



January 2010

European Social Charter (revised)

European Committee of Social Rights

Conclusions 2009 (ALBANIA)

Articles 3 and 11
of the Revised Charter

This text may be subject to editorial revision.

Introduction

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

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions¹.

The Revised European Social Charter was ratified by Albania on 14 November 2002. The time limit for submitting the 4th report on the application of this treaty to the Council of Europe was 31 October 2008 and Albania submitted it on 31 October 2008.

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

- 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 23)
- the right to be protected against poverty and social exclusion (Article 30).

Albania has accepted Articles 3 and 11 from this group.

The applicable reference period was:

- 1 January 2005 – 31 December 2007 for Article 3 and 11.

The present chapter on Albania concerns 7 situations and contains:

- 5 conclusions of non-conformity: Articles 3§1, 3§2, 3§3, 11§1 and 11§2;

In respect of the other 2 situations concerning Articles 3§4 and 11§3, the Committee needs further information in order to assess the situation. The Government is therefore invited to provide this information in the next report on the articles in question.

The next Albanian report deals with the accepted provisions of the following articles belonging to the third 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 21),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right to dignity at work (Article 26),

- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- the right to information and consultation in collective redundancy procedures (Article 29).

The deadline for the report was 31 October 2009.

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

Article 3 - The right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

The Committee previously deferred its conclusion on the grounds there was little information demonstrating that Albania had a coherent national policy on occupational safety and health and the working environment.

According to the current report new legislation in the field of health and safety at work has been adopted (See Conclusion under Article 3§2), the Labour Inspectorate has been restructured, and a National Strategy on Health and Safety at work is being drafted. But at present there is still no clearly defined policy or strategy. The Committee recalls that Article 3§1 requires states to formulate, implement and periodically review a coherent policy on occupational health and safety in consultation with the social partners.

Therefore the Committee finds that the situation is not in conformity with Article 3§1 of the Revised Charter.

Conclusion

The Committee concludes that Albania is not in conformity with Article 3§1 of the Revised Charter on the ground that there is no clearly defined policy on occupational health and safety.

Article 3 - The right to safe and healthy working conditions

Paragraph 2 - Issue of safety and health regulations

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

Content of the regulations on safety and health at work and protection against dangerous substances and agents

New legislation on occupational safety was adopted, in particular Decision of the Council of Ministers No 100 of 3 February 2008 on "Dangerous Substances". However the Committee needs further information on the content of the legislation, in particular which risks are covered by the legislation. It also needs further information on the dangerous substances and agents covered by legislation in particular whether asbestos and ionising radiation are covered. The Committee again asks for this information.

Protection of temporary workers

The Committee previously asked whether appropriate rules or measures have been introduced to take account of the special nature of fixed-term and temporary employment contracts, so as to ensure that the workers concerned enjoy the same standard of health protection in the workplace as other employees. It again asks the next report to provide information on whether temporary workers are given the

information and training necessary to carry out their work in a safe manner on the same terms as permanent workers (especially upon recruitment, or in the event of the introduction of new equipment or technology).

Personal scope of the regulations

The Committee had previously asked whether the self employed were covered by health and safety legislation. The report states that there is no special treatment for the self employed but the new draft legislation on health and safety includes them. The Committee concludes from this information that the self employed are not covered by the health and safety at work legislation currently in force and therefore concludes that the situation is not in conformity with Article 3§2 of the Revised Charter in this respect.

Consultation with employers' and workers' organisations

The Committee again requests information on consultation with the social partners on matters relating to health and safety at work.

Conclusion

The Committee concludes that Albania is not in conformity with Article 3§ 2 of the Revised Charter on the ground that the self employed are not covered by health and safety at work legislation.

Article 3 - The right to safe and healthy working conditions

Paragraph 3 - Provision for the enforcement of safety and health regulations by measures of supervision

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

Occupational accidents and diseases

According to the report the number of occupational accidents reported in 2007 was 110 and the number of fatal accidents 28. The Committee previously pointed out that both in absolute terms and in comparison with other States the number of occupational accidents recorded was very low and asked for the Governments comments. It found no information on this point; therefore again it asks for the Government's observations, in particular whether the low numbers are due to an under reporting of accidents.

Activities of the labour inspectorate

The number of employees of the Labour Inspectorate is currently 167 . The Committee asks how many of these employees are actual inspectors. It noted previously that there were 110 inspectors and wishes to know whether the number has increased.

Legislation provides that Labour Inspectors may enter any work premise without prior notification at any time of the day and night. If inspectors find violations of the health and safety rules, they may order the immediate suspension of work and/or impose a

fine. The amount of the fine that may be imposed has been increased to 50 times the minimum wage.

In 2007 8976 work places were visited by Labour Inspectors covering 127 505 employees (in both the private and state sector) and 277 fines were imposed. The active labour force is 1 373 000. The Committee considers that these figures are very low and asks for information on all measures taken to increase the number of visits and the number of employees covered.

The report seems to suggest that the total number of violations detected amounted to 277, i.e. equal to the number of fines. The Committee considers this to be very low and considers that such a rate indicates that there is no efficient inspection system.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 3§3 of the Revised Charter on the ground that there is no efficient labour inspection system.

Article 3 - The right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

The Decision of the Council of Ministers No 742 dated November 2003 obliges all enterprises employing more than 15 persons to have an occupational doctor. However according to the report inspections carried out by the Labour Inspectorate have shown that in 2007 of 921 enterprises with more than 15 employees inspected only 13.46% had in place an occupational health service, the figure for 2008 was 25.2%.

The Committee notes the percentage of enterprises employing an occupational doctor is low but also notes that it is increasing. It asks for further information on measures being taken to ensure compliance with the relevant legislation. It also requests information on what is required from employers who employ less than 15 persons. The Committee recalls that States parties are required to promote the progressive development of occupational services. It means that "a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources" (*mutatis mutandis* Autism Europe v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, § 53). Therefore, if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose.

Conclusion

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

Article 11 - The 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 Albania.

State of health of the population – General indicators

The Committee asks for the next report to identify the legal sources in which the right to health protection is set out.

The Committee notes that the Ministry of Health has prepared a series of regulations, instructions and documents with a view to bringing mother and child services together under the same umbrella within the health infrastructure. It asks for the next report to indicate whether these texts have been adopted and provide information on their content.

To comply with Article 11§1, the main indicators of a country's state of health must reflect an improvement and not be too significantly below the average for all European countries (Conclusions 2005, Lithuania).

Life expectancy and principal causes of death

Average life expectancy at birth in 2006 was 69 for men and 73 for women¹ (the EU 27 average in 2004 was 75.2 for men and 81.5 for women²). The Committee notes that the situation in Albania falls significantly behind that in other European countries with regard to life expectancy and that the situation has even deteriorated for women since the last conclusion (Conclusions 2007).

The mortality rate in 2006 was 6 per 1,000 inhabitants³ (the EU 27 average in 2006 was 6.48 per 1,000 inhabitants⁴). According to the report, the main cause of death (one in two) is blood circulation problems. The Committee asks for information in the next report on measures taken to combat this problem.

Infant and maternal mortality

Infant and maternal mortality are an avoidable risk which States must address if they are to comply with Article 11§1 of the Charter (Conclusions 2005, Moldova). Consequently, indicators related to infant mortality and maternal mortality should be as close as possible to zero (Conclusions 2005, Lithuania).

The infant mortality rate amounted in 2006 to 15 deaths per 1,000 live births⁵ (the EU 27 rate in 2006 was 4.7 per 1,000⁶). The main cause of infant mortality is respiratory illnesses. The Committee considers this situation to be a matter of concern although it notes that the situation has been steadily improving (decreasing from 37 deaths per 1 000 live births in 1990 to 22 in 2000). It asks the Government to provide it with the information on its policy to combat infant mortality and on the results achieved.

As concerns the maternal mortality rate, the Committee notes that it amounted to 92 deaths per 100,000 live births in 2005⁷, which is one of the highest rates in Europe significantly behind that of other European countries with regard to the maternal mortality rate. The Committee notes that, despite the request in its previous conclusion (Conclusions 2007), the report does not provide any information on

policies to combat maternal mortality. There is nothing therefore to demonstrate that adequate measures have been taken to reduce the maternal mortality rate.

Health care system

Access to health care

The health care system must be accessible to everyone (Conclusions 2007, Albania). Restrictions on the application of Article 11§1 may not be interpreted in such a way as to impede disadvantaged groups' exercise of their right to health. This interpretation is the logical consequence of the non-discrimination provision in Article E of the Charter, in conjunction with the substantive rights of the Charter (Conclusions XVII-2 and 2005, Statement of interpretation on Article 11, §5). The Committee pointed out that this approach calls for a strict interpretation of the way the personal scope of the Charter is applied in conjunction with Article 11 on the right to protection of health, particularly with its first paragraph on access to health care (Conclusions 2007, Albania).

As the report fails to describe the health care system despite the various questions put in this respect in the previous conclusion (Conclusions 2007), the Committee asks again to be provided with a description of the health system, including the private sector.

The right of access to health care requires that the cost of health care should be borne, at least in part, by the community as a whole (Conclusions I, Statement of Interpretation on Article 11; Conclusions XV-2, Cyprus). This also requires that the cost of health care must not represent an excessively heavy burden for the individual. Steps must therefore be taken to reduce the financial burden on patients, in particular those from the most disadvantaged sections of the community (Conclusions XVII-2, Portugal). The Committee reiterates that it examines the conformity of the situation in the light of Parliamentary Assembly Recommendation 1626 (2003) on "the reform of health care systems in Europe: reconciling equity, quality and efficiency", which invites member states to take as their main criterion for judging the success of health system reforms effective access to health care for all, without discrimination, as a basic human right (Conclusions XVII-2 and 2005, Statement of Interpretation on Article 11, §5).

In its previous conclusion (Conclusions 2007), the Committee asked whether access to health care is guaranteed equally to Albanian nationals and foreign nationals residing and working lawfully in Albania alike. As the report does not provide this information, the Committee therefore reiterates its request.

The right of access to health care also requires that arrangements for access to care must not lead to unnecessary delays in its provision. The management of waiting lists and waiting times in health care are considered in the light of Committee of Ministers Recommendation (99)21 "on criteria for the management of waiting lists and waiting times in health care" (Conclusions 2007, Albania). In its previous conclusion (Conclusions 2007), the Committee asked for information about the management of waiting lists and waiting times in health care. It notes that the report does not provide such information. It therefore reiterates its request and points out that if the next report does not provide the necessary information, there will be nothing to show that the situation in Albania is in conformity with Article 11§1 of the Charter.

The State health care budget in 2006 represented 6.2% of GDP⁸.

Health care professionals and facilities

The right of access to health care requires that the number of health care professionals and equipment must be adequate (Conclusions 2007, Albania).

There were 3 hospital beds per 1,000 inhabitants in 2006⁹ (the average number of hospital beds in Europe (EU 27) was 5.90 per 1,000 inhabitants in 2005¹⁰). The Committee recalls that, in the case of hospitals, it refers to the objective laid down by WHO for developing countries of 3 beds per 1 000 population (Conclusions XV-2, Addendum, Turkey).

With regard to psychiatric hospitals, according to the report, there were 840 beds in 4 hospitals, amounting to 0.29 beds per 1,000 inhabitants (the average number of beds in psychiatric hospitals in Europe (EU 27) was 0,60 per 1,000 inhabitants in 2005¹¹).

With regard to physicians, there were 3,626 physicians in 2006, equating to 12 physicians per 10,000 inhabitants¹², which is one of the lowest ratios in Europe¹³.

In 2006, there were 1,035 dentists (equating to 3 per 10,000 inhabitants) and 1,173 pharmacists (equating to 4 per 10,000 inhabitants)¹⁴, as well as 14,637 nurses and midwives in 2006 (equating to 47 per 10,000 inhabitants)¹⁵, and overall these are lower ratios than in other European countries.

The Committee would like to know what measures are planned to increase the number of hospital beds and health professionals, in particular physicians.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 11§1 of the Revised Charter on the ground that it has not been demonstrated that adequate measures have been taken to reduce the maternal mortality rate.

¹ WHO

² Eurostat

³ UNICEF

⁴ Eurostat

⁵ WHO

⁶ Eurostat

⁷ WHO

⁸ *Ibid*

⁹ *Ibid*

¹⁰ Eurostat

¹¹ *Ibid*

¹² WHO

¹³ *Ibid*

¹⁴ *Ibid*

¹⁵ *Ibid*

Article 11 - The right to protection of health

Paragraph 2 - Advisory and educational facilities

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

Health education

Public information and awareness-raising

Public education, communication and awareness-raising about the dangers of tobacco are part of the aims of Act No. 9636 of 6 November 2006 on the protection of health against tobacco products.

Act No. 9518 of 18 April 2006 on the protection of minors from alcohol use includes measures to raise awareness among young people about alcohol-related problems.

As to drugs, the report states that the 2004-2006 National Strategy against Drugs concentrated on raising public awareness about the risks and harmful consequences of using psychotropic substances as well as providing prevention, cure and rehabilitation services. The media were used to pass on information.

The Public Health Institute provides counselling on sexually transmitted diseases including HIV/AIDS, intended especially for drug users.

Consumer protection and the prevention of food-related health problems are the focus of particular attention, illustrated by the adoption of Food Act No. 9863 of 28 January 2008. This Act provides for risk assessments and establishes who the main people are to be involved in risk assessment, communication and management processes. Responsibility for devising policies, strategies and legislation on food safety and quality lies with the Ministry of Agriculture's Directorate for Food Safety and Consumer Protection (DSUMK).

The Committee asks for up-to-date information in the next report on the implementation of the legislation referred to and the specific information campaigns designed to inform the public about alcohol, illegal drugs, tobacco, food and sexuality.

Health education in schools

Health education must continue throughout school life and form part of school curricula. The Committee considers that, after the family, school is the most appropriate setting for health education because the general purpose of education is to impart the knowledge and skills necessary for life. It refers in particular to Committee of Ministers Recommendation No R(88)7 on school health education and the role and training of teachers. Health education in school shall cover the following subjects: prevention of smoking and alcohol abuse, sexual and reproductive education, in particular with regard to prevention of sexually transmitted diseases and AIDS, road safety and promotion of healthy eating habits (Conclusions XV-2, Belgium).

In its previous conclusion (Conclusions 2007) the Committee noted that the health promotion programmes set up in schools were intended primarily to pass on knowledge to pupils, although it was not specified what type, and create an

environment conducive to promoting health (through welfare measures, healthy eating habits and physical activity). The report fails to answer the Committee's question as to whether other issues are addressed at school and all pupils are covered. It points out that there is nothing to demonstrate show that the situation in Albania is in conformity with Article 11§2 of the Revised Charter.

Counselling and screening

Population at large

Preventive screening must play an effective role in improving the population's state of health. Consequently, the Committee believes that, in fields where it has proved to be an effective means of prevention, screening must be used to the full (Conclusions XV-2, Belgium). In particular, there should be screening, preferably systematic, for all the diseases that constitute the principal causes of death (Conclusions 2005, Moldova).

The Committee refers to the question in its previous conclusion (Conclusions 2007) concerning the arrangements for the screening of sexually transmitted diseases (STDs). There is no answer to this question in the report and so it asks again whether screening for STDs is organised systematically.

In its conclusion under Article 11§1 the Committee notes that blood circulation problems are the main cause of death (one in two deaths). However, the report does not mention what screening is organised to reduce this cause of death. The Committee asks for the appropriate information to be provided in the next report.

Pregnant women, children and adolescents

There must be free and regular consultation and screening for pregnant women and children throughout the country (Conclusions 2005, Moldova).

The Committee notes that neither the previous report nor the current one describes consultation and screening arrangements for pregnant women despite previous requests for information. It is merely stated that an instruction on the compulsory regular supervision and monitoring of pregnancy, delivery and the postnatal period has been prepared by the Ministry of Health. The Committee concludes that there is nothing to show that the situation in Albania is in conformity with Article 11§2 of the Revised Charter in this respect.

Free medical checks must be carried out throughout the period of schooling. In assessing compliance, the Committee takes account of the frequency of school medical examinations, their objectives, the proportion of pupils concerned and the level of staffing (Conclusions XV-2, France).

The Committee noted previously (Conclusions 2007) that there was consultation and screening for children from birth up to the age of six. Subsequently, up to the age of 18, medical monitoring of children is carried out at school. According to the report, emergency medical assistance is available at school along with secondary care. Schools are also involved in promoting dental care. Since the introduction of Act No. 9928 of 9 June 2008, stomatological care has been free for children up to the age of 18.

The report fails to provide any information on the frequency of medical examinations at school, the proportion of pupils covered or whether consultation and screening is free, despite the Committee's requests in its previous conclusion (Conclusions 2007). It concludes that there is nothing to demonstrate that the situation in Albania is in conformity with Article 11§2 of the Revised Charter in this respect.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 11§2 of the Charter on the following grounds :

- it has not been demonstrated that other health issues than creating an environment conducive to promoting health are addressed at schools;
- it has not been demonstrated that pregnant women are entitled to free consultations and screenings; and
- it has not been demonstrated that medical examinations at schools are of sufficient frequency, the proportion of pupils covered is sufficient and that screening is free.

Article 11 - The right to protection of health

Paragraph 3 - Prevention of diseases

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

Reduction of environmental risks

Air Pollution - The report states that legislation continues to be drafted and adopted in this area in order to reflect European Union standards. The Committee wishes to receive further information on the content of the legislation, for example has legislation been adopted on ambient air quality, are there limit values for sulphur dioxide, nitrogen dioxide, lead, carbon monoxide, benzene ozone etc in ambient air? The Committee also asks whether there are standards in relation to waste incineration, and combustion plants, whether there are National Emission Ceilings and whether there are rules relating to vehicle emissions etc.

The Committee notes from another source¹⁶ that Albania has serious problems with air pollution, with rates in excess of WHO tolerance levels. The Committee therefore also asks for information on monitoring of air pollution and results as well as information on measures taken to inform the public about air pollution.

Soil Pollution - The Committee had asked for further information on measures taken to prevent/reduce soil pollution the current report simply states that soil in certain areas has been monitored for lead levels. The Committee needs to receive more complete information.

Water Pollution - The Committee notes from other sources that water pollution remains a problem although there has been some progress. The Committee asks the next report to provide full information on the level of access to water supply systems,

measures taken to address the pollution of surface water and to reduce the pollution of bathing waters.

Ionising Radiation - The Committee repeats its request for information on the dose limits laid down by national legislation and again asks whether these are in accordance with the recommendations of the International Commission for Radiation Protection.

Asbestos - The Committee repeats its request for information on the rules relating to asbestos.

Noise - Law No. 9774 on the evaluation and administration of noise in the environment was approved on July 12 2007. The Committee asks for information on the implementation of the law.

Food safety

Food Act No. 9836 of 28 January 2008, inter alia created a National Food Authority. Legislation has been adopted and continues to be adopted on safety of food products, health of animals etc in order to ensure national standards are consistent with EU one. The Committee wishes to receive all relevant information in the next report on the implementation of the legislation.

Measures to combat smoking, alcoholism and drug addiction

In 2006 Albania ratified the Framework Convention on Tobacco Control, it further has adopted several pieces of legislation on the protection of health from tobacco products. However the Committee wishes to know whether legislation prohibits the sale of tobacco products to young persons, whether smoking in public places is prohibited and whether the advertising of tobacco products is prohibited. It also asks for statistics on tobacco consumption.

Measures have been adopted in order to raise awareness of alcohol abuse aimed at young persons. A national strategy on alcohol is under development and new legislation on the topic will follow. The Committee asks for updated information to be furnished in the next report.

As regards measures taken to combat drug abuse, the Committee notes that the National Strategy against Drugs is ongoing and new legislation on the use of drugs in schools and universities has been adopted. However the Committee wishes to be informed on the trends in drug abuse and the availability of services to assist drug addicts.

Accidents

Under Article 11§3 states must take steps to prevent and reduce accidents such as road accidents, domestic accidents, accidents at school, accidents during leisure time etc. The Committee asks the next report to provide information on measures taken to reduce injury and death by accidents as well as trends in the number of accidents.

Immunisation

The vaccination coverage rate in respect of the compulsory vaccines (polio, hepatitis B, diphtheria TB, tetanus, measles, pertussis, rubella, and mumps) is 97%.

Conclusion

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

¹ *EU Commission Albania Progress Report 2008*