



January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

GEORGIA

This text may be subject to editorial revision.

The following chapter concerns Georgia, which ratified the Charter on 22 August 2005. The deadline for submitting the 10th report was 31 October 2016 and Georgia submitted it on 7 December 2016. On 8 June 2017, a request for additional information regarding Articles 7§9, 27§1, and 27§2 was sent to the Government which did not submit a reply.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of 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).

Georgia has accepted all provisions from the above-mentioned group except Article 3, Article 12§§2 and 4, Article 13, Article 23 and Article 30.

The reference period was 1 January 2012 to 31 December 2015.

The conclusions relating to Georgia concern 7 situations and are as follows:

- 3 conclusions of conformity: Articles 12§3, 14§1 and 14§2,
- 4 conclusions of non-conformity: Articles 11§1, 11§2, 11§3 and 12§1.

During the current examination, the Committee noted the following positive developments:

Article 12§3

- The launching of a Universal Healthcare Programme in February 2013, by virtue of which the personal coverage of health care has been significantly extended, from 29.5% of the population in 2010, to 100% after 2013. The Universal Healthcare Programme covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services (see information provided under Article 11 of the National Report);
- The extension, in 2013, of paid maternity leave from 126 to 183 days (and from 140 to 200 days in case of complications) and the increase of minimum maternity benefits from GEL 600 to GEL 1000 (€382 at the rate of 31/12/2015).

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In addition, the report contains also information requested by the Committee in Conclusions 2015 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right of children and young persons to protection – fair pay (Article 7§5),
- the right of children and young persons to protection – regular medical examination (Article 7§9),
- the right of employed women to protection of maternity – prohibition of dangerous, unhealthy or arduous work (Article 8§5),
- the right of children and young persons to social, legal and economic protection – assistance, education and training (Article 17§1),
- the right of migrant workers and their families to protection and assistance – assistance and information on migration (Article 19§1),
- the right of migrant workers and their families to protection and assistance – co-operation between social services of emigration and immigration states (Article 19§3),

- the right of migrant workers and their families to protection and assistance – equality regarding employment, right to organise and accommodation (Article 19§4),
- the right of migrant workers and their families to protection and assistance – family reunion (Article 19§6),
- the right of workers with family responsibilities to equal opportunity and treatment – participation in working life (Article 27§1),
- the right of workers with family responsibilities to equal opportunity and treatment – (Article 27§2).

The Committee examined this information and adopted the following conclusions:

- 1 conclusion of conformity: Article 19§3,
- 8 conclusions of non-conformity: Articles 7§5, 7§9, 8§5, 17§1, 19§1, 19§4, 19§6 and 27§1,
- 1 deferral: Article 19§11.

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The next report will deal with the following provisions of 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 report should also contain information requested by the Committee in Conclusions 2016 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right to work – freely undertaken work (non-discrimination, prohibition of forced labour, other aspects) (Article 1§2),
- the right to work – vocational guidance, training and rehabilitation (Article 1§4),
- the right to vocational training – apprenticeship (Article 10§2).

The deadline for submitting that report was 31 October 2017. The report was registered on 30 October 2017. Conclusions on the Articles concerned will be published in January 2019.

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Conclusions and reports are available at www.coe.int/socialcharter as well as in the HUDOC database.

**CONCLUSIONS RELATING TO ARTICLES
FROM THE THEMATIC GROUP**

‘Health, social security and social protection’

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 Georgia.

Measures to ensure the highest possible standard of health

The Committee notes from WHO that life expectancy at birth in 2015 (average for both sexes) was 74.4 (compared to 73.77 in 2009). The life-expectancy rate is still low relative to other European countries. For instance, life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015.

The report indicates that according to the data provided by the National Statistics Office, the mortality rate (deaths/1,000 population) was 13.2 in 2014 and 2015, 10.8 in 2013 and 11.0 in 2012. The report indicates that cardiovascular diseases and cancer remain the main causes of death, followed by diseases of the respiratory and digestive systems, injury, poisoning and other external sources. The Committee asks what measures are being taken to address the major causes of premature death.

In its previous conclusion the Committee found that the situation was not in conformity with Article 11§1 on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient (Conclusions 2013).

As regards the maternal mortality rate, the Committee noted previously that it has increased considerably. In 2011 the rate reached 27.58 deaths per 100,000 live births, up from 14.4 in 2008 (and reaching a peak of 52.1 in 2009) (Conclusions 2013). The current report indicates that Georgia has reduced maternal mortality rate by more than half from 49.2 in 2000 to 31.1 in 2013 per 100,000 live births. The Committee notes from WHO data that the maternal mortality rate in 2015 was estimated at 36 per 100,000 live births. These rates are significantly above the average in other European countries, and one of highest rates in 2015 in Europe.

The Committee noted previously that the infant mortality rate decreased slightly from 14.1 per 1,000 live births in 2007 to 11.2 per 1,000 live births in 2010 (Conclusions 2013). The report indicates that according to official vital statistics (GeoStat), Georgia has substantially reduced under-5 mortality rate from 24.9 in 2000 to 11 per 1000 live births in 2015. The Committee notes from WHO data that the under-5 mortality rate in 2015 stood at 11.9 per 1,000 live births which is still high relative to other European countries. Infant mortality is estimated by WHO/Europe at 11 per 1,000 live births. It further notes from Eurostat that the infant mortality rate in Georgia stood at 11.1 in 2013 and 9.5 in 2014 compared to the EU-28 rate of 3.7 per 1,000 live births in 2013/2014).

The report further mentions that the largest share in child mortality is still attributed to infant mortality (87.5%) and the situation has not changed significantly since 2000 when the infant mortality rate fraction in under -5 mortality rate was 90%. It adds that 66.7% of mortal cases in infants were caused by conditions originating in the perinatal period, with stillbirths being the main cause of perinatal death (73.6%). The report indicates that, according to the WHO data, stillbirths to early neonatal deaths ratio should not exceed 1.2. This ratio stood at 2.6 in 2015 in Georgia.

The Committee takes note from the report of the measures taken by the Government to improve the situation, mainly through the programme dedicated to maternal and child health which is one of the priorities of the Healthcare System State Concept 2014-2020, such as an emergency notification system to improve accountability and registration of maternal and child mortality cases. The report outlines that "Mother's and Children's health programme provides for visits in the frame of antenatal observation; investigation of newborns on hypothyroid, phenilketonuria, hyperphenilalaninemia and mucoviscidoses; screening of pregnant women on genetic pathology; ensure adequate in-patient care for high risk pregnants, women in childbirth and after childbirth". In order to improve the quality and the

efficiency of the perinatal services, a process of perinatal regionalisation was carried out in 2015 in two regions (Imereti and Racha-Lechkhumi) and expanded in 2016 to Tbilisi and Kvemo Kartli regions. The completion of perinatal regionalisation nationwide is planned in 2018. The report adds that in 2016 (outside the reference period) an Electronic Module of Health Care for Pregnant Women and Newborns (“Birth” Registry) was set up to monitor the health situation of pregnant women since the first antenatal visit till the childbirth as well as the health situation of babies at the moment of birth.

The Committee takes note of the reforms initiated and the measures taken to reduce maternal and child mortality. It asks to be kept informed on the implementation of such measures, their effect on reducing the maternal and infant mortality rate, updated data regarding the trends of the mortality rates and on any developments in this field. However, it notes that the situation has not improved substantially since the previous reference period. In view of the increasing/high rate of maternal mortality, as well as the prevailing high infant mortality rate, the Committee finds that insufficient efforts have been undertaken in this field, and therefore reiterates its previous finding of non-conformity on this point.

Access to health care

The Committee concluded previously that the situation in Georgia was not in conformity with Article 11§1 of the Charter on the ground that out-of-pocket payments in general and medication costs in particular represent too high a burden for the individual, effectively being an obstacle to universal access to health care (Conclusions 2015). In reaching this conclusion, the Committee noted that despite the reform initiated in February 2013 through the Universal Health Care Programme (UHP), the out-of-pocket payments for health care, especially for medication, were still very high and very limited coverage of medication costs was provided under the UHP (Conclusions 2015).

The report indicates that as a result of the reform, 100% of the population benefits from publicly financed health coverage after 2013, up from 40% in 2012 and 29.5% in 2010. The Universal Healthcare Programme (UHP) covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services. According to the report, most of those benefiting from the UHP did not have any health coverage before the reform. The Committee takes note of the detailed information provided in the report on specific public healthcare programs and treatments in relation to hepatitis C, breast cancer, tuberculosis, HIV/AIDS, mental illnesses.

The Committee notes that according to the results of the survey “Health care utilisation and expenditure” carried out in 2014, people are more likely now than in 2010 to consult a health care provider when sick; financial barriers to access have declined, especially for outpatient visits and hospital care; and user experience of the health system has improved. The report mentions that the share of patients reporting that they expected to pay for a consultation with a doctor at the nearest facility halved between 2010 and 2014, falling from 73.7% in 2010 to 35.6% in 2014. This fall was large in urban areas.

The Committee further notes from the WHO reports that public spending remains low in Georgia, in comparison to most countries in the WHO European Region (7% of the GDP according to WHO estimates), while out-of-pockets are high (Report on meeting held in Tbilisi on 24 June 2015 to discuss the findings of the survey on health care utilisation and expenditure). Analysis supported by WHO/Europe shows that out-of-pocket payments for medicines are the most important source of financial hardship for people in Georgia.

The Committee takes note of the reform on the health system through the Universal Healthcare Programme and the measures taken by Georgia during the reference period. However, it seems that the out-of-pockets payments for covering the costs of medication remain high. The Committee recalls that the right of access to care requires *inter alia* that the cost of health care should be borne, at least in part, by the community as a whole (Conclusions I (1969), Statement of Interpretation on Article 11) and the cost of health care

must not represent an excessively heavy burden for the individual. Out-of-pocket payments should not be the main source of funding of the health system (Conclusions 2013, Georgia). Steps must be taken to reduce the financial burden on patients from the most disadvantaged sections of the community (Conclusions XVII-2 (2005), Portugal).

The Committee asks whether the reforms initiated have reduced the costs of medicines for the population at large, and in particular for vulnerable groups and those with chronic conditions. It also asks whether new legislation/reforms on medicines are envisaged in this sense. The Committee asks updated information in the next report on the out-of-pocket payments. Meanwhile, the Committee reserves its position on this point.

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 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. The Committee outlines that if such information is not provided, there will be nothing to establish that the situation is in conformity with the Charter on this point.

In its previous examinations of Article 11, the Committee asked for information on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments (Conclusions 2009, 2013). The Committee requested that information on this also be included in the next report (Conclusions 2013). The report indicates that under the “Drug use prevention program, drug users are provided with drug replacing therapy and medical supervisory care; visits in-patient detoxication and rehabilitation purposes”. The report adds that an Intersectoral action plan 2014-2015 was adopted by the Inter-Agency Coordinating Council on Combating Drug Abuse on the meeting of the Council on 4 of December 2013. All agencies which participate in the implementation process prepare quarterly reports on the implementation of 2014-2015 Action Plan. The Committee wishes to be kept informed on the implementation outcomes of this Action Plan, whether the measures taken improved the situation of the drug addicts and the available facilities and treatments.

The Committee asks that the next report contain information on the availability of mental health care and treatment services, including information on the prevention of mental disorders and recovery measures.

The Committee asks that the next report contain information on dental care services and treatments (such as who is entitled to free dental treatment, the costs for the main treatments and the proportion of out-of-pocket paid by the patients).

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that in Georgia there is a requirement that transgender people undergo medical treatment, including sterilisation, as a condition of legal gender recognition. It also claimed that the authorities fail to provide medical facilities for gender reassignment treatment, and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary treatment, on a non-discriminatory basis. The Committee invited the Government to submit comments on this matter (Conclusions 2013). The report does not provide any information on this point. The Committee takes note of the comments submitted by Transgender Europe and ILGA- Europe on the implementation of Article 11 of the Charter in the current cycle stating that Georgia is one of the states that require sterilisation as a condition for legal gender recognition. The Committee reiterates its request for information on this particular matter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality have been insufficient.

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 Georgia.

Education and awareness raising

The Committee took note previously that information campaigns to prevent and control chronic diseases are conducted by different agencies of the healthcare system. Some of the campaigns have targeted the prevention of HIV, Tuberculosis, tobacco and drug consumption. The Committee requested that the next report should include updated information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases (Conclusions 2013).

The report mentions that under Tobacco Control National Action Plan, measures were designed to be implemented which include educational campaigns on tobacco and inclusion of tobacco education in secondary and graduate education system, awareness raising campaigns in collaboration with Ministry of Sport and Youth, public broadcaster and other relevant agencies. The Committee asks information on the implementation of these measures.

The Committee recalls that informing the public, particularly through awareness-raising campaigns, must be a public health priority. The precise extent of these activities may vary according to the nature of the public health problems in the countries concerned (Conclusions 2007, Albania). Measures should be introduced to prevent activities that are damaging to health, such as smoking, alcohol and drugs, and to develop a sense of individual responsibility, including such aspects as a healthy diet, sexuality and the environment (International Centre for the Legal Protection of Human Rights (Conclusions XV-2, the Slovak Republic). Thus, the Committee reiterates its request for information on concrete/specific activities, such as educational or awareness-raising campaigns/initiatives, undertaken by public health services, or other bodies, to promote health and prevent diseases. It outlines that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

As regards health education in schools, the report indicates that under the National Education Plan 2011-2016, health education at schools is addressed through separate subjects and activities (nature, biology, chemistry, social sciences, sports and supervisory meetings between teachers-students). The Committee takes note of the detailed description of health aspects dealt with under each of the above mentioned subjects. It notes that the supervising meetings with the students cover the following topics: healthy lifestyle, personal hygiene, disease spreading sources, healthy food, time management, day regime, sports significance, danger of bad habits.

The Committee recalls that States Parties must ensure that sexual and reproductive health education forms part of the ordinary school curriculum; that the education provided is adequate in quantitative terms; that the form and substance of the education, including curricula and teaching methods, are relevant, culturally appropriate and of sufficient quality, in particular that it is objective, based on contemporary scientific evidence and does not involve censoring, withholding or intentionally misrepresenting information, for example as regards contraception and different means of maintaining sexual and reproductive health; and that a procedure is in place for monitoring and evaluating the education with a view to effectively meeting the above requirements (International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia, Complaint No. 45/2007, Decision on the merits of 30 March 2009, §§46 – 47). The Committee asks for information in the next report on whether and how sexual and reproductive education is provided in schools in Georgia.

Counselling and screening

In its previous conclusions, the Committee found that the situation was not in conformity with this provision on the ground that measures for counselling and screening of pregnant women and children were not adequate (Conclusions 2009, Conclusions 2013).

The report indicates that one of the main priorities of the Georgian Healthcare System State Concept 2014-2020 is support for maternal and child birth. The report adds that the Ministry of Labour, Health and Social Affairs of Georgia (MoHLSA) is implementing a state maternal and child health programme, which funds four antenatal care visits.

The report further indicates that antenatal screening is being implemented for HIV-infection, hepatitis B and syphilis, and the “confirmatory research among the pregnant women revealed through the screening is carried out”. In the framework of the mother and children health program, antenatal supervision is universally available as well as the medical care services for pregnant and birth-giving women.

Data provided in the report indicate that maternal mortality rate has been reduced from 49.2 per 100,000 live births in 2000 to 31.1 per 100,000 live births in 2013. The report mentions that in 2015 the MoHLSA started perinatal regionalisation process in two regions and the completion of the process for the whole country is planned for 2018. A pilot project is planned to ensure home visit model for early detection of developmental delays before age of 3 and to ensure timely referral of identified cases to relevant medical institutions.

The Committee recalls that there must be free and regular consultation and screening for pregnant women and children throughout the country (Conclusions 2005, Republic of Moldova). The Committee noted in its Conclusion on Article 11§1 that the rate of infant and maternal mortality are still high in the country. For instance, according to the WHO data for 2015, the infant mortality rate was 11 deaths per 1,000 live births and the maternal mortality rate was 36 deaths per 100,000 live births. In view of these prevailing high mortality rates, the Committee considers that the antenatal services and examinations for pregnant women and children have not improved sufficiently. It therefore maintains its conclusion of non-conformity on this point.

Moreover, the Committee recalled that free medical checks for children must be carried out through the period of schooling. It therefore asked that information on this be included in the next report, including on the frequency of school medical examinations, their objectives, the proportion of pupils concerned and the level of staffing (Conclusions 2013). In the absence of such information, the Committee reiterates its question and holds that if such information is not provided, there will be nothing to establish that the situation is in conformity with the Charter.

The Committee recalls that pursuant to this provision there should be screening, preferably systematic, for the diseases which constitute the principal cause of death (Conclusions 2005, Republic of Moldova). Preventive screening must play an effective role in improving the population’s state of health.

In its Conclusions 2013, in the absence of any information on counseling and screening for the population at large, the Committee concluded that the situation was not in conformity with Article 11§2 of the Charter on the ground that it has not been established that prevention through screening is used as a contribution to the health of the population. The Committee re-examined this conclusion of non-conformity for repeated lack of information in its Conclusions 2015 and since no information was provided on nationwide screening programmes for diseases constituting the main causes of death, the Committee considered that the situation was still not in conformity with the Charter on the ground that it has not been established that screening programmes are adequately used as a contribution to the health of the population (Conclusions 2015).

The report indicates that under the state program for early detection of the diseases, the following cancer screening programmes have been implemented: (i) breast cancer screening for 40-70-year-old women; (ii) cervical cancer screening for 25-60-year-old women; (iii) prostate cancer screening for 50-70-year-old men; (iv) colorectal cancer screening for 50-70-year-old population.

The report adds that through “the epidemiological safety programme is ensured the timely detection and prevention of communicable and non-communicable diseases for children and for adults on a primary healthcare level. The above mentioned programme provides for the surveillance of sexually transmitted diseases and HBsAg, antiHBc, antiHCV, study of patients with the diseases non-associated, viral hepatitis and its risk factors. Surveillance component for nosocomial infections, diarrheal diseases and meningitis and hemorrhagic fever have been launched for two years.”

The Committee also takes note from the report of the information on control and prevention measures concerning HIV/AIDS, tuberculosis and malaria. However, the Committee noted previously that there are high rates of mortality and morbidity from cardiovascular and respiratory diseases (Conclusions 2013). The Committee reiterates its request for specific information on mass screening programmes for these diseases. Meanwhile, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 11§2 of the Charter on the ground that measures for counselling and screening of pregnant women and children are not adequate.

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 Georgia.

Healthy environment

The Committee noted previously that the Environment Protection Law of 1996 is the framework legislation in the field of environmental protection. Specific laws had been passed for the protection of air quality, water safety, on the protection of the population against the risks from ionising radiation and asbestos, as well as in the area of food safety (Conclusions 2013). The Committee asked for information on the institutional structures for the proper implementation of the above-mentioned legislation and wished to receive information on levels of air pollution, as well as on cases of water and food intoxication, and whether trends increased or decreased during the reference period (Conclusions 2013).

The report only lists a number of regulations approving technical regulations with regard to harmful substances in the air, ionising radiation and radioactive substances, radiation safety standards, rules and standards of food organisation, waste collection, storage and treatment from therapeutic and prophylactic facilities, waste landfills etc. The Committee reiterates its question that the report provide information on the concrete measures taken, including comprehensive environmental legislation and regulations, as well as on the levels and trends with regard to air pollution, waste management, water contamination and food safety during the reference period. The Committee outlines that if such information is not provided, there will be nothing to establish that the situation is in conformity with the Charter on this point.

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 11§3 of the Charter on the ground that adequate measures have not been taken to ensure access to safe drinking water in rural areas (Conclusions 2015).

The report lists again a number of resolutions concerning sanitation and hygiene adopted in 2014, including several pertaining to water, such as Resolution N58 of 15 January 2014 on potable water, Resolution N73 of 15 January 2014 on the water supply system, Resolution N62 of 15 January 2014 on disinfection of water supply facilities and Resolution N425 of 31 January 2014 on protection of surface water from pollution. However, no indication is given as to whether these resolutions specifically address the situation regarding access to safe drinking water in rural areas.

The Committee considers that having access to safe drinking water is central to living a life in dignity and upholding human rights. It also recalls that "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). The Committee asks that the next report provide detailed and up-dated information on the situation as regards access to safe drinking water in rural areas as well as information on any measures taken (including the the above-mentioned Government resolutions, if relevant) and their impact on the situation. Meanwhile, the Committee reiterates its conclusion that the situation is not in conformity with the Charter as regards measures to ensure access to safe drinking water in rural areas.

Tobacco, alcohol and drugs

The Committee noted previously that WHO Framework Convention on Tobacco Control was ratified by Georgia on 14 February 2006. The Committee asked to be kept informed on the implementation of the applicable legislation and other tobacco control strategies. More generally, it wished 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 (Conclusions 2013). The report indicates that the Law on Tobacco Control bans smoking in

certain public places and all public transport, regulates tobacco products packaging and labeling, sales of tobacco products etc. The Law on Advertisement bans tobacco advertising through cinema, radio, video services and television. The report further indicates that on 15 March 2013 the State Committee on Tobacco Control was created to strengthen tobacco control in Georgia, with a view to ensuring the effective implementation of the 2010 Law on Tobacco Control and make necessary legislative amendments. The working group of the Committee elaborated a Tobacco Control National Strategy and Action Plan 2013 – 2018. The measures included in the Action Plan regard activities on prevention of smoking for youth, comprehensive tobacco ban advertisement, educational and awareness raising campaigns on tobacco, annual raise of tobacco tax, enforcement of partial smoking ban in public places and preparation of total ban after 2015 etc. The report mentions that the implementation of the above mentioned activities was planned for 2016 and new legislation on tobacco control is expected.

The report indicates that according to WHO data, Georgia is one of the countries with the highest level of tobacco consumption in the European region and the world. The smoking prevalence is high among adult men (55%). The Committee notes that surveys carried out in 2015 show that the prevalence of tobacco smoking is quite high among youth (the majority of students (83.2%) replied that their friends smoke tobacco (84.7% of boys and 82.3% of girls). The Committee notes the measures taken in the field of tobacco control. However, the report indicates that new legislation on tobacco control is expected. The Committee asks for information in the next report on any new developments in this field, in particular on legislation on smoke-free environments, health warnings on tobacco packages, and tobacco advertising, as well updated figures and trends in tobacco consumption. Pending receipt of the information requested, the Committee reserves its position on this point.

The report does not provide information on the level of alcohol consumption in Georgia. The Committee asks that the next report provide updated figures on the level and trends of alcohol consumption. Pending receipt of the information requested, the Committee reserves its position on this point.

The Committee takes note of the National Drug Strategy and Action Plan 2014-2015. The report indicates that there are approximately 40000 intravenous drug users, that correspond to 1.5% of the population aged 15-64. The most commonly used intravenous drugs in the country belong to the group of opioids. The Committee asks to be kept informed on the implementation of the Action Plan, in particular whether the measures taken have reduced the number of drug users/consumption.

Immunisation and epidemiological monitoring

The Committee wished to receive updated information on the national immunisation programme, namely which vaccines are included and the coverage rate (Conclusions 2013).

The report lists the vaccines which are included in the national immunisation programme, namely BCG, Hepatitis B, DPT-HepBHib, DPT, OPV/IPV, MMR and DT. It adds that new vaccines were introduced during the reference period such as Rotavirus in 2013, Pneumococcal in 2014 and hexavalent vaccine in 2015. An action plan for transition from the trivalent oral polio vaccine to bivalent vaccine was set up. In respect of immunisation against measles, in 2015, the coverage rate stood at 94%, slightly below the level recommended by WHO of 95%.

The Committee takes note from the report of the detailed information regarding the prevention and control of hepatitis C, tuberculosis, malaria and HIV/AIDS. It asks for updated information and any new developments in the next report on the national vaccination programme, the trends in the coverage rate and measures taken with regard to prevention and control of infectious diseases.

Accidents

In its previous conclusion, the Committee asked for information on specific measures taken to prevent the road accidents, as well as other accidents such as those during leisure time and in the home environment. The report only reiterates that the Law on Traffic Security is the legal basis for promoting road safety. A state programme in this area is being implemented.

The Committee reiterates its request for information on the measures taken and the trend in the number of road accidents as well as domestic accidents and accidents during leisure time. It holds that if such information is not provided, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 11§3 of the Charter on the ground that the measures taken to ensure access to safe drinking water in rural areas have been insufficient.

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

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

As Georgia has not accepted Articles 8§1 and 16 of the Charter, the Committee assesses maternity benefits and family benefits under this provision.

Risks covered, financing of benefits and personal coverage

The Committee notes from the report (information provided under Article 11) the launch of a Universal Healthcare Programme in February 2013, by virtue of which the personal coverage of **health care** has been significantly extended, from 29.5% of the resident population in 2010, to 100% after 2013. According to the report, the Universal Healthcare Programme, which is publicly financed (taxation, state and local budgets), covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services.

In case of **sickness/temporary incapacity**, the report indicates that the employer pays 100% of the salary for the whole period of incapacity, subject to a reexamination by a medical commission after the first 30 days of sickness. According to the report, all employees are covered, and 88% of the active population was insured in 2015.

As regards **maternity benefits**, the Committee notes from MISSCEO that benefits are paid for 183 calendar days (200 days in case of complications) to all employees. Up to GEL 1000 (€382), the amount is paid by the state but, according to ISSA, the employer pays a complementary amount. The Committee asks the next report to clarify what proportion of the employee's daily wage is paid, when the employer's complementary amount is taken into account.

Old age, disability and **survivors** pensions are covered by non-contributory schemes, covering all residents and publicly financed. Old age pensions are granted to women aged 60 and men aged 65 (707 709 pensioners in 2015). Disability pensions are granted in case of disability, as established by a medical commission, without distinction between work and non-work related disability (123 809 beneficiaries in 2015). Survivors' pensions are granted to children up to the age of 18 in case of death of the family's breadwinner (24 832 beneficiaries in 2015).

The Committee previously noted that the social security system did not cover **family benefits**. Although the report mentions several social assistance measures available to certain categories of vulnerable families (families living in mountain regions or regions where mortality rate exceeds the birth rate, families with disabled children, families with 7 or more children), the Committee notes that there no family or child benefits are provided as part of social security, available either universally or subject to a means-test (see Conclusions 2006, Statement of interpretation on Article 16). Accordingly, it maintains that the family benefit system as described in the Georgian report cannot be assimilated with the family benefit branch of social security in the meaning of Articles 12 and 16 of the Charter.

As the social security system does not cover **unemployment**, the Committee maintains its previous finding of non-conformity in this respect.

The Committee furthermore notes from the report that there is no social security scheme in respect of **work injuries/occupational diseases**. The only protection available, under the Labour Code, the Civil Code, the Law on Medical and Social Appraisal and Governmental Decree No. 45 of 1 March 2013 "Rules of remuneration for damage caused to workers' health", is the employer's liability to reimburse any damage caused to the worker's health, as long as the employer's fault is established by a court. The Committee points out that such mechanism cannot be assimilated to a social security insurance scheme, and holds

therefore that the social security system does not cover the work injuries/occupational diseases branch.

The report mentions a number of social assistance allowances (household subsidy; subsistence allowance; social package; assistance for internally displaced, refugees and persons with humanitarian status) available to persons in need. In this connection, the Committee points out that the Charter approaches social security and social assistance in two separate Articles (Articles 12 and 13) carrying different undertakings. Whilst taking into consideration the views of the state concerned as to whether a particular benefit should be seen as social assistance or as social security, the Committee pays most attention to the purpose of and the conditions attached to the benefit in question. It thus considers as social assistance benefits for which individual need is the main criterion for eligibility, without any requirement of affiliation to a social security scheme aimed to cover a particular risk, or any requirement of professional activity or payment of contributions. Moreover, assistance is given when no social security benefit ensures that the person concerned has sufficient resources or the means to meet the cost of treatment necessary in his or her state of health (Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13). On the other hand, Article 12§1 guarantees the right to social security to workers and their dependents including the self-employed. States Parties must ensure this right through the existence of a social security system established by law and functioning in practice. Social security, which includes universal schemes as well as professional ones, includes contributory, non-contributory and combined allowances related to certain risks. These are benefits granted in the event of risks which arise but they are not intended to compensate for a potential state of need which could result from the risk itself. A social security system exists within the meaning of Article 12§1 when it complies with the following criteria:

- number of risks covered: the social security system should cover the traditional risks and therefore provide the following benefits: medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, and maternity benefit.
- personal scope: the social security system must cover a significant percentage of the population for the health insurance and family benefit. Health coverage should extend beyond employment relationships. The system should cover a significant percentage of the active population as regards income-replacement benefits, such as sickness, maternity and unemployment benefits, pensions, and work accidents or occupational diseases benefits.
- funding: the social security system must be collectively financed, which means funded by contributions of employers and employees and/or by the state budget. When the system is financed by taxation, its coverage in terms of persons protected should rest on the principle of non-discrimination, without prejudice to the conditions for entitlement (means-test, etc.).

In the light of these criteria, the Committee considers that the social security system in Georgia does not cover an adequate number of risks, as it does not provide for family benefits, unemployment benefits or work injuries/occupational diseases benefits.

Adequacy of the benefits

In the absence of the Eurostat median equivalised income indicator, the Committee notes from official statistics (Geostat) that, as of November 2015 the minimum subsistence level for an average consumer was GEL 146.8 (€56) per month (approximately GEL 5 daily). The Committee previously noted that this indicator is derived on the basis of current average prices of food and non-food products.

Sickness benefits correspond to 100% of the salary. However, the report does not indicate the minimum level of sickness benefits and no minimum wage exists either, which could be used as a reference. Accordingly, the Committee reiterates its request for information on this

point and considers in the meantime that it has not been established that the level of minimum sickness benefits is adequate.

Up to GEL 1000 are paid in respect of **maternity benefits** for the whole period covered (183-200 days). The Committee asks the next report to clarify whether this represents the minimum amount granted and reserves in the meantime its position on this point.

As regards **old age** pension, the report indicates that the level was raised in September 2015 from GEL 150 to GEL 160. The Committee considers this amount to be adequate.

A flat rate of GEL 150 was granted in respect of severe **disability** pensions till September 2015, and then raised to GEL 180. The Committee considers this amount to be adequate.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 12§1 of the Charter on the following grounds:

- the number of risks covered by the system of social security is inadequate, as there is no provision for family benefits, unemployment benefits or work injuries/occupational diseases benefits;
- it has not been established that the level of minimum sickness benefits is adequate.

Article 12 - Right to social security

Paragraph 3 - Development of the social security system

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

It takes note of the legislative developments during the reference period, in particular:

- the launching of a Universal Healthcare Programme in February 2013, by virtue of which the personal coverage of health care has been significantly extended, from 29.5% of the population in 2010, to 100% after 2013. The Universal Healthcare Programme covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services (see information provided under Article 11 of the National Report);
- the extension, in 2013, of paid maternity leave from 126 to 183 days (and from 140 to 200 days in case of complications) and the increase of minimum maternity benefits from GEL 600 to GEL 1000 (€382 at the rate of 31/12/2015);
- the increase, in September 2015, of the amount of the social package for persons with severe disabilities, from GEL 150 (€57) to GEL 180 (€69);
- the increase, in September 2015, of the state pension (for women aged 60 and men 65) from GEL 150 GEL to GEL 160 (€61). Further increases, according to the report, occurred out of the reference period. The Committee asks the next report to provide information on their implementation and impact.

As regards the other measures detailed in the report, concerning vulnerable categories such as people with disabilities, people living in mountain areas, internally displaced persons, refugees, victims of human trafficking or domestic violence etc., the Committee notes that they do not appear to be relevant to Article 12, as they concern social assistance, rather than social security. The Committee recalls in this respect that Article 12§3 requires States Parties to improve their social security system, for example by expanding schemes, protecting against new risks or increasing the level of benefits. The notion of a social security system implies that a significant proportion of the population is covered and in essence based on collective funding and that the social risks which are considered essential must be covered by the system. (Statement of Interpretation on Article 12, Conclusions 2002). The improvements should lead to a gradual raising of the social security system of the country in question above the level required by International Labour Convention No. 102 (Statement of Interpretation on Article 12§3, Conclusions III (1973)).

In the light of the information provided, the Committee considers that, although the measures taken during the reference period have not been sufficient to bring the social security system to an adequate level (see Conclusions 2017 on Article 12§1), they have nevertheless brought it to a higher level. Accordingly, the situation is in conformity with Article 12§3.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 12§3 of the Charter.

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 Georgia.

Organisation of the social services

The Committee recalls that the right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment (Conclusions 2005, Bulgaria).

The Committee in its previous conclusion (Conclusions 2013) deferred its position and asked if there was a general social services system in Georgia.

The report in reply to the question indicates that there is a centralised system of Social Services functioning throughout the country. LEPL Social Service Agency, operates under the control of the Ministry of Labour, Health and Social Affairs of Georgia and is responsible for implementing social programmes. LEPL Social Service Agency has territorial units (branches) in every district and region. In order to receive service a person should apply to the local branch of the social service agency by place of residence.

Effective and equal access

The Committee in its previous conclusion (Conclusions 2013) asked what the notion of "permanent residency" implied and whether temporary residents lawfully residing and regularly working had access to social services.

The report indicates that social services offered by the state are available without any restrictions and exception. Beneficiaries of the services are: all citizens of Georgia, persons holding a document verifying their citizenship (including children under 18 – personal number or birth certificate), the citizens with a neutral ID card, neutral travel documents and persons having status of "without Georgian citizenship", persons seeking shelter in Georgia, persons with refugee or humanitarian status.

The report indicates that the state budget finances basic social services (listed in the report), while local municipalities within the frames of their own budgets implement and fund additional social programmes for the local population, including services to support vulnerable families and large families with newborns registered in the database of vulnerable households, assistance programmes for children of persons who became disabled in the fight for Georgia's territorial integrity; cofinancing of medical services for persons in economic crisis. The Committee points out that fees may be charged for social services provided that they are not so onerous as to prevent effective access. For persons who do not have the necessary resources, service must be provided free of charge. The Committee asks that the next report lists those services for which a fee can be charged and indicate whether these services are free for those who do not have the means to pay for them.

Quality of services

The report indicates that in 2015, 239 social workers operated under the responsibility of the LEPL Social Service Agency. The number of social workers has increased by 28 units in 2016. The report indicates also that a programme of deinstitutionalisation of large childcare institutions was conducted during the period 2011-2015. Currently two medium size institutions for children with disabilities are operating. The Committee notes that the report also provides information outside the reference period and asks the next report to provide information on developments and results following the conclusion of the Memorandum of Understanding in January 2016 between the LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia and UNICEF.

Moreover, in relation to the monitoring procedures to check efficacy, effectiveness and quality of social services the Committee asked to have information on the outcome of a study conducted by the organisation "BCG Research" during the period 2009-2011 and whether in Georgia, there is any legislation on personal data protection.

In reply, the report indicates that results of the study conducted by the organisation "BCG Research" were taken into account and financing mechanisms, activities and approaches in some services in 2012 have been changed. As a result of that the quality of provided services and goods has increased.

As regards the personal data protection the report indicates that in order to ensure personal data protection, Georgia ratified Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in 2006 and its additional Protocol in 2013. In 2012 the Law of Georgia on Personal Data Protection entered into force.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Georgia is in conformity with Article 14§1 of the Charter.

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 Georgia.

In its previous conclusion (Conclusions 2013) the Committee found that the situation was not in conformity with Article 14§2 of the Charter on the ground that it has not been established that measures are taken to encourage individuals and voluntary organisations to participate in the establishment and running of social welfare services. In 2015 the Committee found that the situation was brought into conformity with the Charter (Conclusions 2015). Moreover, the Committee, since the information provided mainly concerned social services for persons with disabilities, asked that the next report contains information on the participation of individuals and voluntary organisations in the establishment and running of social services for other groups of users such as children, family, the elderly, young people with problems, young offenders, refugees, homeless, alcohol and drug addicted, victims of domestic violence and former prisoners. It also asked to receive up-dated information on the public and/or private funding set aside for encouraging such participation.

In response to the Committee's questions, the report indicates that providers of social services must be registered as providers by the Social Protection Department of the Ministry of Labour, Health and Social Affairs of Georgia. Specific requirements needed include reference to infrastructure and technical base of the organisation, qualification of personnel and experience. The organizations implementing the upbringing activities are required to hold the relevant license. Registering for the social service provision is possible for any organisation, which meets the requirements foreseen by law. Representatives of the monitoring division at the Ministry of Labour, Health and Social Affairs of Georgia, within 20 working days, make sure that the applicant organisation is in-compliance with the requirements. The Committee takes note of the information provided and since no up-dated information on the public and/or private funding set aside for encouraging participation of individuals and voluntary organisations in the establishment and running of social services is provided, reiterates its requests and holds that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

The report indicates that civil society takes active part in the planning and implementation of services, almost all providers of social services are non governmental organisations. NGO's are participating in the establishment and running of social services for children, families, for elderly, victims of domestic violence etc. Currently there are 71 NGOs registered as service providers in Georgia. The persons with disabilities and their representative organizations also are involved in the process of development of policy and programmes and in provision of social services for specific target groups.

Conclusion

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

**CONCLUSIONS RELATING TO CONCLUSIONS OF NON-
CONFORMITY DUE TO A REPEATED LACK OF INFORMATION IN
CONCLUSIONS 2015**

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that the minimum wage paid to young workers is fair.

Young workers

In its previous conclusion, the Committee requested information on the corresponding minimum wages paid to young workers in practice in the economic activities mentioned in the report.

According to the report, remuneration of young workers is the same as that of adult workers. The report reiterates that in the private sector the minimum wage amounts to 20 GEL (President Order No 351) and in the public sector it amounts to 135 GEL (President Order No 43). It also reiterates that in practice minimum wages are higher. The Committee notes that the average monthly nominal salary of employees has grown from GEL 597 in 2010 to GEL 900 in 2015. The Committee also takes note of the average monthly nominal salary by economic activity. It also takes note of the State Strategy of Labour Market Formation and its Implementation Action Plan for 2015-2018, which also envisages the minimum wage reform. According to the report, the minimum wage reform along with the existing minimum wage analysis will be presented by the Trade Union Confederation for discussion with social partners and then submitted to the Tripartite Social Partnership Commission. The Committee asks the next report to provide information on these developments.

The Committee notes that the report, again, fails to provide information on the minimum wages paid to young workers in practice in different economic activities, for the Committee to compare it with the reference wage (average wage). Therefore, the Committee reiterates its previous finding of non-conformity on the ground that it has not been established that the minimum wage paid to young workers is fair.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§5 of the Charter on the ground that it has not been established that the minimum wage paid to young workers is fair.

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that there is an initial medical check-up at recruitment and regular medical check-ups thereafter of young workers under 18 years of age employed in occupations specified by national laws and regulations.

The Committee notes that the report submitted by Georgia contains no new information in response to this conclusion of non-conformity. In the absence of the requested information, the Committee reiterates its finding of non-conformity.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§9 of the Charter on the ground that it has not been established that there is an initial medical check-up at recruitment and regular medical check-ups thereafter of young workers under 18 years of age employed in occupations specified by national laws and regulations.

Article 8 - Right of employed women to protection of maternity

Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that there are adequate regulations on dangerous, unhealthy or arduous work in respect of pregnant employees, employees who have recently given birth or who are nursing their infants (Conclusions 2015).

Under Article 8§5, the law must ensure a high level of protection against all known hazards to the health and safety of employees who are pregnant, have recently given birth, or are nursing their infants (Conclusions 2003, Bulgaria): it must explicitly prohibit their employment in underground mining and prohibit, or strictly regulate, depending on the risks, their employment in activities which are unsuitable by reason of their dangerous, unhealthy, or arduous nature, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents. If the work is unsuitable to their condition, national law must make provision for their re-assignment, with no loss of pay, and, if this is not possible, they should be entitled to paid leave. They should furthermore retain the right to return to their previous employment (Conclusions 2005, Lithuania).

The report confirms that the Labour Code prohibits the employment of pregnant or nursing women in dangerous, unhealthy or arduous work and that this also applies to officials and support staff in the public sector. However, no detailed regulation has been adopted yet. In this respect, the report states that detailed provisions regarding the protection against all known hazards to the health and safety of women are included in a draft law on Health and Safety at work, which is under discussion, but has not been submitted yet to the Parliament for adoption.

The Committee takes note of this information and asks the next report to provide updated information on the adoption of the new law and any other relevant amendments to the Labour Code. Information should be provided in particular on whether the law explicitly prohibits the employment of women who are pregnant, have recently given birth or are nursing, in underground mining; whether it defines a list of activities unsuitable to the condition of such women and prohibits or strictly regulate their employment there, in particular by providing that, during the protected period, they should be reassigned to an adequate post with no loss of pay or be entitled to paid leave, and that, at the end of such period, they be entitled to return to their previous employment. In the meantime, the Committee finds that, during the reference period, there were no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 8§5 of the Charter on the ground that, during the reference period, there were no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that prohibition of all forms of corporal punishment of children in the home, in schools and in institutions had a precise legislative basis.

Protection from ill-treatment and abuse

The Committee previously (2015) noted from the report that existing legislation provides for a blanket prohibition on all forms of corporal punishment, including directed against children and adequately protects children from any form of corporal punishment, and that Georgia therefore did not intend to amend the applicable legislation. The Committee considered, however, that in the absence of information regarding the specific legal basis for prohibition of all forms of corporal punishment in the home, in schools and in institutions, the situation was not in conformity with the Charter as it had not been established that such prohibition in the home, in schools and in institutions has a precise legislative basis.

The Committee now notes from the report that amendments were made in 2014-2016 to the Law of Georgia on 'elimination of domestic violence, protection and support to the victims'. The guidelines for identification of domestic violence cases against minors, reporting procedures of domestic violence have been defined. In September 2016 the Government adopted the child protection referral procedures by the Decree No 437. This Decree determines the violence forms against a child and the separation mechanism of a child from abuser. However, the Committee notes that there is no explicit prohibition of all forms of corporal punishment in the legislation.

The Committee further notes from the country report on Georgia of the Global Initiative to End Corporal Punishment of Children that corporal punishment is not yet fully prohibited in the home. In 2014, the Civil Code was amended to prohibit "methods of upbringing of a minor by a parent that cause physical or psychological pain to a minor" (Article 1198). Battery or other violence which causes physical pain is punishable under the Criminal Code. However, these provisions do not explicitly prohibit all corporal punishment. There is no explicit prohibition of corporal punishment in formal early childhood care settings (nurseries, crèches, etc) or in formal day care for older children (day centres, after-school childcare, childminding, etc).

The Committee notes that in its Concluding observations on the fourth periodic report of Georgia (2016) the UN Committee of the Rights of the Child observed that while efforts were made by the State party to combat domestic violence, including amendments to the law on combating domestic violence and the new child protection referral mechanism adopted in 2016, the programme on the identification and prevention of violent and behavioural disorder, piloted from 2016 onwards, the Committee was strongly concerned by the prevalence of corporal punishment in the home as well as schools and institutions as well as by the lack of awareness-raising activities to combat that practice. It recommended that Georgia adopts legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including educational institutions, alternative care institutions and the home.

The Committee recalls that under Article 17§1 prohibition of all forms of corporal punishment does not necessarily have to be in the criminal law, a prohibition in civil law may be sufficient. Neither is it necessary that the prohibition be laid down by legislation, case law

may suffice, if it emanated from a superior court, was unequivocal and binding on all lower courts, i.e. there was no possibility for lower courts to apply a right of correction or a right of reasonable chastisement. However, even if violence against the person was punished under the criminal law and provided for increased penalties where the victim was a child, this would not constitute a sufficient prohibition in law to comply with the Charter unless a state could demonstrate that such legislation was interpreted as prohibiting all forms of corporal punishment against children and effectively applied as such.

The Committee considers that the legislation does not comply with this approach. Therefore, the situation is not in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in the home, in schools and in institutions.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31st October 2016 on conclusions of non-conformity for repeated lack of information in conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that adequate measures were taken against misleading propaganda in relation to emigration and immigration.

The report indicates that Georgia adopted the Migration Strategy 2016-2020 which gives a special emphasis to the development of mechanisms facilitating return and reintegration of Georgian citizens, protection of the rights and integration of persons with refugee or humanitarian status, and asylum seekers in Georgia. Effective measures are being taken, according to the report, to improve the existing mechanism against illegal migration. Moreover, a unified Migration Analytical System is being developed in order to facilitate informed decision-making in migration management and the policy planning process. The report further indicates that the Law on Legal Status of Aliens and Stateless Persons provides, among other things, legal guarantees for aliens and stateless persons in compliance with internationally recognized human rights and freedoms; to protect universal human rights for aliens and stateless persons irrespective their race, language, sex, religion, etc.

The Committee notes that the report provides no information on measures undertaken by Georgia on combating misleading propaganda stereotypes, prejudice and misconceptions towards minorities.

However, the Committee notes from the ECRI's fifth report on Georgia, adopted on 8th December 2015, that the Public Defender, an independent institution elected by Parliament, may examine complaints from natural and legal persons, as well as investigate cases on his/her own initiative. The Public Defender can only make recommendations, following the examination of a case, to try to settle it by mutual agreement. The recommendation is not legally binding. If it is not accepted by the discriminating party, the Public Defender can bring a case to the relevant court and act as an interested third party. The ECRI noted that staffing levels of regional offices are not adequate, especially given the wide mandate of the Public Defender.

The ECRI's report also indicates that hate speech against ethnic and religious minorities continues to be a widespread problem in Georgia, including among political parties, and that xenophobic attitudes are present in the media. In this respect, the Committee requests the next report to provide information on the implementation of the Broadcasters' Code of Conduct, in particular its provisions requiring broadcasters to create public appellate bodies which can receive complaints from the public and take binding decisions in this field.

The Committee recalls that statements by public actors are capable of creating a discriminatory atmosphere. Racist misleading propaganda indirectly allowed or directly emanating from the state authorities constitutes a violation of the Charter (*Centre on Housing Rights and Evictions (COHRE) v Italy*, Complaint No. 58/2009, decision on the merits of 25 June 2010). It stresses the importance of promoting responsible dissemination of information, and of deterring the promulgation of discriminatory views.

The Committee also notes from the ECRI report that the 2009-2014 National Concept for Tolerance and Civic Integration and its associated Action Plan were based on six strategic directions: rule of law, education and state language, media and access to information, political integration and civic participation, social and regional integration, and culture and preservation of identity. The ECRI noted that the Action Plan was largely implemented, in conjunction with positive legislative changes. Following the expiry of the National Concept on

Tolerance and Civic Integration 2009-2014 and its Action Plan, the authorities are in the process of drafting and adopting a new Civic Equality and Integration Strategy 2015-2020. However, the ECRI report further noted that historical ethnic minorities in Georgia continue to experience problems in the field of education and that marginalisation also persists with regard to social services in minority regions.

The Committee understands, therefore, from the ECRI report that no appropriate measures have been undertaken to tackle stereotypes, prejudice and misconceptions towards minorities. It recalls in this regard that in order to be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary *inter alia* to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease (Conclusion XV-1 (2000), Austria).

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§1 of the Charter on the ground that no appropriate measures have been taken to counter misleading propaganda relating to emigration and immigration.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration states

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31st October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that appropriate co-operation between social services, public and private, in emigration and immigration countries was sufficiently promoted.

The Committee recalls that the co-operation required entails a wider range of social and human problems facing migrants and their families than social security (Conclusions VII, (1981), Ireland). The Committee notes from IOM that the number of immigrants in Georgia is relatively low. It notes however that a large number of Georgians now reside or work outside of its territory, and therefore may require assistance. Whilst it considers that collaboration among social services can be adapted in the light of the size of migratory movements (Conclusions XIV-1 (1998), Norway), it holds that there must still be established links or methods for such collaboration to take place.

In this regard, the report refers to a new Pilot project on temporary Labour Migration of Georgian workers to Poland and Estonia launched on 9 December 2015. The project is funded and implemented by the IOM in collaboration with the Ministry of Labour, Health and Social Affairs. The objective of the project is to develop operational frameworks for facilitating worker mobility from Georgia to Poland and Estonia that promote effective job-matching, migrant skill development and protection of their labour and human rights. This objective is being achieved through three specific outcomes: 1) informing the Georgian Government and partners in Estonia and Poland about relevant regulative frameworks and economic needs for labour migration from Georgia; 2) facilitating labour migration from Georgia in a cooperative and comprehensive manner and in compliance with ethical recruitment standards and practices; and 3) improving future temporary and circular labour migration support schemes out of Georgia. The report points out that in this context, Georgia intends to develop interstate cooperation in the sphere of labour migration by means of bi- or multilateral agreements with other countries and *inter alia* with Austria, Romania and Greece.

In response to the Committee's request as to the implementation of the Mobility Partnership, the report indicates that Georgia adopted the Migration Strategy 2016-2020 aiming at facilitating return and reintegration of Georgian citizens, protection of the rights and integration of persons with refugee or humanitarian status, and asylum seekers in Georgia. In order to effectively address contemporary challenges and fulfill international obligations, effective measures are being taken to improve the existing system of fighting illegal migration.

The Committee recalls that formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a needs basis may be sufficient (Conclusions XV-1 (2000), Belgium). Whilst it considers that collaboration among social services can be adapted in the light of the size of migratory movements (Conclusions XIV-1 (1996), Norway), it holds that there must still be established links or methods for such collaboration to take place. Common situations in which co-operation would be useful would be for example where the migrant worker, who has left his or her family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to his or her country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which he was employed (Conclusions XV-1 (2000), Finland).

The report provides no information on practical co-operation or collaboration with other States' services. The Committee notes from IOM that "[d]ue to the underdeveloped regulatory framework and support mechanism, Georgian migrants use personal contacts and networking or resort to services of private recruitment agencies or acquaintances to find work abroad. The predominantly informal nature of employment increases their vulnerability to labour and human rights abuses". The Committee asks the next report to comment on this issue.

In light of the information available, the Committee considers the situation to be in conformity with the Charter.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Georgia is in conformity with Article 19§3 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 4 - Equality regarding employment, right to organise and accommodation

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31st October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that migrant workers lawfully resident in the country were treated not less favourably than nationals with regard to remuneration and working conditions, or accommodation.

Remuneration and other employment and working conditions

The report states that, pursuant to the Legal Status of Aliens and Stateless Persons Act, as amended in 2015, migrants in Georgia may carry out work activity in compliance with the law. In particular, they shall have the same rights, freedoms and obligations as citizens of Georgia. Migrants in Georgia shall be equal before the law irrespective of their origin, social and material status, race, nationality, sex, education, language, religion, political or other beliefs, field of activity, other conditions. Georgia shall guarantee the protection of the life, personal inviolability, rights and freedoms of a foreigner (migrant) on its own territory.

The report also states that the Labour Inspectorate is responsible for monitoring labour conditions of migrant workers and, where necessary, sanctioning companies in case of infringement. In order for the Labour Inspectorate to cooperate with other governmental bodies with a view to preventing forced labour/exploitation and human trafficking of migrant workers, the "Memorandum of Mutual Cooperation on Promotion of Detection of Cases of Trafficking in Human Beings" was signed between the Ministry of Labour, Health and Social Affairs of Georgia and Ministry of Internal Affairs of Georgia on August 13, 2015. The Committee asks the next report to provide information on the implementation of this memorandum.

The Committee notes that the information provided in the report does not permit it to assess the situation properly. It recalls that "States are obliged to eliminate all legal and *de facto* discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion" (Conclusions VII (1981), United-Kingdom). The Committee considers that it has not been demonstrated that equal treatment is secured in practice between migrant workers and nationals with regard to remuneration and working conditions.

Accommodation

The Committee recalls that the undertaking of States under this sub-heading is to eliminate all legal and *de facto* discrimination concerning access to public and private housing (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§111-113). There must be no legal or *de facto* restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances" (Conclusions IV (1975), Norway – Conclusions III (1973), Italy).

In its previous conclusions (Conclusions 2011 and 2015) the Committee asked for information proving the absence of discrimination in practice of migrant workers with regard to accommodation or on any possible measure taken to remedy cases of discrimination. As the report provides no information on this matter, the Committee reiterates its question and considers, in the meantime, that it has not been established that equal treatment is secured in practice between migrant workers and nationals with regard to accommodation.

The Committee recalls that the situation concerning other aspects covered by Article 19§4 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§4 a and c of the Charter on the grounds that it has not been established that equal treatment is secured in practice between migrant workers and nationals with regard to remuneration and working conditions, and accommodation.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 6 - Family reunion

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31st October 2016 on conclusions of non-conformity for repeated lack of information in conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that the State facilitated as far as possible the reunion of the families of foreign workers.

The Committee refers to its previous conclusions (Conclusions 2011 and 2015) as regards the persons who, pursuant to the Law on Legal Status of Aliens and Stateless Persons, can apply for family reunion in Georgia. The Committee asked for clarifications about the procedure and decision making process referred to in Article 17(10) of the abovementioned Law, in order to assess whether the granting of a residence permit on family reunion grounds was discretionary or not. It asked in particular: what bodies were authorised to assess whether the granting of a residence permit to a person would be advisable or not with regard to the safeguard of state security and/or public safety interests; what types of considerations such a decision could take into account; what was the procedure applied, once a decision on the advisability of granting a permit was taken, to decide whether a permit may be issued; what requirements, if any, applied as to health, means, accommodation, language skills, or time limits prior to eligibility for family reunion. The Committee also required information and statistical data concerning appeals relating to the granting of residence permits on family reunion grounds.

According to the report, a permanent residence permit is issued to a parent, child, or spouse of a Georgian national, as well as to an alien who has been living in Georgia on the basis of a temporary residence permit during the last six years (except as regards periods of study, medical treatment or work in diplomatic missions). A temporary residence permit for up to six years may be issued, according to the report, to the family member (spouse, parent or child) of an alien or stateless person for family reunion purposes.

In response to the Committee's question, the report indicates that, as regards family reunion, there are no additional requirements as to health, means, accommodation, language skills or time limits prior to eligibility for family reunion. However, this statement contradicts the information detailed in the report concerning the procedure for granting residence permits pursuant to the Government Ordinance No. 520 of 1 September 2014.

In fact, according to this Ordinance, the Public Service Development Agency of the Ministry of Justice (the Agency), which is in charge of processing the residence permits requests, may request a health certificate in cases where there is a spread of disease in another country, and where the nature, gravity and duration of the disease may pose a risk to the population of Georgia. In this respect, the report specifies that under the Law on Legal Status of Aliens and Stateless Persons, an alien may indeed be denied a residence permit if he/she has such infectious or other diseases as identified and listed by the Ministry of Labour, Health and Social Affairs. The Committee recalls that a state may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health. These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-by-case basis, that the illness or condition constitutes a threat to public order or security. In the light thereof, the Committee asks the next report to clarify what are the diseases listed by the Ministry of Labour, Health and Social Affairs as an obstacle to the granting of a permit. It also requests information on how this

requirement is applied in practice, in the light of any available data concerning refusal of a family reunion permit, on grounds of health.

The report furthermore indicates that, in case of residence permit for family reunion, the ordinance explicitly requires evidence that the legal income of the family member already residing in Georgia is not less than double the amount of the minimum subsistence level for average consumers in Georgia. Evidence of the legal income of the person already residing in Georgia is also required when requesting a permanent residence permit for family reunion purposes, but no income threshold is specified in the Ordinance. The Agency may also request, at any stage of the administrative procedure, the submission of documents supporting individual facts and circumstances that are crucial for the decision to grant a permit. The Committee recalls that the level of means required by States Parties to bring in the family or certain family members should not be so restrictive as to prevent any family reunion, and social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion. It asks whether social benefits are included when assessing the income of the person requesting a permit for members of his/her family. It furthermore asks the next report to provide additional information concerning the number and rate of refusals of family reunion permits on grounds of insufficient income.

As regards the procedure for assessing a permit application, the Ordinance provides that a decision on the granting or renewal of a residence permit be issued within 30 days after all necessary documents have been submitted. If the Agency needs to consult other public authorities, it must do so within three days from the receipt of the application and the requested information must be transmitted to the Agency within five days from the request. Based on the information available, an authorised official of the Agency shall issue an individual administrative-legal act on granting or refusing a residence permit. The Agency shall issue a residence card to an alien who has obtained a residence permit. In case of refusal, the alien might re-apply on the same grounds not earlier than one month after the decision of refusal. The decisions may be appealed to a court, in accordance with the Law, within one month after the communication of the decision. While taking note of this information, the Committee considers that it does not reply its request of information on the criteria applied to assess the risks to state security or public safety interests in relation to the granting of a residence permit for family reunion. It furthermore does not reply its request for information on statistical data concerning refusals of family reunion permits and related appeals. The Committee accordingly reiterates its requests. It furthermore asks the next report to clarify whether the family members of a foreign worker have an independent right to stay for the whole length of their residence permit, even if the foreign worker's permit should expire earlier.

In light of the information available and of the questions which remain outstanding, the Committee maintains that it has not been established that the State facilitates as far as possible the reunion of the families of foreign workers.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§6 of the Charter on the ground that it has not been established that the State facilitates as far as possible the reunion of the families of foreign workers.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 11 - Teaching language of host state

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31st October 2016 on conclusions of non-conformity for repeated lack of information in conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that the State adequately promoted and facilitated the teaching of the national language to migrant workers and members of their families.

In its previous conclusion (Conclusions 2015), the Committee asked for information on programmes specifically aimed at teaching the national language to migrant workers and their families, in particular: on what basis foreign citizens had the right to instruction of the national language; whether any special or extracurricular classes, or other forms of assistance, were provided to the children of migrant workers to enable them to learn the language and participate fully in their education; what courses, if any, were available to adult migrants to assist their learning, and what were the costs associated with such classes.

In response to the Committee's questions, the report indicates that the Law on General Education was amended in 2015, so as to extend funding of general education in favour not only of Georgian citizens, but also to foreigners, stateless persons and refugees or other persons under international protection. Pursuant to the Minister Order No. 98/2 on "Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees", a foreigner can enrol in a general education institution. The Education Quality Enhancement Centre (EQE) is in charge of the recognition of qualifications acquired abroad (see details in the report). On the basis of the assessment by the EQE of the person's certificates or of his/her competences, the person will be enrolled in a class corresponding to his/her age or lower. The Committee notes that, as regards higher education, the report clarifies that foreign bachelor students, during their first year of studies, can take a Georgian language preparation programme and get a certificate after completing the programme, before continuing their studies. It furthermore notes from the report that, as from 2015, a Georgian language programme exists for asylum seekers, refugees and persons under international protection under the age of 18 and is divided into two modules, one addressing children between 6 and 11 and the other addressing the age group from 11 to 18.

The Committee asks whether children of migrant workers, who arrive in Georgia without knowing the language, and are not refugees, asylum seekers etc., can also attend special Georgian language courses, free of charge, in order to rapidly integrate at school and in society with children of their age. The Committee asks the next report to provide all relevant information on such courses, if they exist.

As regards adults, the report states that, since 2016 (out of the reference period), Georgian language courses are available in the framework of vocational education. Furthermore, an official language teaching programme is implemented by the Zurab Zhvania School of Public Administration for any interested person and the courses, which are fully financed by the state, take place in 8 regional centres of the school, but also outside the centres and are carried out on three language levels.

The Committee asks the next report to provide further details on the language courses carried out within vocational education institutes and through the School of Public Administration. It asks in particular to confirm, in the light of any existing data on attendance by foreigners, that foreign persons can attend such courses free of charge.

Conclusion

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

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that:

- there are employment services providing vocational guidance, training and retraining of workers with family responsibilities;
- the legislation provides for facilitation of reconciliation of working and private life for persons with family responsibilities;
- workers on parental leave maintain their social security rights.

The Committee notes that the report submitted by Georgia contains no new information in response to these conclusions of non-conformity. In the absence of the requested information, the Committee reiterates its findings of non-conformity.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 27§1 of the Charter on the grounds that:

- it has not been established that there are employment services providing vocational guidance, training and retraining of workers with family responsibilities;
- it has not been established that the legislation provides for facilitation of reconciliation of working and private life for persons with family responsibilities;
- it has not been established that workers on parental leave maintain their social security rights.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by Georgia in response to the conclusion that it had not been established that fathers have a right to use a part of parental leave on an individual, non-transferable basis and that arrangements (i.e. benefits under social security or social assistance schemes) exist for remuneration of parental leave (after 183 days) or extra child care leave of absence.

The Committee notes from the report that the Law on the Public Service was amended (entry into force on 1 January 2017). The new law defines parental leave and its Article 64 (6) provides that only the parent actually taking care of an adopted child may enjoy the adoption leave provided for by paragraphs 1 and 4 of this Article. An officer shall be granted a leave of 550 calendar days, 90 calendar days of which are paid, provided the child's mother has not used the leave provided for by this article. The Committee asks whether this provision only concerns adopted children.

The report further states that drafting of the amendments are envisaged in order to ensure the parental (both parents) leave for the employees employed in the private sector. The Committee asks the next report to provide information in this respect.

The Committee considers that the report does not provide information on whether the fathers have an individual right to parental leave and whether there are arrangements for remuneration to cover the unpaid part of parental leave. Therefore, the Committee reiterates its previous findings of non-conformity.

It asks the next report to provide the following information:

- does Article 27 of the Labour Code cover both maternity and parental leaves (within 730 days) and if so, what is the proportion of parental leave?
- do fathers have an individual right to parental leave, at least some part of which would be non-transferable in both, public and private sectors?
- in view of the fact that parental leave (after 183 days) as well as extra child care leave of absence (Article 30 of the Labour Code) are unpaid, are there any arrangements for remuneration (e.g. benefits under social security or social assistance schemes) for parents who take them?

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 27§2 of the Charter on the grounds that:

- it has not been established that fathers have a right to use a part of parental leave on an individual, non-transferable basis;
- it has not been established that arrangements (i.e. benefits under social security or social assistance schemes) exist for remuneration of parental leave (after 183 days) or extra child care leave of absence.