen by this provision of the Charter are available on an equal footing to foreigners, both permanently and temporarily resident, pursuant to Section 15 of the Law on Social Protection. Having noted that Section 15 provides that those who are temporarily resident "exercise rights of social protection under the conditions laid down by this or other law and international treaties and conventions", the Committee asks that the next report specify what are the conditions in question and to what services or benefits do they apply.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 13§3 of the 1961 Charter.

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

In its previous conclusion the Committee asked whether lawfully and unlawfully present foreigners without resources were entitled to emergency social and medical assistance. The report does not directly address the situation of persons who are lawfully present in the territory without residing there (tourists, students, etc.). It states however that foreigners with "temporary residence and regulated entry" into the territory and who are in a condition of "social risk" are entitled to one-off assistance in accordance with Section 15 of the Law on Social Protection. The Committee requests clarification as to whether this provision also extends to those who are lawfully present in the territory without residing there so as to meet any need for shelter, food and clothing (or whether such need is met pursuant to other provisions of the law).

It follows from the report that emergency medical care for foreigners is provided on the basis of social insurance agreements which have been concluded with many European countries. Where there is no such agreement and where the person concerned is unable to pay, the Committee understands that the emergency care will ultimately be financed by the state budget (unless the amount can be recuperated from the country of origin of the person concerned). The Committee asks the next report to confirm whether this understanding is correct.

Finally, with respect to unlawfully present foreigners the report states that they are placed in the Reception Centre for Foreigners (*Gazi Baba*) where they are given food, clothing, shelter and medical assistance until such time as they can be returned to their country of origin. The Committee asks whether there are situations where this category of persons may receive emergency social assistance outside the reception centre.

The Committee notes the information on social and medical assistance for refugees, asylum-seekers and persons with subsidiary protection. It refers in this respect to its statement of interpretation and general question on stateless persons (see General Introduction).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 13§4 of the 1961 Charter.