



January 2010

European Social Charter

European Committee of Social Rights

Conclusions XIX-2 (2009)
("THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA")

Articles 11, 12 and 13
of the 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 European Social Charter was ratified by "the former Yugoslav Republic of Macedonia" on 31 March 2005. The time limit for submitting the 2nd report on the application of this treaty to the Council of Europe was 31 October 2008 and "the former Yugoslav Republic of Macedonia" submitted it on 29 November 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 4 of the Additional Protocol).

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

The applicable reference period was:

- 30 April 2005 – 31 December 2007.

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

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

In respect of the other 6 situations concerning Articles 11§2, 11§3, 12§2, 12§3, 12§4 and 13§4, the Committee needs further information. The Government is therefore invited to provide this information in the next report on the articles in question.

The next report of "the former Yugoslav Republic of Macedonia" 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.

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 - 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 “the former Yugoslav Republic of Macedonia”.

State of health of the population - General indicators

The right to health protection is enshrined in the Health Care Protection Act and the Health Insurance Act.

Under Article 11§1 of the Charter, health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action, and states must guarantee the best possible results in line with the available knowledge (Conclusions XV-2, Denmark).

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, pp. 336-338), or between urban and rural areas or between regions.

Life expectancy and principal causes of death

Average life expectancy at birth in 2006 was 71.7 for men and 76.2 for women¹, having increased steadily since 1995 (the EU 27 average in 2004 was 75.2 for men and 81.5 for women²). The mortality rate in 2006 was 10 per 1 000 inhabitants, which was a slight decrease since 2003³ (the EU 27 average in 2006 was 6.48 per 1 000 inhabitants⁴). The main causes of death were diseases of the respiratory and circulatory systems. The Committee asks what measures are taken to combat these causes of mortality.

Infant and maternal mortality

Infant and maternal mortality are an avoidable risk which States must deal with 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), particularly in highly developed health care systems (Conclusions 2003, France).

The infant mortality rate in 2007 was 10.3 deaths per 1 000 live births⁵ (the EU 27 rate in 2006 was 4.7 per 1 000⁶). The Committee asks what the principal causes of infant mortality are.

The Committee notes from another source, that the maternal mortality rate was 10 deaths per 100 000 live births in 2005⁷, a rate comparable to that observed in other European countries. The Committee asks what the principal causes of maternal mortality are.

The Committee invites the Government to provide all the information on the policy to combat infant and maternal mortality.

Health care system

The health care system must be accessible to everyone (Conclusions 2007, Albania). Restrictions on the application of Article 11 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).

There are two types of health insurance, one mandatory and one voluntary. Mandatory insurance is based on the principle of universality (it covers all citizens regardless of their status), solidarity (between all insurees because the level of their contribution depends on their income) and equality (equal treatment regardless of the initial amount paid). The Committee refers to the report for a detailed description of the health insurance system and to its conclusion under Article 12§3 for its assessment of the situation.

There are three levels of health care: family doctor; specialist and hospital. In March 2004 the Health Care Protection Act was amended to allow privatisation of some health care sectors such as dentistry and the pharmacy sector and ultimately, following an amendment in 2005, primary health care. According to the report, these reforms have made it possible to achieve positive results such as improving access to medicines and eradicating illegal medical practices. The Committee refers to the report for a detailed description of the health care system, including measures taken in the area of drug quality control and inspection of health care facilities.

The Committee notes that under the Health Care Protection Act and the Health Insurance Act all citizens must have equal access to health care facilities. Accordingly, it asks whether access to health care is guaranteed equally to citizens of "the former Yugoslav Republic of Macedonia" and to foreign nationals residing and working lawfully in "the former Yugoslav Republic of Macedonia".

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 will examine 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). The Committee asks for up-to-date information on the situation in law and in practice, including detailed facts and figures, on access to health care for the disadvantaged.

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). The Committee asks for information about the management of waiting lists and waiting times in health care.

The State health care budget in 2006 represented 8.2% of GDP⁸, a ratio comparable to that observed in other European countries.

Health care professionals and equipment

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 4.63 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).

There were 0.58 psychiatric hospital beds per 1 000 inhabitants in 2006¹¹ (the average number of beds in psychiatric hospitals in Europe (EU 27) was 0.60 per 1 000 inhabitants in 2005¹²).

There were 5 187 physicians in 2006, equating to 26 physicians per 10 000 inhabitants¹³, a density comparable to that observed in other European countries.

In 2006, there were 1 175 dentists (equating to 6 per 10 000 inhabitants) and 908 pharmacists (equating to 5 per 10 000 inhabitants¹⁴), as well as 8 833 nurses and midwives in 2005 (equating to 43 per 10 000 inhabitants)¹⁵, a density comparable to that observed in other European countries.

According to the report, pharmacies are distributed evenly throughout the country and new pharmacies are scheduled to open in rural areas to provide a more local service for people living there. The Committee asks for information on the geographical distribution of the other components of the system.

The Committee recalls that conditions of stay in hospital, including psychiatric hospitals and other places where health care is provided, must be satisfactory and compatible with human dignity (Conclusions XVII-2 and 2005, Statement of Interpretation of Article 11, §5; Conclusions 2005, Romania). The Committee takes note of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to some psychiatric hospitals in “the former Yugoslav Republic of Macedonia” in 2006¹⁶, in particular hygiene problems and poor general living conditions at the Demir Hisar psychiatric hospital, and of the measures announced in the Government’s reply¹⁷. The Committee asks for information in the next report on

conditions of stay in hospitals, including psychiatric institutions and other places where health care is provided.

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 11§1 of the Charter.

¹*Eurostat*

²*Ibid.*

³*Ibid.*

⁴*Ibid.*

⁵*Ibid.*

⁶*Ibid.*

⁷*WHO*

⁸*Ibid*

⁹*Eurostat*

¹⁰*Ibid.*

¹¹*Ibid.*

¹²*Ibid.*

¹³*WHO*

¹⁴*Ibid.*

¹⁵*Ibid*

¹⁶*CPT/Inf(2008)5 in particular §132-138*

¹⁷*CPT/Inf(2008)6*

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 “the former Yugoslav Republic of Macedonia”.

Health education

Public information and awareness-raising

National rules must provide for public information, education and participation. States must demonstrate through concrete measures that they implement a public health education policy in favour of the general population and population groups affected by specific problems (*Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, complaint n°30/2005, decision on the merits of 6 December 2006, § 216 and 219).

The Committee asks for the next report to describe the national legislation on public information, education and participation in the health field. It notes that according to the report, the budget for the implementation of prevention and education activities in the health field for 2007/2008 was double that of previous years, amounting to 600 million denars (MKD) (about € 9.84 million).

Informing the public, particularly through awareness-raising campaigns, must be a public health priority (Conclusions 2007, Albania). Measures should be taken to prevent activities that are damaging to health (smoking, alcohol, drugs) and to promote the development of a sense of individual responsibility (healthy eating, sex education, environment) (Conclusions 2005, Moldova). Activities may be more or less developed in accordance with the nature of the public health problems in the countries (Conclusions XV-2, Belgium)

The Ministry of Health is in the process of devising an overall strategy for healthcare development up to 2020. It is based on a series of specific strategies, action plans, programmes and projects which are described in the report. The Committee notes in particular the “Health for All” programme, which includes the dissemination of educational and information brochures on healthy living and eating. Other programmes are designed to inform the public about brucellosis, tuberculosis, sexually transmitted diseases including HIV/AIDS and passive smoking. Several strategies have been adopted, focusing in particular on smoking and alcohol abuse. They include prevention activities and measures to promote lifestyles free of smoking and excessive alcohol consumption, as well as information, education and awareness-raising on the harmful effects of tobacco and alcohol. A drug use prevention programme was launched in 2008. A women’s health education campaign is also being run, focusing in particular on women in rural areas. Events are organised to inform the public about the benefits of healthy eating, particularly eating fruit and vegetables.

The Committee asks whether there are any specific public information campaigns on the environment.

The Committee notes that all these programmes and strategies are quite recent. It asks therefore for the next report to describe the results.

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).

New courses on the prevention of sexually transmitted diseases including HIV/AIDS were introduced in 80% of primary and secondary schools.

The Committee asks for the next report to state if and how smoking and alcohol prevention, reproductive health and sex education, road safety and promotion of healthy eating are to be incorporated into school syllabuses and whether all pupils will be concerned by this.

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 "Health for All" programme makes provision for free screening for the entire population, which 40 000 people have already benefited from. This includes checks on blood pressure, height and weight, and blood sugar and fats. There is also an AIDS protection programme including tests for early detection as well as screening programmes for brucellosis and tuberculosis. Early detection campaigns for breast and uterine cancer were organised in 2007 and 2008. In 2007, as the result of a campaign entitled "Be smarter than cancer, be a healthy woman", targeting women without insurance in particular, 10 000 women were given a free mammography and 18 000 women a free gynaecological examination.

Under their contract with the health insurance fund, general practitioners are required to carry out a given number of preventive medical examinations per year covering specified percentages of the adult population, pregnant women and children, for the prevention of diabetes and cardiovascular diseases and early detection of tumours and other diseases. Gynaecologists are required to offer free examinations to 25% of insured women. The Committee refers to the report for a detailed description of the system set up between the health insurance fund and doctors.

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).

Four free medical examinations are available to all pregnant women including an ultrasound scan to detect any foetal malformations. In practice, 94% of women undergo these examinations and an average of 3.4 consultations per woman has been achieved.

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).

Medical examinations are carried out on all infants at three, six and nine months. The goal is to check the child's growth and development as well as detecting certain diseases or developmental disorders. The same applies to children between the ages of two and four. Schoolchildren are also entitled to a medical checkup every two years between the ages of 7 and 15 then again at 18 to

detect certain diseases, risky behaviour or physical defects. All such examinations are free. A strategy for the prevention of dental and oral diseases was also set up for children under the age of 14 for the period from 2008 to 2015.

The Committee requests information on the staffing resources available for school medical services.

Conclusion

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

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 “the former Yugoslav Republic of Macedonia”.

Policies on the prevention of avoidable risks

Reduction of environmental risks

Water – According to the report drinking water is monitored as is bathing and water used for recreational activities. Results of the monitoring have apparently indicated that water safety levels are satisfactory. However, according to another source, “the former Yugoslav Republic of Macedonia” progress report of the European Commission 2008 the monitoring system has improved but still lacks sufficient coverage and data collection and key new legislation has been drafted but not yet adopted. The Committee asks to be kept informed of all developments in the area.

Air – Legislation has been adopted on ambient air quality which establishes limit values for ambient air, alert thresholds a system of air quality monitoring etc. Details are provided on the monitoring system. The Committee notes that according to the EU progress report legislation has not yet fully transposed all EU requirements and the monitoring system is not yet fully operational. The Committee asks to be kept informed of all developments in this area.

Noise – Legislation on noise pollution was adopted in 2007 aligning national legislation with EU requirements. However the report states that monitoring of noise is not yet fully developed. The Committee asks the next report to provide information on the measures taken to implement the legislation.

Ionising Radiation – The law on protection against ionising emissions and radiation security and other rules provide for systematic monitoring of air soil, water certain foodstuff for radioactive contamination. The Committee seeks confirmation that the dose limits are in accordance with the 1990 recommendations of the International Commission for Radiation Protection and the relevant EURATOM directives have been transposed.

The Committee notes that according to the above mentioned EU progress report the Law on radiation protection was amended to include provisions on nuclear safety. The administrative capacity of the Radiation Safety Directorate (RSD) has been reinforced and is now satisfactory.

Asbestos – The Committee asks for information on the rules surrounding the handling, use and disposal of asbestos.

Food safety

The Committee notes the information provided in the report on food safety. According to the above mentioned report food safety legislation transposes most of the EU *food and feed law*; but implementation is not complete. A national strategy on food safety was adopted and the Food Safety Directorate began to cooperate with the European Food Safety Authority. However, the animal health control system does not comply with EU legislative and institutional requirements. Some of the implementing legislation on the *control measures for animal* diseases has not yet been transposed, nor have the animal feed requirements been transposed.

The above mentioned report also refers to fact that there is no single authority which has competence for food safety control which means that the overall organisational structure and coordination remain poor and ineffective.

The Committee asks to be kept informed of all measures taken to improve food safety.

Measures to combat smoking, alcoholism and drug addiction

Smoking – According to the report, FYROM has a high number of smokers. It has adopted a number of legislative measures in order to ensure domestic standards are in line with EU requirements and with the UN Framework Convention on Tobacco Control. The report refers to legislation prohibiting smoking in educational facilities, at work, in cinemas, theatres, restaurants pubs and on public transport etc as well as prohibiting advertising of tobacco products and restricting the sale of cigarettes and tobacco products. The Committee asks whether this legislation has been enacted and has entered into force.

The Committee asks to be kept informed of all trends in tobacco use.

Alcohol – The report provides details of the strategy adopted to combat alcohol abuse. It notes that the legislation relating to the sale of alcohol was amended in order to restrict the sale of alcohol to licensed shops, restrict the sale of alcohol in shops between 19.00 and 06.00 and prohibit the sale of alcohol to those under 18 years of age. The Committee asks to be kept informed of all trends in alcohol abuse.

Drugs – The Committee refers to its conclusion under Article 11§2.

Prophylactic measures – Epidemiological monitoring

There is a network for epidemiological supervision and control over contagious diseases the report provides details of this supervision. The Committee notes

from the EU progress report 2008 that an early warning system has been introduced in five cities, but is not yet not working properly. The Committee asks to be kept informed of all developments.

Accidents

The State Authority for Health Protection has established a department for the control and prevention on injuries and violence, research on injuries in the community was conducted in 2008 and the data will be used as a basis for programs and policies. The Committee asks to be kept informed of measures adopted as well as trends in the number of accidents.

Immunisation

The Committee notes that there is compulsory vaccination scheme, which requires vaccination of children against 9 diseases. Two new vaccines against Human Papilloma Virus and Hemophilus Influenza Type B have recently been included in the compulsory immunisation programme. The coverage rate is around 95%.

Conclusion

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

Article 12 - The 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”.

The Committee notes that, during the reference period, the pension system was significantly reformed and new benefits were established to increase protection of the family. The Committee refers in this respect to its assessment under Article 12§3.

Risks covered, financing of benefits and personal coverage

Under Article 12 of the Charter the right to social security encompasses the right to access and maintain benefits without discrimination in order to secure:

- affordable health care;
- benefits in case of loss of earnings caused by sickness, unemployment, old age, employment injury, disability, and maternity;
- family support, particularly for children and adult dependents.

The Committee observes that the Constitution of “the former Yugoslav Republic of Macedonia” proclaims its citizens’ right to social security and social insurance (Article 34) and provides that social protection of citizens be guaranteed in accordance with the principle of social equity (Article 35). The Committee asks whether the same principle applies to the persons legally residing and/or regularly working in “the former Yugoslav Republic of Macedonia” who are covered by its social security schemes.

The report indicates that the social security system consists of four main components which together cover all traditional risks:

- health insurance includes health care services, maternity and sickness benefits;
- pension and disability insurance includes old-age pension, disability pension, rehabilitation, compensation for bodily harm and survivors’ pension;
- unemployment insurance includes unemployment benefit, training and re-qualification;
- child protection includes child allowance, special allowance, one-off new born financial assistance and participation from the state budget in expenses related to care, education and leisure in public child institutions for families in material need.

The social security system of “the former Yugoslav Republic of Macedonia” rests on collective funding: it is funded by contributions (employers, employees) and also by the State budget. The Committee recalls that the principle of collective

funding is a fundamental feature of a social security system as foreseen by Article 12 as it ensures that the burden of risks are spread among the members of the community, including employers, in an equitable and economically appropriate manner and contributes to avoiding discrimination of vulnerable categories of workers (Conclusions 2006, the Netherlands).

To assess to what extent persons in “the former Yugoslav Republic of Macedonia” are guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee has to regularly be provided with percentage figures concerning the coverage of the population for all social security branches.

The Committee notes from the report that in 2007: ¹

- there were 1 959 384 persons covered by mandatory health insurance (95% of the population): the Committee asks for more details on the group of persons not covered by health insurance and on whether, and how, this group has access to health care.
- there were 150 075 beneficiaries of old age pensions (7.3% of the population): the Committee asks the next report to indicate what share of the active population is contributing to the pension system.
- there were 48 054 beneficiaries of disability pensions (2.3% of the population): the Committee asks the next report to indicate what share of the active population is contributing to the disability insurance.
- there were 74 257 beneficiaries of survivors’ pensions (3.6% of the population);
- there were 26 939 beneficiaries of unemployment insurance benefit (1.3% of the population)**Error! Hyperlink reference not valid.;**
- there were 20 335 families receiving child allowance;
- there were 4 997 families receiving special allowance;
- there were 6 060 families receiving assistance for new born.

Pending receipt of the above mentioned clarifications concerning the requested figures, the Committee reserves its position as to the proportion of persons in “the former Yugoslav Republic of Macedonia” guaranteed an effective right to social security with respect to the benefits provided under each branch.

The Committee asks what the Government does to combat undeclared work and how it deals with delays or refusals by employers to pay social security contributions (Conclusions 2006, Lithuania).

Adequacy of the benefits

A social security system must guarantee an effective right to social security with respect to the benefits provided under each branch (Conclusions XIII-4, General Introduction on Article 12). The Committee recalls that Article 12§1 requires that

social security benefits are adequate, which means that, when they are income-replacement benefits, their level should be fixed such as to stand in reasonable proportion to the previous income and it should never fall below the poverty threshold defined as 50 % of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (Conclusions 2006, Bulgaria). It is therefore essential that information on all social security benefits be systematically provided in all next reports so that their adequacy may be assessed. Such information should include in particular the minimum level of benefits and the duration of their payment.

Pending receipt of the requested information, it takes note of the following:

1. Health insurance

The Law on Health Insurance (No. 25/2000 and amendments) regulates mandatory health insurance for all citizens through contributions paid to the Health Insurance Fund. The Committee takes note of the categories of citizens who are excluded from paying contributions to the mandatory insurance. Voluntary health insurance with private companies for additional services is also an option. However, the report points out that voluntary insurance is scarcely developed as the mandatory one covers most health care services and benefits. These include *inter alia*: medical care, sickness and injury (work related or not) and maternity. The Committee asks in what form the insured persons participate in the payment of health care.

The Committee also notes that in addition to the citizens of “the former Yugoslav Republic of Macedonia”, foreign citizens and persons without citizenship who are studying, are employed or are detained in “the former Yugoslav Republic of Macedonia” are covered by the mandatory health insurance. The Committee asks whether non citizens and persons without citizenship have to be affiliated to the mandatory health insurance or whether they may choose to be covered otherwise.

2. Pension and disability insurance

The Law on pension and disability insurance (No. 80/93 and amendments) and the Law on mandatory fully funded pension insurance (No. 11/06) regulate this branch of social security. Law No. 11/06 in particular regulates the establishment, operation and winding up of pension companies and pension funds, defines asset management rules and provides for a supervisory and regulatory system with regard to all entities involved in the administration of the mandatory private pension scheme. The Pension and Disability Insurance Fund (PDIFM) administers the publicly managed social security scheme and collects contributions. The Agency for supervision of fully funded pension insurance (MAPAS) regulates and supervises pension companies and their pension funds, custodians and the operations of foreign asset managers. Moreover, it issues and revokes working permissions of mandatory and voluntary pension companies and has the task of raising public awareness of the operation of the mandatory private pension scheme.²

The report informs that the taxpayer is obliged to calculate and pay his/her pension and disability insurance contribution on the basis of his/her monthly salary. For each day of overdue contribution payment, the PDIFM charges an interest rate of 0.03%. The Committee asks what the Government does to deal with delays in payment of the pensions by the PDIFM.

3. Unemployment insurance

The Law on employment and insurance in case of unemployment (No. 37/97 and amendments) regulates the rights of unemployed persons in “the former Yugoslav Republic of Macedonia”. Such rights include an unemployment benefit, training and requalification, health protection, pension and disability insurance in accordance with the relevant specific laws.

As regards entitlement to unemployment benefit, the report informs that no benefit may be paid unless the unemployed has submitted an application to the Employment Agency. Moreover, the unemployed must have been employed in an uninterrupted working relationship for at least 9 consecutive months or 12 months with interruptions during the last 18 months. The Committee takes note of the circumstances other than the duration of previous employment, which exclude entitlement to the unemployment benefit and asks for clarifications on that consisting of “successively unjustified absence from the working place for 3 to 5 days”.

As to the amount of the unemployment benefit, the Committee takes note of the way it is calculated. However, the Committee reiterates that information on its minimum level of benefit must be provided and requests that this information be included in the next report.

As to the duration of payment of the benefit, the Committee notes from the report that it may be as short as one month. This duration is considered too short and thus not in conformity with the Charter (Conclusions XVIII-1, Malta).

4. Family benefits

The report highlights that special protection of the family and children is enshrined in the Constitution of “the former Yugoslav Republic of Macedonia” (Articles 40-42). These constitutional provisions are made operational primarily by the Law on child protection (No. 98/2000 and amendments) which regulates child allowance, special allowance, new born assistance as well as forms of child protection (childcare facilities for pre-school age children, participation in costs for vacation and recreation, etc.). Family benefits are financed from the State budget.

Regarding the adequacy of family benefits, the Committee considers that child allowance is an adequate income supplement when it represents a sufficient percentage of the monthly mean equivalised net income.

In “the former Yugoslav Republic of Macedonia”:

- Child allowance, which is means-tested and may be granted only if the child is in regular education, represents 4.60% of the average salary in the Republic in the first half of the previous year for children in primary school and 7.30% of the same average for children in secondary school. The report indicates that in 2008, this corresponded to about 10.65 EUR for primary school children and 17 EUR for secondary school children.
- Special allowance, which is granted to children with special needs (physical or intellectual) until the age of 26, is not means-tested. Since 2003, the amount of the allowance represents 27% of the average salary per employee in the Republic in the first half of the previous year. The Committee notes that in 2008 the allowance about 60 EUR. The Committee asks whether this amount is provided on a yearly or on a monthly basis.
- Newborn assistance, which during the reference period was provided only to the first born child, is a one-off financial assistance which is means-tested. In 2008 the amount varied between about 3 EUR and 66 EUR.
- Participation, which is means-tested, may be granted to cover expenses related to care, education and recreation facilities run by a public children's institution. The Committee asks what is the threshold to benefit from this assistance.

The Committee asks that the next report contain information on economic measures taken in favour of single-parent families.

The Committee asks whether housing benefits specifically targeted at families (e.g. grants or subsidies for the purchase or construction of family home, tax relief on mortgage repayments, subsidised loans for acquiring the first home, subsidised rent for families, housing allowances, etc.) are available and under what conditions.

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 payment of unemployment benefit is too short.

¹According to information on Candidate Countries to the EU available at: http://europa.eu/abc/european_countries/candidate_countries/fyrom/index_en.htm, the population in “the former Yugoslav Republic of Macedonia” is 2.05 million.

²International Social Security Association (ISSA) Country Profile on “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” available at: <http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Europe/Macedonia#>

Article 12 - The right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that required for 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”.

During the reference period, according to the report, “the former Yugoslav Republic of Macedonia” has accepted the old age benefit (part V), employment injury benefit (part VI), invalidity benefit (part IX) and survivors’ benefit (part X) from ILO Convention No. 102 concerning the Minimum Standards of Social Security. The Committee notes from other sources that “the former Yugoslav Republic of Macedonia” has accepted also the medical care benefit (part II), sickness benefit (part III), unemployment benefit (part IV) and maternity benefit (part VIII)¹

However, the Committee could not establish that the country maintains the security system at a satisfactory level at least equal to that required for ratification of ILO Convention No. 102 since “the former Yugoslav Republic of Macedonia” has not submitted the necessary information in their report. The Committee notes that “the former Yugoslav Republic of Macedonia” also has not submitted any reports during the last 10 years to the ILO, and, therefore, no assessment from the respective body has taken place as to the present situation in the country. In these circumstances, there is no basis on which to make an assessment on country’s conformity with Article 12§2. The Committee asks that the next report provides detailed information on the compliance in law and practice of “the former Yugoslav Republic of Macedonia” with Article 12§2.

Conclusion

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

¹<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

Article 12 - The 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”.

The Committee considers that the existence of a social security system of a higher level than that required under Article 12§1 or Article 12§2 is not presupposed under Article 12§3. A situation of progress may consequently be in conformity with Article 12§3 even though the social security system has not attained the levels required under the two first paragraphs of Article 12.

The report informs that, during the reference period, new legislation significantly reformed the pension system. Moreover, new benefits were established to increase protection of the family.

Old age

The report points out that during the reference period the pension age was gradually increased for women (from 61 to 62).

The report also highlights that as of 2006 the pension system in “the former Yugoslav Republic of Macedonia” is based on three pillars:

- 1st pillar: pay as you go scheme providing earnings related benefit based on the length of working service (defined benefit);
- 2nd pillar: fully funded scheme run by private pension companies supervised by the state providing benefits linked to the accrued pension capital (defined contribution);
- 3rd pillar: voluntary fully funded pension insurance.

The Committee takes note of the details concerning the operation of the new pension system. It also notes that the 2nd pillar became mandatory for all employed persons who entered the labour market after January 2006. The 3rd pillar was established after the reference period with the adoption of the Law on voluntary fully funded pension insurance (No. 7/08). Any person older than 18 may become a member of the latter insurance. The Committee notes the advantages offered to the members of this scheme. To ascertain the effects of the reform on the the right to access and maintain old age pensions, the Committee asks the next report to contain information on the results obtained by the changes introduced, including statistical data. In this regard, it recalls that any modifications to the social security system should not undermine the effective social protection of all members of society against social and economic risks and should not transform the social security system into a basic social assistance system (Conclusions XIV-1, Statement of Interpretation on Article 12).

Family

The report informs that outside the reference period a Strategy for demographic development was adopted for the years 2008-2015, which includes, *inter alia*, measures to promote births, such as the introduction of:

- increased financial assistance for new borns (as of 2009, no longer only for the first child);
- a new parental allowance under specific conditions.

To ascertain the effects of the new measures on the the right to access and maintain child allowances, the Committee asks the next report to contain information on the results obtained by the changes introduced, including statistical data.

The Committee also recalls that the criteria it takes into account to assess the conformity of restrictions on the right to social security as a result of economic and demographic factors are listed in the General Introduction to Conclusions XIV-1. They are:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, lengths, etc.);
- the reasons given for the changes and the framework of social and economic policy in which they arise;
- the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);
- the necessity of the reform, and its adequacy in the situation which gave rise to these changes (the aims pursued);
- the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);
- the results obtained by such changes.

The Committee therefore asks that the next reports provide information on any development of the social security system which will occur in the reference period in the light of the above criteria.

Conclusion

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

Article 12 - The 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”

Equal Treatment and retention of accrued rights (Article 12 4a)

Right to equal treatment

Since 1997, “the former Yugoslav Republic of Macedonia” has negotiated bilateral social security agreements guaranteeing equal treatment with Germany, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Luxembourg, Netherlands, Poland, Czech Republic, Romania, Slovenia and Turkey and maintained agreements negotiated at the time of the Socialist Federal Republic of Yugoslavia with three States Parties: France, Hungary and United Kingdom. The Committee asks what is planned with the other States Parties.

The Committee reiterates that States Parties can comply with their obligations not only through bilateral or multilateral agreements, but also through unilateral measures. The Committee asks if and how equal treatment is guaranteed for non-nationals legally residing or working in “the former Yugoslav Republic of Macedonia” and not covered by bilateral agreements.

According to the report, the agreements that have been negotiated cover old age and invalidity benefits. Some agreements also cover benefits in the areas of maternity, health, death, family affairs, industrial accidents and occupational diseases. The Committee asks for the next report to state precisely what benefits are covered by these agreements.

According to MISSCEO¹, family benefits are paid to foreign nationals provided that their children are lawfully resident in Macedonia. With regard to the payment of family benefits, the Committee has considered previously that under Article 12§4, any child resident in a country is entitled to family benefits on an equal footing with nationals of the country concerned. Whoever is the beneficiary under the social security system, i.e. whether it is the worker or the child, States Parties are required to ensure through unilateral measures that family benefits are actually paid to all children residing on their territory. In other words, requiring the child concerned to reside in the state in question is compatible with Article 12§4 and its Appendix. However, since not all countries apply such a system, states applying the “child residence requirement” are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to negotiate within a reasonable time bilateral or multilateral agreements with those states which apply a different entitlement principle. The Committee notes that an agreement has been negotiated with Turkey and asks whether it covers family benefits. It asks whether such agreements have been negotiated with Albania, Armenia or Georgia and, if not, whether it is planned to do so and by when. It also asks whether the conclusion of such agreements is foreseen with States which have ratified the Charter outside the reference period, i.e. Serbia and the Russian Federation.

Entitlement to old age and invalidity insurance benefits is not dependent on length of residence and provided that other legal requirements are satisfied, this right can be granted immediately.

Right to retain accrued benefit

Retention of accrued social security benefits is guaranteed in all the agreements negotiated by “the former Yugoslav Republic of Macedonia”. The Committee asks for a breakdown of how benefits are accrued according to type. It also asks if nationals of States Parties not bound by bilateral agreements may also retain accrued social security benefits.

Right to maintenance of accruing rights (Article 12.4b)

The Committee points out that changing country of employment without having completed the period of employment or insurance necessary under that state’s legislation to qualify for certain benefits and for determining the amount thereof

should not be prejudicial. Implementation of the principle presupposes that, if necessary, the technique of accumulating the periods of employment or insurance spent abroad and, in respect of long-term benefits, the pro rata technique, be used for the opening, calculation and payment of benefits. States have a choice of means: multilateral convention, bilateral agreement or any other method, such as unilateral, legislative or administrative measures.

According to the report, the accumulation of employment periods and the pro rata calculation of benefits are guaranteed where a bilateral agreement has been negotiated or a reciprocal arrangement can be made. The Committee points out that Article 12§4b establishes an obligation to guarantee the accumulation of insurance and employment periods completed by nationals of all States Parties in any State Parties. It asks for the next report to explain if and how the principle of aggregation of accruing social security rights is implemented for nationals of States Parties that are not bound by bilateral agreements with “the former Yugoslav Republic of Macedonia”.

Conclusion

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

¹ MISSCEO – Mutual Information System on Social Protection of the Council of Europe, comparative tables of social protection systems in 13 Council of Europe member states, Australia, Canada and New Zealand, 2005, consulted on the site: <http://www.socialcohesion.coe.int/MISSCEO/DisplayAnswerCountry.aspx?Year=2008&chap=0&country=MK>

Article 13 - The 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”.

The Law on Social Protection (Official Gazette No. 50/97 as amended) is the main legal instrument for the protection of social assistance rights. This law is implemented through a number of by-laws (rulebooks), such as, 'on determining the carrier of the right to social assistance (official Gazette No 103/07)' and 'on the right to one-off financial assistance' (Official Gazette No 2/03 as amended). The Committee notes that the new Law on Social Protection is under preparation and wishes to be kept informed about these developments.

The legal framework on social protection is prepared by the Ministry of Labour and Social Policy through its various departments concerned, such as department for social inclusion, department for realisation of the right to social protection etc. The Ministry prepares the annual programme of social protection which sets out the areas of social work, specific needs of the population and takes into account the national budgetary constraints.

The competency for implementation of the legal framework lies with the Social Work Centres (SWC). According to the report, there is a well developed network of 27 inter-municipal centres which cover all the municipalities of the country. These centres are competent for implementing the rights to social protection arising from the Law on Social Protection, including the right to social financial assistance, to one-off financial assistance and to health protection.

Types of benefits and eligibility criteria

According to Article 20 of the Law on Social Protection, the right to social assistance includes, among others, access to the following allowances/benefits: permanent financial assistance, social financial assistance, health protection benefit, one-off financial assistance and housing allowance.

Under Article 29 of the above mentioned Law the *social financial assistance benefit* is paid to 'socially endangered persons' capable of work who cannot support themselves. The Committee notes from MISSCEO database that the basic principle of this benefit is to provide financial help for households in order to ensure their basic needs at the level of minimum living standard.

The eligibility to, and the amount of, this benefit is subject to a means-test: persons who own a second house or apartment, a registered motor vehicle or a land of 7,000 square meters etc are not eligible to this benefit. The amount varies within the range of 13,5% to 33,34% of the average net salary in the country, depending on the family size. The amount actually paid is equivalent to the difference between the income of the person/household and the threshold set. For a single person the threshold is set at 13,5% of the average salary. According to the report about 10% of the population are in receipt of this benefit. The Committee notes that the average number of beneficiaries has fallen from

67,113 in 2005 to 63,882 in 2007. The expenditures represent around € 27,6 million annually. About 97,2% of the beneficiaries are registered as unemployed persons. According to MISSCEO, there is no nationality requirement for eligibility but there is a permanent residence requirement.

The Committee notes that persons who have left their jobs voluntarily and have refused an employment offer, training or education for employment lose the right to this benefit. According to MISSCEO those capable of work must register every month at the Social Work Centre and must accept any work offered (seasonal work, temporary tasks etc). In this connection the Committee recalls that establishment of a link between social assistance and willingness to seek employment or to receive vocational training is in keeping with the Charter, in so far as such conditions are reasonable and consistent with the aim pursued, that is to say to find a lasting solution to the individual's difficulties. Reducing or suspending social assistance benefits can only be in conformity with the Charter if it does not deprive the person concerned of his/her means of subsistence. The Committee asks for clarification as to what forms of social assistance may be refused in such circumstances, whether the assistance is withdrawn in its entirety and whether the withdrawal of such assistance may amount to the deprivation of means of subsistence for the person concerned.

According to the report, every month social assistance beneficiaries are obliged to spend at least 5 days in public work organised by municipalities, public institutions or state-run companies. In this regard the Committee asks what is the nature of public work and under what circumstances the failure to undertake public work is penalised by withdrawal of assistance.

The *permanent financial assistance benefit* is granted to people 'incapable of working', such as persons with disabilities, a single mother of a child under 3 years of age, a single mother in her 9th month of pregnancy, persons over the age of 65. The Committee notes that this assistance falls outside the material scope of Article 13, except when it applies to persons over the age of 65, which the Committee assumes could be assimilated with non-contributory old-age benefits to the elderly persons. Since "the former Yugoslav Republic of Macedonia" has not accepted Article 4 of the Additional Protocol, the Committee examines the issues relating to the elderly persons without adequate resources under this provision. Therefore it asks that the next report provide information on the amount of assistance (non-contributory pension, other aid) paid specifically to this category of persons.

The report provides information on *one-off financial assistance* which is granted to any person or family who find themselves in a position of social risk due to a natural disaster or an epidemic. The amount of this benefit is determined by competent Social Work Centre's staff on a case by case basis. According to MISSCEO this benefit is a lump sum cash benefit paid to any individual or household put in a position of social risk (for example, sickness, natural disasters, death, epidemic etc).

As regards the *housing benefit*, it is provided as a cash allowance or in the form of an accommodation to 'socially endangered persons', with unresolved housing issues. The report further states that the right to this benefit can be exercised by any person or family whose income is not higher than 80% of the average national salary in case of a one-member household, 90% in case of a family of two and 100% in case of a family of three or more members. According to MISSCEO this benefit is paid to beneficiaries of permanent financial assistance, which includes the elderly persons over 65 years of age.

Level of assistance

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

- basic benefit: according to the report the social financial assistance benefit in 2007 amounted to MKD 1,825 (€ 29,8). According to MISSCEO it amounted to MKD 1,700 (€ 27,8) for a single person household, MKD 2,200 (€ 36) for a two-member household and MKD 2800 (€ 46) to a three-member household.
- supplementary benefits - despite the information provided about various other benefits, the Committee notes that these do not as a rule supplement the basic assistance but are rather paid in special circumstances: to be eligible for one-off assistance the case of specific social risk must be established, whereas for the housing benefit, the Committee understands that it is not paid to all beneficiaries of the basic financial assistance.
- the Committee notes information regarding access to healthcare for people without resources. The beneficiaries of social financial assistance, registered as unemployed with the Employment Agency receive health insurance from that agency. As regards the beneficiaries of other social assistance benefits described above, they are insured through the Social Work Centres. The Committee asks whether those persons who fall out of the social assistance scheme, for various reasons, such as for having refused a job offer or for not having registered as unemployed, receive medical assistance in case of need. In the meantime it reserves its position on this point.
- the poverty threshold: in the absence of the poverty threshold defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold, the Committee notes from MISSCEO that the financial social assistance is a percentage (57%) of a relative poverty line, which is estimated at MKD 3000 per month (€ 49). 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/or additional - paid to a person living alone is not manifestly below the poverty threshold.

In the light of the above data, the Committee considers that social assistance benefits are not adequate on the basis that the minimum assistance that can be obtained falls below the poverty threshold.

Right of appeal and legal aid

According to the report, the social work centres are competent for implementing the rights to social protection. The Committee takes note of the statute of social work centres which provides for their organisation and management.

The applications for social assistance are submitted to the local social work centre. This centre evaluates the personal situation on the basis, among others, of an interview with the applicant, inspection of the applicant's home etc. It determines the merit of the case and decides on eligibility. If the application is refused, the decision on rejection will include guidelines on the legal remedy. The appeal can be submitted to the Minister of Labour and Social Policy who adopts a decision.

The Committee recalls that the right to assistance may not depend solely on the discretion of the administrative authorities: it must constitute an individual right laid down in law and be supported by an effective right of appeal. The right secured by this provision places an obligation on states which they may be called on in court to honour. The Committee focuses on the judicial role of the review body and establishes that it must be a body independent of the executive and of the parties.

Considering that “the former Yugoslav Republic of Macedonia” fails to meet the obligations of Article 13§1 in this regard, the Committee holds that the right of appeal is not effectively guaranteed.

The Committee asks whether the right of appeal is accompanied by the right to legal aid.

Personal scope

The Committee recalls that in accordance with the Appendix to the Charter, foreigners who are nationals of other States Parties, are legally resident or regularly working in the territory of another Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals.

In this connection, the Committee notes from MISSCEO that eligibility for social assistance is conditional on the possession of a permanent residence permit. The Committee requests that the next report provide information on the conditions for granting permanent residence permits, in particular as regards the requirement of prior length of residence. In the meantime it reserves its position on this point.

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 following grounds:

- the level of social assistance is not adequate;

- the right of appeal against the refusal of social assistance is not effectively guaranteed.

Article 13 - The 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”.

According to the report, the Constitution of “the former Yugoslav Republic of Macedonia”, the Law on Social Protection, the Law on Protection of Children, as well as the by-laws originating from these laws provide a guarantee for respecting the political and social rights of the beneficiaries of social and medical assistance.

The Article 9 of the Constitution, under the section of Civil and Political Freedoms and Rights, states that “Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.”, while in the section of Economic, Social and Cultural rights, the Article 34 stipulates that: “Citizens have a right to social security and social insurance, determined by law and collective agreement.” and Article 35 stipulates that: “The Republic provides for the social protection and social security of citizens in accordance with the principle of social justice. The Republic guarantees the right of assistance to citizens who are infirm or unfit for work. The Republic provides particular protection for invalid persons, as well as conditions for their involvement in the life of the society.”

The Committee notes that the Constitution of “the former Yugoslav Republic of Macedonia” provides guarantees of a general nature for nondiscrimination on the basis of social status.

The report states that the Law on Social Protection and the Law on Protection of Children contain provisions specially stipulated for handling the discrimination against the citizens. Article 7-c of the Law on Social Protection (amended) partially stipulates: “Direct or indirect discrimination on the basis of gender, race, skin colour, nationality, social status, political affiliation, religion, property and society belonging in exercising the rights to social protection established by this Law shall be forbidden....” and Article 7-d stipulates: “Direct discrimination, in the sense of Article 7-c of this Law, shall mean any action or lack thereof by which a social protection beneficiary has been put, is put or could be put in an unfavourable position to other beneficiaries in comparable cases.

Indirect discrimination, in the sense of Article 7-c of this Law, exists when a given seemingly neutral provision, criterion or practice, puts or would put the social protection beneficiary, on the basis of his/her gender, race, skin colour,

nationality, social status, political affiliation, religion, property and society belonging, in an unfavourable position to other beneficiaries of social protection rights defined by this Law.”

The Committee notes that a process of drafting a new law on antidiscrimination has started and requests an update in the next report on the status of this process and how it will affect the rights of the citizens in relation to Article 13§2.

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§2.

Article 13 - The 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”.

According to the report the Law on Social Protection provides for social prevention, first social service for beneficiaries of social protection, assistance to individuals as well as families. The Social Work Centres undertake measures directed towards individuals and families with a view to preventing occurrence of social risks. Article 10 of the above mentioned Law guarantees, among others, the right to immediate social service. The immediate social service refers to the process of identifying the problem that emerges from a state of social risk and proposing possible solutions to the beneficiary as well as services and means of protection. The Committee notes that there are 27 inter-municipal Social Work Centres, which cover all municipalities in the country. The centres function on the principle of team work, with mixed teams of social workers, pedagogues, psychologists and lawyers.

The Social Work Centre, among other things, performs the following activities: detects, monitors and studies social problems, applies and implements adequate forms of social protection and directly assists the person, supports and undertakes preventive measures for emergence of situations that involve social risk.

The Committee recalls that Article 13§3 is concerned specifically with services offering advice and personal assistance to persons without adequate resources or at risk of becoming so. Under Article 13§3 the reports should provide information concerning, in particular, social welfare services for persons without, or liable to be without, adequate resources. These services should be designed to inform individuals of their rights and enable them to overcome difficulties arising from their need, avoid benefit dependency and re-establish their

autonomy. The Committee asks whether services and institutions are provided with sufficient means to give appropriate advice and personal help as necessary.

Finally the Committee asks whether nationals of other States Parties legally resident or regularly working in “the former Yugoslav Republic of Macedonia” enjoy equality of treatment in regard to access to these services.

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 Charter.

Article 13 - The 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”.

According to the report, foreigners with permanent residence in “the former Yugoslav Republic of Macedonia”, as well as refugees can exercise their rights in the areas of social protection, access to the labour market, education and health protection in accordance with the Law on Asylum and Temporary Protection, Law on Social Protection, Law on Employment of Foreigners etc. The report also states that certain amendments to the Law on Social Protection have been passed in 2007 with a view to facilitating access to social protection rights for asylum seekers, recognised refugees and persons under humanitarian protection.

The Committee notes that those foreigners who are not in a possession of a permanent residence permit are provided emergency assistance in case of urgent need, in case of accidents and in case of acute disease requiring medical treatment in hospital. These persons have the right to a one-off financial assistance or assistance in kind in order to overcome the situation of emergency.

The Committee notes the information concerning the rights of asylum seekers and refugees and finds that it is in conformity with Article 13§4 of the Charter. It also takes note of the opening of the new Reception Centre for Asylum Seekers in 2008.

The Committee recalls that the personal scope of Article 13§4 differs from that of other Charter provisions. The beneficiaries of this right to social and medical assistance are foreign nationals, without adequate resources, who are lawfully present in a particular state but do not have resident status and also the ones who are unlawfully present. The States are required to provide for these persons assistance to cope with an immediate state of need (accommodation, food, clothing, emergency care and emergency medical assistance). They are not

required to apply the guaranteed income arrangements under their social protection systems, but the extent of social and medical assistance provided to such persons must be appropriate to meet their immediate and urgent needs.

The Committee asks whether foreign nationals lawfully present (e.g. tourists, students etc) who are without adequate resources and those who are unlawfully present in “the former Yugoslav Republic of Macedonia” are entitled to emergency medical and social assistance (shelter, food clothing).

Conclusion

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