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European Social Charter (revised)

European Committee of Social Rights

Conclusions 2013

(AZERBAIJAN)

Articles 11 and 14
of the Revised 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 European Social Charter (revised) was ratified by Azerbaijan on 2 September 2004. The time limit for submitting the 6th report on the application of this treaty to the Council of Europe was 31 October 2012 and Azerbaijan submitted it on 18 September 2013.

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

Azerbaijan has accepted Articles 11 and 14 from this group.

The reference period was 1 January 2008 to 31 December 2011.

The present chapter on Azerbaijan concerns 5 situations and contains:

- 1 conclusion of conformity: Article 14§2
- 3 conclusions of non-conformity: Articles 11§1; 11§3 and 14§1.

In respect of Article 11§2, the Committee needs further information in order to assess the situation. The Committee consequently asks the Government to comply with its obligation to provide this information in its next report on the articles in question.

The next report from Azerbaijan 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 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 2013.

¹*The 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 Azerbaijan.

Right to the highest possible standard of health

The Committee notes from the report (based on information from the State Statistical Committee) that life expectancy at birth in 2011 (average for both sexes) was 73,8. The life-expectancy rate is still low relative to other European countries (for example, the EU-27 average in 2009 was 79,0).

The death rate (deaths/1,000 population) was 5.9 in 2011, a slight decrease since the previous reference period (6.3 in 2007).

The Committee notes that cardiovascular diseases and cancer continue being the main causes of death for both men and women, followed by diseases of the digestive and respiratory systems. Tuberculosis prevalence has slightly decreased, but still remains a significant health issue. In its previous conclusion, the Committee asked what measures were being taken to combat these causes of mortality. The report however provides no information on this matter.

Infant mortality decreased slightly since the last reference period. In 2011 the rate was 10.8 per 1,000 live births, down from 12,1 per 1,000 live births in 2007. The Committee notes this decline, but considers that the rate is still high relative to other European countries (for example, the EU-27 rate in 2010 was 4.1 per 1,000).

As regards the maternal mortality rate, the Committee notes that it has also decreased since the last reference period. In 2011 the rate reached 15.3 deaths per 100,000 live births, down from 34.5 deaths per 100,000 live births in 2007. Despite the improvement, the rate is also higher than the average in other European countries.

In its previous conclusion the Committee found that the situation was not in conformity with Article 11§1 on the grounds that infant and maternal mortality rates were manifestly higher than in other European countries (Conclusions 2009). The Committee notes from the report some of the measures taken by the Government to improve the situation, mainly the establishment of 7 modern perinatal centres throughout the country, and the implementation of a various new clinical protocols and programmes (including one on breast-feeding). However, given that rates of infant and maternal mortality are still higher than in other European countries, and also taking into consideration the still comparatively low life expectancy, the Committee finds that the measures undertaken in this field have been insufficient, and reiterates its previous finding of non-conformity.

Right of access to health care

The Committee notes from another source¹ that the Constitution of Azerbaijan states that citizens have the right to the protection of their health and to receive health care services. The major objective outlined in health legislation is to improve the health status of the population. The Law on Protection of the Health of the Population as well as the Concept on Health Finance Reform also stress the importance of access to health care for every citizen. The Committee wishes to be kept informed on the implementation of recent reform initiatives in the health sector, and whether they are having a positive impact in terms of life expectancy, mortality and quality of life.

The report indicates that medical institutions subordinated to the Ministry of Health and financed by the State budget provide free medical services to the population since 1 February 2008. There is also a list of drugs which are provided free of charge pursuant to Cabinet of Ministers decision No. 38 of 7 March 2005. The Committee asks the next report to provide information on the content and scope of the public health care services provided, and in particular whether they are sufficient to meet the health challenges of the population. This information is needed to assess whether the health care facilities are effective and accessible.

The Committee notes from the report the statistics on healthcare facilities and professionals. The latter underlines that the imbalance of healthcare professionals throughout the territory has been reduced in recent years, with increased staffing in the regions and the modernisation of polyclinics and hospitals. The Committee however notes from another source² that the average distribution of medical staff across the country disguises significant regional differences, as there are difficulties with recruiting and retaining staff in rural areas. The Committee wishes to be kept informed of further measures which might be taken to ensure an adequate presence of healthcare professionals in rural areas.

The Committee recalls that the right of access to health care also requires that arrangements for access to care must not lead to unnecessary delays in its provision. It therefore asks again that the next report to provide information about the rules that apply to the management of waiting lists and statistics on average waiting times in health care.

In the last examination of Article 11, 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 on this also be included in the next report.

In its previous conclusion the Committee found that the situation was not in conformity with the Charter on the ground that the health care budget was significantly lower than that of other European countries (Conclusions 2009). The Committee notes from the written information submitted by the representative of Azerbaijan to the Governmental Committee (Report concerning Conclusions 2009, T-SG(2011)1 final) that health care spending increased over 50% between 2008 and 2009. In terms of health expenditure as a percentage of GDP, the report shows that it remained stable throughout most of the reference period, representing 0,9% in both 2008 and 2011 (whereas in 2008, European Union countries devoted 8.3% of their GDP on average to health spending). The Committee notes from another source³ that despite significant increases in public health expenditure in recent years, Azerbaijan is still characterized by relatively low levels of public health expenditure both in absolute terms and as a share of GDP. The source indicates that burden of financing health care is on the health care users, with out-of-pocket expenditure reaching almost 62% of total health spending in 2007. Public health funding comes primarily from general government revenues, which includes money from the State Oil Fund. On the basis of this information, and whilst noting an improvement of the situation, the Committee considers that public spending on healthcare budget is still low, and reiterates its previous finding of non-conformity.

Conclusion

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality rates have been insufficient;
- public healthcare expenditure, in absolute terms and as a share of GDP, is too low.

¹*Health Systems in Transition, Azerbaijan, WHO.*

²*Ibid.*

³*Ibid.*

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 Azerbaijan.

Education and awareness raising

The Committee recalls that, pursuant to this provision, States Parties are required to develop policies on health education aimed at the general population as well as for groups affected by specific problems, notably through awareness-raising campaigns.

In its previous conclusion, the Committee noted that public awareness on health issues was conducted through press and broadcast programmes. The Committee nevertheless asked whether there were specific public information campaigns on issues such as alcohol and illicit drugs, tobacco, diet, sexuality and the environment (Conclusions 2009).

As the current report provides no information on these matters, the Committee asks the next report to include updated information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases. In the meantime, it reserves its position on whether the situation is in conformity on this point.

As regards health education in schools, the Committee already noted in its previous conclusion that a course entitled "education centered on life skills" was part of the school curricula, and included questions related to healthy lifestyles and sexual education (Conclusions 2009). The current report clarifies that this topic also addresses issues around road safety, healthy eating and the prevention of sexually transmitted diseases.

Counselling and screening

In its previous conclusion, the Committee noted that all women were entitled to free specialised healthcare during pregnancy and childbirth. Moreover, medical examinations were organised annually for all schoolchildren (Conclusions 2009).

The report describes the manner in which the free medical examinations for children and adolescents are organised at state healthcare facilities. It indicates that in 2011 in Baku, 98.5% of pupils underwent in-depth medical examinations. The Committee asks if the coverage rate is equally high in other parts of the country.

In reply to the Committee's request for information on screening programmes available, the report indicates that mass examination tests for the diagnosis of tuberculosis are available pursuant to a Ministry of Health Order of 2001. Tests were conducted on 1 283 940 persons in 2011. The Committee asks if there are other screening programmes available, for example for the detection of cancer or the diagnosis of HIV.

Conclusion

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

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

Healthy environment

The Committee takes note of the different pieces of legislation and regulations adopted for the reduction of environmental risks, in particular in the field of air quality, water safety, waste management, noise, ionising radiation and food safety. Despite taking measures and implementing a number of environmental projects, the report acknowledges that levels of air pollution remain high and that supply of safe drinking water is still a problem in several areas of the country. This is confirmed by another source (WHO, Country cooperation strategy). The Committee asks to be kept informed on the implementation of the measures and regulations mentioned in the report, as well as on levels of air pollution, contamination of drinking water and food intoxication, namely whether trends increased or decreased during the reference period.

In its previous conclusion, the Committee found that the situation was not in conformity with the Charter on the ground that the legislation did not prohibit the sale and use of asbestos (Conclusions 2009). In the written information submitted by the representative of Azerbaijan to the Governmental Committee (Report concerning Conclusions 2009) it is stated that on 16 August of 2010 the Cabinet of Ministers ordered the relevant government institutions to elaborate proposals for making changes in the legislation regarding the prohibition of sale and use of asbestos. The current report confirms that draft legislation in this area has been prepared and has been submitted to the relevant bodies for comments. However, as the legislation has still not been formally adopted and entered into force, the Committee reiterates its previous conclusion of non-conformity.

Tobacco, alcohol and drugs

The Committee notes that WHO Framework Convention on Tobacco Control was ratified by Azerbaijan on 1 November 2005. The same source shows that smoking is banned in healthcare facilities, educational facilities and universities. However, smoke-free legislation does not exist in respect of bars, restaurants, pubs, public transport, or indoor offices. The Committee wishes to receive updated information in the next report on the state of legislation on smoke-free environments, health warnings on tobacco packages, and if there is a ban on tobacco advertising, promotion and sponsorship, throughout the whole country. Prevalence of tobacco use should also be indicated.

The Committee asks again that the next report provide information on policy regarding alcohol consumption (including the minimum age at which the sale of alcoholic beverages is permitted) and drug consumption.

Immunisation and epidemiological monitoring

The National Immunisation Schedule of Azerbaijan includes vaccination against ten infections: tuberculosis, hepatitis B, poliomyelitis, diphtheria, pertussis, tetanus, measles, rubella and mumps and, since 2011, Haemophilus influenzae type B. According to the report, the vaccination coverage during 2009-2011 ranged between 95-98%.

As regards epidemiological monitoring of infectious diseases, the report mentions that an Integrated Electronic System for Observation of Diseases is in the process of being established. The Committee wishes to be kept informed on the surveillance of diseases carried out by this new system.

The Committee notes that the number of tuberculosis cases increased slightly between 2008-2011, from 4 186 to 4 893. It asks to be kept informed on the measures taken to combat tuberculosis.

Accidents

The Committee recalls that under Article 11§3 states must take steps to prevent accidents. The main sorts of accidents covered are road accidents, domestic accidents, accidents at school and accidents during leisure time, including those caused by animals. As the report contains no information on this, it asks the next report to provide information on measures taken to prevent accidents, as well as on trends in accidents. In the absence of information in this respect in the next report, there will be nothing to show that the situation is in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§3 of the Charter on the ground that the legislation does not prohibit the sale and use of asbestos.

Article 14 - Right to benefit from social services

Paragraph 1 - Promotion or provision of social services

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

Organisation of the social services

The Committee refers to its previous conclusion for a description of the organisation of the social services.

Furthermore, the report indicates that the Law "On Social Services", approved by the Presidential decree No. 600 on 14 March 2012, provides that all persons in need shall benefit from social services of quality that apply modern standards. This law defines 4 forms in respect of the provision of social services: home social services, semi-stationary social services (daytime), stationary social services and social/consultation assistance.

Effective and equal access

The report states that all persons in need can access social services free of charge. The charged social services are provided only following an agreement concluded between the user and the provider.

The Committee refers to its previous conclusion where it noted that foreigners residing permanently in the country and asylum seekers are entitled to social services on an equal footing with nationals. The requirements to acquire permanent resident status are to be found in the Law "On Legal status of the foreigners and stateless persons", which provides that the right to live permanently in the country takes at least 2 years if certain conditions detailed in the report are met such as having a close relative relationship with a national, being a high level specialist in the field of economy, industry, defense, etc., or depositing money resources in national banks. If, at least, one of these specific conditions is not fulfilled, the length of residence requirement to acquire permanent residence is five years. The Committee considers that these conditions are too restrictive and that the length of residence requirement of five years is excessive. It therefore concludes that the situation is not in conformity on the ground that access to social services by nationals of other States Parties is subject to an excessive length of residence requirement.

As to judicial remedies, the report refers to the Law "On Social Services" mentioned above, which provides that in cases of discrimination and violation against human dignity, each person has the right lodge a complaint with an administrative and/or judicial body.

Quality of services

The Committee recalls that social services must have resources matching their responsibilities and users' changing needs. This implies that:

- staff shall be qualified and in sufficient numbers;
- decision-making shall be as close to users as possible;
- there must be mechanisms for supervising the adequacy of services, public as well as private.

First, in view of the lack of information in this respect in the report the Committee asks the next report to provide information on the qualification of social services' staff and the ratio of staff to users.

Second, the Committee wishes to know how it is ensured that decision-making be closer to users.

Third, the report states that according to the Law "On Social Services" the supervision regarding the quality of social services provided by a public provider is operated by the related state authority. However, the report is silent on the supervision of social services provided by private providers. Therefore, the Committee asks the next report to indicate what mechanisms exist for supervising the adequacy of services of private origin.

The Committee asks the next report to indicate whether there is a legislation on data protection.

Conclusion

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 14§1 of the Charter on the ground that access to social services by nationals of other States Parties is subject to an excessive length of residence requirement.

Article 14 - Right to benefit from social services

Paragraph 2 - Public participation in the establishment and maintenance of social services

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

The Committee refers to its previous conclusion for a detailed description of public participation in the establishment and maintenance of social services. It asks the next report to provide updated information.

In its previous conclusion, the Committee asked to be informed on the annual financial contribution made by the state to the work of charity organizations. The report indicates that the financial assistance allocated by the Council for State Support to the NGOs amounted in 2011 to €300 191.

The Committee wishes to know whether and how the Government ensures that services managed by the private sector are effective and are accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Azerbaijan is in conformity with Article 14§2 of the Charter.