January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

SERBIA

This text may be subject to editorial revision.

The following chapter concerns Serbia which ratified the Charter on 14 September 2009. The deadline for submitting the 6th report was 31 October 2016 and Serbia submitted it on 13 March 2017.

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).

Serbia has accepted all provisions from the above-mentioned group.

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

The conclusions relating to Serbia concern 19 situations and are as follows:

– 6 conclusions of conformity: Articles 3§1, 3§3, 3§4, 12§2, 13§2 and 13§4,

– 6 conclusions of non-conformity: Articles 3§2, 12§1, 12§4, 13§1, 23 and 30.

In respect of the 7 other situations related to Articles 11§1, 11§2, 11§3, 12§3, 13§3, 14§1 and 14§2 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Serbia under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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

Article 30

A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget

* * *

*

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 deadline for submitting that report was 31 October 2017.

* * *

*

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

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General objective of the policy

In its previous conclusion (Conclusions 2013), the Committee considered that there was a policy, the objective of which was to foster and preserve a culture of prevention in respect of occupational health and safety, and asked whether the policy was regularly assessed in light of the changing risks.

In response, the report indicates that the National policy on Occupational Health and Safety established in 2006 is regularly assessed and developed. The Strategy on Occupational Health and Safety for 2013-2017 (Official Gazette No. 100/13) was adopted on 14 November 2013, and the 2013-2017 Action Plan for its implementation (Official Gazette No.81/14) was adopted on 1 August 2014. The Strategy is based on principles of Decent Work Country Programme 2013-2017 for the Republic of Serbia, as well as on Seoul (2008) and Istanbul (2011) Declarations. The Strategy is based on social dialogue principles at all levels between employees', employers' and public interest representatives. According to the report, the new Strategy aims to reduce the number of accidents at work by 5% by 2017 and sets out a number of objectives, including: harmonising national laws with EU regulations; promoting occupational safety and health in primary and secondary schools; enhancing training of safety and health professionals; and introducing a single register of occupational injuries. The Committee asks the Government to provide information on the results obtained and on any progress achieved in the implementation of the Strategy on Occupational Health and Safety.

The report indicates that the 2013-2017 Action Plan for implementation of the Strategy on Occupational Health and Safety stipulates the competent state administration authorities, social partners and other participants in the occupational health and safety system. In particular, Action Plan includes activities of the Occupational Health and Safety Administration, Labour Inspectorate, other ministries, Social and Economic Council, representative trade unions, and representative employers' associations. The Committee takes note of activities carried out in the reference period according to individual objectives in implementation of the Strategy defined in the Action Plan.

In addition, the report indicates that on 3 November 2013, the National Assembly adopted the Law on Changes and Amendments to the Law on Occupational Health and Safety (Official Gazette No. 91/15), in which principles of prevention has been complemented with principle of "development of coherent overall prevention policy".

The Committee points out that new technology, organisational constraints and psychological demands favour the development of psychosocial factors of risk, leading to work-related stress, aggression, violence and harassment. It would also point out that, with regard to Article 3§1 of the Charter, it takes account of stress, aggression, violence and harassment at work when examining whether policies are regularly evaluated or reviewed in the light of emerging risks. The States parties have a duty to carry out activities in terms of research, knowledge and communication relating to psychosocial risks (Statement of Interpretation on Article 3§1 of the Charter, Conclusions 2013). The report does not provide any information on this point. The Committee accordingly reiterates its request.

Organisation of occupational risk prevention

In its previous conclusion (Conclusions 2013), the Committee considered that the labour inspectors participated, as part of preventive activities, in the development of a culture of occupational health and safety among employers and workers, and shared their knowledge about risks and risk prevention acquired during inspection activities.

According to the report, the enforcement of the Law on Occupation Health and Safety and other regulations related to this field shall be carried out by the Ministry of Labour through Labour Inspectors (Article 61).

In response to Committee's question on the preventive measures, which were prescribed at national level by the Ministry of Labour and Social Policy under section 7 of the Act of 14 November 2005, the report listed regulations adopted or amended during the reference period which concern preventive measures for safe and healthy work while using display screen equipment (Official Gazette No. 93/13), exposure to noise (OG No. 78/15), safety requirements regarding work equipment (OG No. 102/15), exposure to electromagnetic field (OG No. 111/15), exposure to asbestos (OG No. 108/15), as well as 8 sub-legal acts that have been adopted for the purpose of law implementation, but not on the basis of the Article 7.

In its previous conclusion (Conclusions 2013), the Committee asked for information on how the obligations to conduct workplace risk assessments, to provide information and training to workers under specific sections of the Act of 14 November 2005 were implemented in practice. In reply, the report indicates that, according to Article 13(1) of the Law on Occupational Health and Safety, an employer shall be liable to adopt Risk Assessment Act in written form for all workplaces in the working environment, and lay down the method and measures for risk elimination. Risk assessment aims at checking work organisation, work process, work equipment, raw materials and materials used in technological and work processes, personal protective equipment at the workplace and other elements that could cause risk from injuries at work or employee sickness. Risk assessment procedure is carried out at the employer's level and conducted for each working post. In addition, Risk Assessment Guidelines have been published by Occupational Health and Safety Administration on its internet page to support employers to conduct risk assessment procedure at workplace in cooperation with employees.

The Committee asks for information on the organisation of occupational risk prevention for workers employed by public authorities and in the agricultural and forestry sectors. It also requests information about the way in which employers, particularly small and medium-sized enterprises discharge their obligations in terms of initial assessment of the risks specific to workplaces and the adoption of targeted preventive measures in practice. The Committee requests the next report to indicate the manner in which it ensures that safety and health laws and regulations are adopted and maintained in force on the basis of an assessment of occupational risks.

Concerning training, the report indicates that, according to Article 27 of the Law on Occupational Health and Safety, an employer shall be liable to carry out training of employee for a safe and healthy work, at the beginning of his employment (i.e. reassignment to other jobs), when introducing a new technology or new work instruments or alteration of work equipment, as well as in case of alteration of the work process that may cause change of safe work and occupational health measures. Employer is also responsible for providing information during the training on all types of risks at jobs, and on concrete safe work and occupational health measures in accordance with Risk Assessment Act. Training for safe and healthy at work has to be conducted according to programme, which is updated and changed by employer. If an employer appoints an employee to perform jobs simultaneously at two or more workplaces, he/she have to provide health and safety training for each workplace.

The report specifies various preventive activities that were conducted by the Labour Inspectorate in cooperation with international and national services and institutions dealing with occupational safety and health and in collaboration with the social partners. In addition, various preventive materials (a risk assessment guide, training courses and manuals for the social partners, etc.) have been also developed during occupational safety and health seminars organised by the Labour Inspectorate.

The Committee notes that risk prevention measures and measures to raise employers' and employees' awareness exist at the level of undertakings. It also notes that the Labour Inspectorate is involved in the development of a health and safety culture among employers and employees in the workplace.

Improvement of occupational safety and health

In its previous conclusion (Conclusions 2013), the Committee asked for concrete examples on the involvement of the public authorities in the research on occupational health and safety; on institutions involved in that research; and on activities. In reply, the report gives a list of various workshops, seminars and conferences held during the reference period.

It also asked for more detailed information on the involvement of public authorities in the training of qualified professionals; in the design of training modules; and on any existing schemes for training and on certification. The report indicates that in line with amendments of the Law on Occupational Health and Safety, knowledge development programme and other matters concerning employees' knowledge development shall be prescribed by Minister of Labour, and it shall be adopted within two years from the date of entry into force of the law (i.e. by 13 November 2017).

The Committee asks for more detailed information on the involvement of public authorities in research relating to occupational health and safety, training of qualified professionals, design of training courses and certification of procedures.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee asked for information on the regular consultation with employers' and workers' organisations in matters of occupational health and safety at the national, sectoral and company levels. In reply, the report indicates that at national and sectorial level, social dialogue between state representatives and representatives of associations of employers and employees, with regard to safety and health at work is conducted through the work of the Social and Economic Council and the Occupational Health and Safety Council.

The Social and Economic Council became operational in April 2005 (the Law on Social and Economic Council, Official Gazette No. 125/04). It is comprised of 18 members, of which six members are from Government representatives, six representatives of trade unions and six representatives of associations of employers, appointed for a period of four years. Four working bodies are established within the Council, including standing working body for occupational health and safety matters. The Council reviews and gives opinions concerning draft laws and proposals of other regulations of importance for the economic and social position of employees and employers, and of occupational health and safety.

The Occupational Health and Safety Council is a tripartite body involving, apart from representatives of the Ministry of Labour, Employment, Veteran and Social Affairs and social partners, representatives of other ministries, higher education institutions and non-governmental organisations (Official Gazette No. 40/05 and 71/07). It presents initiatives for adopting occupational health and safety regulations, for devising national program for developing occupational health and safety, and initiates preventative policy on all issues pertaining to health and safety at work.

The Committee asks for information regarding the effectiveness of these bodies in promoting social dialogue in the area of health and safety, notably by providing concrete examples illustrating their effectiveness.

In addition, the report indicates that the Occupational Health and Safety Administration is involved in procedure of concluding special Collective Agreements in the part of occupational health and safety, issuing opinions to Collective Agreements.

In its previous conclusion (Conclusions 2013), the Committee also asked for information on the activities of the health and safety representatives elected in accordance with Section 44 et Seq. of the Act of 14 November 2005 in practice. Since it cannot find an answer to its question in the report with regard to this point, the Committee requests that the next report contain this information.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Serbia is in conformity with Article 3§1 of the Charter.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

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

Content of the regulations on health and safety at work

In its previous conclusions (Conclusions 2013), the Committee noted that efforts had been undertaken to incorporate international standards on exposure to occupational risks into specific national laws and regulations, and asked whether Serbia had undertaken to incorporate more of the Community *acquis* into national law. In reply, the report lists regulations, which incorporate the Community *acquis* on health and safety at work: Regulation on preventive measures for safe and healthy work during exploitation of minerals by drilling (Official Gazette (OG) No. 61/10) to incorporate Council Directive 92/91/EEC of 3 November 1992; Regulation on preventive measures for safe and healthy work during underground and surface extracting of minerals (OG No. 65/10) to incorporate Council Directive 92/104/EEC of 3 December 1992; Regulation on preventive measures for safe and healthy work while working on board fishing vessels (OG No. 70/10) to incorporate Council Directive 93/103/EEC of 23 November 1993; Rulebook on preventive measures for safe and healthy work during exposure to biological agents (OG No. 96/10) to incorporate Directive 2000/54/EC of 18 September 2000; Rulebook on preventive measures for safe and healthy work during exposure to artificial optical radiation (OG No. 120/12 and 29/13-corrigendum) to incorporate Directive 2006/25/EC of 5 April 2006; Regulation on preventive measures for safe and healthy work due to risks from explosive atmospheres (OG No. 101/12 and 12/13-corrigendum) to incorporate Directive 1999/92/EC of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmosphere; and Regulation on preventive measures for safe and healthy work to prevent exposure to electromagnetic field (OG No. 111/15) to incorporate Directive 2013/35/EU on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).

The report also indicates that, some regulations have been adopted concerning preventive measures for safe and healthy work to prevent exposure to asbestos (OG No. 108/15); conditions and amount of costs for issuance of licences for conducting jobs in the area of occupational health and safety (OG No. 112/13, 57/14 and 102/15); programme, manner and amount of costs for passing vocational exam for performing occupational health and safety jobs and responsible person jobs (OG No. 11/13, 57/14, 126/14 and 111/15); manner and procedure for workplace and working environment risk assessment (OG No. 72/06, 84/06 – corrigendum, 30/10, and 102/15); content and manner of issuing report form on injury at work, occupational disease and work-related disease (OG No. 72/06, 84/06-corrigendum, and 04/16); procedure of examining and checking work equipment and examining working environment conditions (OG No. 94/06 and 108/06-corrigendum, 114/14 and 102/15); records in the area of occupational health and safety (OG No. 62/07 and 102/15); and contents of elaborate on construction site arrangement (OG No. 121/12 and 102/15).

According to the report, the Law on Changes and Amendments of the Law on Occupational Health and Safety (OG No. 91/15) adopted by National Parliament on 3 November 2013 shall apply to all employees at workplace or when involved in processes, as well as for all persons currently in working environment. However, the report stresses that this Law shall not apply during performance of a specific military service in the Serbian Army and during performance of police jobs and jobs of protection and rescue from the scope of competent state authority, as well as during performance of jobs of protection and rescue carried out by other entities in accordance with special law, in which occupational health and safety matters during performance of such service and those jobs is regulated by a special law and regulations based on that law. The exception is also made for the persons employed with an employer for carrying out duties of support staff at home. The Committee asks whether this

would mean that these categories of workers are left without any standard of protection or if other protective rules apply.

In addition, the Committee notes from the report that the Law defines persons (and their capacity) who have the right to enjoy occupational safety and health, as well as those categories of workers having special rights, obligations, and stipulates the OSH measures to be applied in case of young workers, women carrying out activities at high-risk workplaces, disabled persons and workers suffering from occupational diseases.

In its previous conclusions (Conclusions 2013), the Committee also asked, given the low level of ratification of the technical ILO Conventions, for information on the Government's intentions in that respect. Since it cannot find an answer to its question (Conclusions 2013) in the report with regard to this point, the Committee requests that the next report contain this information.

The Committee points out that under the terms of Article 3§2 of the Charter, regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships (Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). The report does not provide any information on this point. The Committee accordingly reiterates its request. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter.

Levels of prevention and protection

The Committee examines the levels of prevention and protection provided for by the legislation and regulations in relation to certain risks.

Establishment, alteration and upkeep of workplaces

In its previous conclusions (Conclusions 2013), the Committee asked whether Serbia had undertaken to incorporate more of the Community *acquis* on the subject into national law. In response, the report lists various regulations, which were adopted during the reference period for the purpose of harmonisation of domestic legislation with EU-standards: the Rulebook on preventive measures for safe and healthy work when using means and personal protective equipment at the workplace (OG No. 92/08) to incorporate Council Directive 89/656/EEC of 30 November 1989, and the Rulebook on preventive measures for safe and healthy work when using work equipment (OG No. 23/09, 123/12 and 102/15) to incorporate Directive 2009/104/EC of 16 September 2009.

In reply to the Committee's question on the requirements set out in Regulations on the procedure for conducting risk-assessment in the workplace (OG No. 72/2006), and whether a schedule to remedy the identified risks was applicable, the report indicates that risk assessment is based on system recording and assessing of all factors in the work process – possible types of dangers and harms at workplace and in working environment that could cause injury at work, health damage or employee sickness. A risk assessment covers employer's general data; description of technological and work process, description of work equipment and their grouping and description of personal protective equipment at the workplace; looking into work organisation; recognising and determining the danger and harm at the workplace and in working environment; risk assessment comparing to danger and harm; identifying the method and measures for risk elimination, mitigation or prevention, etc. The Committee asks what kind of preventive measures are developed on the basis of such assessment, and whether a schedule is provided to tackle the identified risks.

The Committee asks whether the above regulations also refer to the manual handling of loads, hygiene (commerce and offices); maximum weight; safety and/or health signs at work.

Protection against hazardous substances and agents

The Committee asks the next report to provide information on the specific provisions relating to protection against risks of exposure to benzene.

Protection of workers against asbestos

In its previous conclusion (Conclusions 2013), the Committee asked for information on the exposure limit value of asbestos at work.

Apart from the regulations described in the previous conclusion (Conclusions 2013), the Committee notes from the report that the Rulebook on preventive measures for safe and healthy work during exposure to asbestos (OG No. 106/09, 6/10-cor. and 15/10-cor.) were replaced by Regulation on preventive measures for safe and healthy work during exposure to asbestos (OG No. 108/15) which transposes Directive 2009/148/EC of 30 November 2009 on protection of employees from the risks related to exposure to asbestos at workplace. According to Article 8 of this Regulation, the limit value for exposure to asbestos is 0.1 fibres/cm^3 as an 8 hour time weighted average.

The Committee asks whether the authorities have considered drawing up an inventory of all contaminated buildings and materials. Bearing in mind the importance of this question in the light of the right to health of the population (Article 11), the Committee asks the next report to provide specific information on steps taken to this effect. It also asks the next report to indicate measures ensuring that in all workplaces where workers are exposed to asbestos, employers take all appropriate measures to prevent, or control, the release of asbestos dust in the air, and that employers comply with the prescribed exposure limits. The Committee also asks the next report to confirm that all forms of asbestos is prohibited.

Protection of workers against ionising radiation

In its previous conclusions (Conclusions 2013), the Committee asked to indicate whether the Act of 2009 on protection from ionising radiation incorporates Recommendation (1990) of the International Commission on Radiological Protection (ICRP Publication No. 60) or Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation. It also asked whether Serbia had undertaken to incorporate the Council Directive 97/43/EURATOM of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure; Council Directive 2003/122/EURATOM of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources; and Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel, into national law.

In view of the lack of information in the report, the Committee is not in a position to examine whether the legislation and regulations in force satisfy the obligation under Article 3§2 of the Charter, which requires that level of protection required by the legislation and regulations in relation to ionising radiation be in line with the level set by international reference standards. The Committee therefore concludes that it has not been established that level of protection against ionising radiation are adequate. It asks that the next report provide full and detailed information on the legislation and regulations, including any amendments thereto adopted during the reference period, which specifically relate to that subject. The Committee therefore reiterates its questions.

Personal scope of the regulations

The Committee examines the personal scope of legislation and regulations with regard to workers in atypical employment.

Temporary workers

In its previous conclusion (Conclusions 2013), the Committee asked for information on how workers in fixed-term employment, agency and temporary workers were protected effectively and without discrimination, including against risks related to successive periods of exposure to dangerous substances when working for different employers, and through the prohibition of the use of non-permanent and temporary workers for some particularly dangerous tasks, was implemented in the laws and regulations. It asked for details about the access of the above categories of workers to information and training regarding occupational safety and health, as well as to medical surveillance and representation at work.

The report indicates that the Law on Occupational Health and Safety shall be applied on all employees at workplace or when involved in work processes as well as for all persons currently in the working environment, regardless of the fact whether they are in employment relationship for indefinite or definite period of time, i.e. with full or part-time work, except for persons who carry out domestic assistance. The Committee notes from the report that the term “employee” under the Law on Occupational Health and Safety is broader in comparison to the same term under the Labour Code in order to ensure the health and safety of all persons who are hired by employer, on any grounds.

With regard to performance of works with increased risk (among other things due to exposure to dangerous agents), on the basis of Occupational Health Service evaluation and by the Risk Assessment Act, an employer shall be liable to identify special health requirements to be met by employees at the workplace with increased risk, to provide pre-employment medical examination to employee at workplace with increased risk, as well as periodic medical examination at workplace. If during periodic medical examination procedure is concluded that special health requirements for performance of tasks at workplace with increased risk are not met by employee, an employer shall be liable to reassign him to other workplace suitable to his health abilities. The employee, who is performing his duties at a workplace with increased risk, shall have the right and obligation to go to medical examination to which he has been sent by his employer. The employee shall be liable to perform his duties at workplace with increased risk, based on the occupational health service report, which concludes he is capable to work at that workplace.

According to the report, the employer shall be liable to carry out training of employee for a safe and healthy work, at the beginning of his employment, i.e. reassignment to other jobs, when introducing a new technology or new work instruments or alteration of work equipment, as well as in case of alteration of the work process that may cause change of safe work and occupational health measures.

With an aim to prevent injuries of person who finds himself in a working environment, in enterprise or construction site circle, on any grounds, employer has the responsibility to warn every person, who is in the working environment on any grounds, about the dangerous places or the harms to the health during technological process, to provide visible and noticeable safety and health signs aiming at informing employees on technological process risks, movement directions and others, as well as on measures for risk prevention or elimination.

The report specifies that apart from meeting health requirements for work at workplace with increased risk, there are no other restrictions prescribed concerning employment of employees for definite period of time. The Law regulating the work of employees through temporary employment agencies is being prepared.

The Committee observes that an employer is only obligated to hire the occupational health service for preliminary and periodic medical examinations of employees performing high-risk tasks. The Committee asks the next report to provide information on the definition of workplaces with increased risk. It also asks again for information on the right of temporary workers, interim workers and workers on fixed-term contracts to representation at work.

Moreover, it asks for concrete examples on how these workers are provided access to medical supervision and representation at work. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter.

Other types of workers

In its previous conclusion (Conclusions 2013), the Committee asked for information on how self-employed, home and domestic workers are protected effectively and without discrimination, including against risks related to successive periods of exposure to dangerous substances when working for different employers. It also asked for details about the access of the above categories of workers to information and training regarding occupational safety and health, as well as to medical surveillance and representation at work.

According to the report, the Law on Occupational Health and Safety shall be applied on all employees at workplace or when involved in work processes as well as for all persons currently in the working environment, except for persons who carry out domestic assistance. The report specifies that, based on labour regulations, jobs with increased risks cannot be performed from home.

In addition, the report indicates that the Regulation on occupational health and safety for temporary or mobile constructions sites (Official Gazette No. 14/09 and 95/10) introduces a self-employee into the system of rights, liabilities and responsibilities who is defined as other person who is entrepreneur independently performing the duty without engagement of other persons, and/or who does not have characteristic of an employer in line with regulations in the area of occupational health and safety or any other natural person who does not have characteristic of an employee. The report indicates that mentioned provisions for temporary workers shall also cover self-employed in civil engineering activities.

The Committee observes that domestic workers are not covered by the occupational health and safety regulations. It also notes that only self-employed in civil engineering activities are covered by the occupational health and safety regulations. The Committee recalls that, as stated in Conclusions 2009, all workers in all workplaces, regardless of the sector of activity, must be covered by occupational health and safety regulations. It also underlines that health and safety regulations must apply at all workplaces without exception, including private homes. For the purposes of Article 3§2 of the Charter, all workers, including the self-employed, must be covered by health and safety at work regulations on the ground that employed and self-employed workers are normally exposed to the same risks. The Committee therefore concludes that the situation is not in conformity with the Charter as domestic workers are not covered by occupational health and safety regulations.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee asked for information on the regular consultation with employers' and workers' organisations in matters of occupational health and safety at the national, sectoral and company levels. It also asked for information on the activities of health and safety representatives elected in accordance with Section 44 et Seq. of the Act of 14 November 2005 in practice. In reply, the report indicates that Occupational Safety and Health Administration, as an Administrative Body within the Ministry of Labour, Employment, Veteran and Social Affairs, in accordance with the National Policy and the Action Plan for implementation of the Strategy on Occupational Health and Safety in the Republic of Serbia, within the procedure of bringing the Law and sub-legal acts for transposition of Directives and EC regulations, actively collects opinions from state bodies and from representative trade unions representatives: Confederation of Autonomous Trade Unions and United Branch Trade Unions "Nezavisnost", Social and Economic Council of the Republic of Serbia and Employers' Association of Serbia.

The Committee reiterates its request on the activities of health and safety representatives elected in accordance with Section 44 et Seq. of the Act of 14 November 2005 in practice. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 3§2 of the Charter on the grounds that:

- it has not been established that level of protection against ionising radiation is adequate;
- domestic workers are not covered by occupational health and safety regulations.

Article 3 - Right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

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

Accidents at work and occupational diseases

In its previous conclusion (Conclusions 2013), the Committee asked figures on occurrences of accidents at work and occupational diseases; occurrences with a fatal issue; and corresponding rates of incidences per 100 000 workers. It also asked for information on the measures taken to counter potential concealment of accidents at work and cases of occupational disease, as well as sanctions applied to employers who fail to meet their reporting obligations.

The report indicates that the number of accidents at work decreased from 1 146 in 2013 to 947 in 2015. The number of fatal accidents at work was 21 in 2014, 24 in 2013 and in 2015. The Committee observes that the standardised incidence rates of accidents at work and fatal accidents at work were not provided in the report. It therefore asks that the next report provide this information.

In addition, the report indicates that in 2014, accidents at work mostly occur in civil engineering and industry activities (i.e. in high-risk activities on hard physical labour). The most frequent causes of fatal accidents at work are electrocution (24%), struck by falling object (23%), as well as fall of an object from height (24%), trapped underground (10%), and high fall (5%). The Committee takes note of the most common causes of accidents at work.

The Committee takes note of definition of workplace injury provided in the report (Article 22 of the Law on Pension and Disability Insurance). Employers are obliged to report to the competent labour inspection in case of serious, fatal or mass injury at workplace or injury which prevent employee to work longer than three consecutive working days. As soon as a labour inspector receives a report on accident at workplace, he must immediately check the conditions on the ground and take measures to eliminate the source or cause of the accident. According to the report, Labour Inspectorate conducts supervisions on the basis of all reported accidents at work, which occurred at workplace. Supervisions are not conducted only for those accidents at work that occurred on the way to and from home.

The report indicates that, according to Article 24 of the Law on Pension and Disability Insurance (Official Gazette No. 34/03, 64/04, 84/04, 85/05, 101/05, 63/06, 5/06, 107/09 and 101/10), occupational diseases are defined as specific diseases incurred on the course of insurance, and caused by long-term immediate effects of the working processes and the working conditions at specific working posts. Occupational diseases, working posts (i.e. activities in which the incidence of specific diseases is identified), and terms and conditions under which they are considered occupational diseases, shall be determined by the minister responsible for the pension and disability insurance. A Rulebook on Identifying Occupational Diseases (Official Gazette No. 105/2003), identifies occupational diseases, working posts (i.e. activities in which the incidence of these diseases are identified) and the terms under which they are considered occupational diseases. This is a “closed list” which sets out 56 different diseases and conditions. The report specifies that Occupational Health Specialists examine causes for occupational diseases and establish their existence. Verification of occupational diseases on the basis of valid medical documentation is performed by Commissions established by Health Insurance Fund. The report indicates that the total number of identified diseases, conditions and injuries at occupational health service in 2015 was 709 004. The Committee asks that the next report provide information on the incidence rate and the number of recognised and reported occupational diseases during the reference period (broken down by sector of activity and year), including cases of fatal occupational diseases, and measures taken and/or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases; the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged.

Activities of the Labour Inspectorate

The Committee notes that under Article 3§3 of the Charter, States Parties must implement measures to focus labour inspection on small and medium-sized enterprises (Statement of Interpretation on Article 3§3, Conclusions 2013). Since it cannot find an answer to its question in the report with regard to this point (Conclusions 2013), the Committee requests that the next report contain this information.

In its previous conclusion (Conclusions 2013), the Committee noted that the Labour Inspectorate must investigate all severe accidents at work, and that the coverage of the labour force by inspection visits was relatively low. It asked for figures for each year of the reference period; for information on any other bodies than the Labour Inspectorate vested with inspection powers (competence, activities, number of staff, enforcement powers, and penalties imposed); on the outcome of criminal charges filed; and on the individual amount and overall volume of fines imposed.

The report indicates that the Labour Inspectorate has in total 25 units in the administrative districts including the City of Belgrade. It has one unit in the Labour Inspection Headquarters, dealing with second instance procedures in the field of employment relations and occupational safety and health. In 2015, 236 labour inspectors are employed in the Labour Inspectorate (lawyers and engineers of different technical background). Labour Inspectors are responsible for controlling the law enforcement in the area of labour with all registered legal entities and entrepreneurs. According to the report, 354 554 employers in total is registered in Serbia. Therefore, one inspector is responsible for control of 1 502 registered employers, as well as for control of all non-registered entities. Based on data from the National Statistical Office, the report indicates that total number of formally and informally employed individuals is about 2 574 200, so one labour inspector is responsible for 10 908 formally and informally employed individuals.

Pursuant to Article 61 of the Law on Occupational Health and Safety (Official Gazette No. 101/05 and 91/15), the Labour Inspectorate shall supervise the implementation of the Law, regulations adopted on the basis of this Law, and technical and other measures relating to occupational health and safety prescribed by General Employer's Act, Collective Contract or Employment Contract. The report indicates that, during the reference period, priority activities of the Labour Inspectorate were directed towards decrease of number of accidents at work, occupational diseases, and upon clients' requests and preventive actions. It paid special attention to occupational health and safety prevention and labour relations, in high-risk activities (civil engineering, industry, and agriculture).

In 2013, according to the report, the Labour Inspectorate conducted 16 108 inspection supervisions in the field of health and safety at work (16 640 in 2015), including 1 146 inspection supervisions due to reported accidents at work (947 in 2015). In 2015, Labour Inspectorate inspections covered 216 824 employees in the field of occupational health and safety and 396 015 employees in integrated supervisions (unified supervisions in the field of labour relations and occupational health and safety), as compared to 269 186 employees covered in 2013 and 277 530 in 2014. In 2013, 4 517 decisions on elimination of deficiencies were brought (3 725 in 2015), 452 decisions on prohibition of work at a workplace, due to danger to safety and health at work (412 in 2015), 26 criminal proceedings against responsible persons, due to reasonable doubt that they committed criminal act of causing danger due to lack of safety and health at work measures (42 in 2015), as well as 950 requests for instituting offence proceedings (1 234 in 2014 and 938 in 2015).

The total amount of fines imposed by magistrates in respect of the 560 prosecutions under the Law on Occupational Health and Safety amounted to 109 910 402 RSD (€916 764,50); 184 of these prosecutions were completed, 70 were recalled, 139 were suspended, 25 were interrupted and 8 were rejected. Labor inspectors have filed 32 appeals against decisions by the prosecuting authorities for action on issues of health and safety at work. In 2015, the

total amount of fines imposed by magistrates following 640 prosecutions under the Occupational Health and Safety Act amounted to 107,261,500 RSD (€ 894,604.36).

The report indicates that cooperation between the Labour Inspectorate and the Ministry of Justice and Magistrate Courts is very efficient, and, in case of need, joint meetings are organised. However, the amount of threatened penalties in the field of health and safety at work was high in 2013, so there were difficulties in imposing appropriate penalties. In addition, conditions were created for labour inspectors to follow all phases within request handling, as well the method of resolving the requests. Nonetheless, labour inspectors have to participate in almost every offence proceeding as witness, in frequent confrontations with offenders, etc. According to the report, this entails an additional burden and time consumption. Moreover, in the second half of 2013, a large number of business entities, entrepreneurs or legal entities was deleted from the Serbian Business Registers Agency registry (SBRA) to avoid settling liabilities towards employees, the STA and disability and health insurance funds, and to register again under other name.

The report also indicates that Labour Inspectorate representatives were involved in the work of the various working groups (working group for creation of the Law on Insurance against Accidents at Work and Occupational Diseases, Working group for creation of the Law on Inspection Supervision) and participated in the Occupational Health and Safety Council' meeting, when the Draft Law on Changes and Amendments of the Law on Occupational Health and Safety was discussed. Furthermore, Labour Inspectorate representatives were actively involved in all conferences, round tables, workshops and seminars organised by social partners.

The Committee notes the increase in the number of inspection visits, but observes that the proportion of workers covered by inspection visits is decreased.

Conclusion

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

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

The Committee notes that under Article 3§4 States must promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services for all workers with essentially preventive and advisory functions. These services may be run jointly by several companies. They must be efficient and should be able to identify, measure and prevent work-related stress, aggression and violence (see Statement of Interpretation on Article 3§4, Conclusions 2013; also Conclusions 2003, Bulgaria). It further notes that if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. Thus, States "must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources" (Conclusions 2003, Bulgaria; Conclusions 2009, Albania).

The Committee previously deferred its conclusion and requested for more detailed information on the legal requirements to provide access to occupational health services (legislation, procedures, institutions); as well as on whether, if not all undertakings feature occupational health services, a strategy was set up to provide access to such services. In reply, the report indicates that, pursuant to Article 41 of the Law on Occupational Health and Safety, aiming to protect health of employees in the workplace, the employer must hire an Occupational Health Service to carry out a variety of functions including participating in risk assessments; informing employees about the health risks associated with their work; providing training to staff in first aid; determining and examining causes of occupational diseases; evaluating the required state of health for the performance of tasks with an increased risk; carrying out preliminary and periodic medical examinations of employees in workplaces with high risk; and providing advice to the employer. In addition, employers must, on the basis of the risk assessment and the evaluation from the occupational health service, determine the specific health conditions for the performance of particular operations at the workplace or use of particular equipment (Article 16), and provide pre-employment medical examination and periodic medical examination at workplace (Article 43). If during periodic medical examination procedure is concluded that special health requirements for performance of tasks are not met by an employee, the employer shall be liable to reassign him to other workplace suitable to his abilities. Failure to meet special health requirements at the workplace with increased risk cannot be a reason to cancel an employment contract. The Committee takes note of sub-legal acts which regulate conducting of health supervisions, listed in the report.

The Committee takes note of the organisation of occupational health services, according to the Law on Health Care (Official Gazette No. 107/05, 72/09, 88/10, 99/10, 57/11, 119/12 and 45/13) and Regulation on the Plan of Health Care Institutions Network on Serbia (Official Gazette No. 42/2006, 119/2007, 84/2008, 71/2009 and 85/2009).

In its previous conclusion (Conclusions 2013), the Committee also asked for statistics on the number of workers under care with occupational health services; on the proportion of undertakings, which provide or share an occupational health service with other undertakings; and on the number of occupational physicians in relation to the labour force. In reply, the report indicates that Occupational Health Service provides specific workers' health care and primary health care of working-age population. In 2015, health services in this Service were provided by 373 doctors, 255 (68%) of whom are health specialists, 98 general medical doctors (26%) and 20 specialised doctors (5%). Total number of services obtained (i.e. visit to doctors) is 1 653 882, and total number of identified diseases, conditions and injuries by occupational health service is 709 004.

The Committee observes that several functions of the occupational health services are limited to employees in workplaces with high risk. It asks that the next report provide existing strategies or incentives to foster access, especially for workers from small and medium-sized enterprises, to occupational health services.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Serbia is in conformity with Article 3§4 of the Charter.

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 Serbia. However, there are significant gaps in information provided in relation to the specific requirements of Article 11§1 of the Charter.

Measures to ensure the highest possible standard of health

The Committee notes from the WHO that life expectancy at birth in 2015 (average for both sexes) was 75.6. This stands below that of other European countries (for example, the EU-28 average for the same year was 80.6).

The report does not contain any information on health care indicators (death rate, infant mortality rate and maternal mortality rate). It only refers to a report published by the Institute of Public Health (in Serbian language). The Committee recalls that States Parties must ensure the best possible state of health for the population according to existing knowledge. Health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action (Conclusions XV-2 (2001), Denmark). The main indicators are life expectancy and the principal causes of death. These indicators must show an improvement and not be too far behind the European average (Conclusions 2005, Lithuania).

The Committee also recalls that infant and maternal mortality are good indicators of how well a particular country's overall health system is operating (Conclusions 2003, Romania). These are avoidable risks and every step should be taken, particularly in highly developed health care systems, to reduce these rates to as close to zero as possible (Conclusions 2003, France). A recurring problem of non-conformity under this provision are the high infant and maternal mortality rates in several countries, which when examined together with other basic health indicators, point to weaknesses in the health system (Conclusions 2013, Ukraine).

The Committee asks that the next report contain information on the death rate (deaths per 1 000 population) and the main causes of death as well as on the measures taken to combat the causes of pre-mature mortality. It also asks information on the infant mortality rate (deaths per 1 000 live births) and on the maternal mortality rate (deaths per 100 000 live births) and the trends of these indicators. The Committee emphasises that, if this 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.

Access to health care

The report indicates that the Law on Health Care regulates the organisation of the health care services. Health care, in the sense of this Law, includes implementation of measures for preservation and improvement of the health of citizens, prevention, control, and early detection of diseases, injuries, other health disorders, as well as timely and efficient treatment and rehabilitation. The report mentions also the Health Insurance Act which lists the health care services to be provided to the insured persons. The report further indicates that the budget for health, which consists of the mandatory contributions in the National Health Insurance Fund, secures funds for health care through measures of prevention, early detection of diseases and rehabilitation. The Budget also secures funds for the realisation of the general interest in the health care, as well as the Ministry of Health programme budget funds intended for the network of public health institutes.

The Committee asks for information on the administrative structures responsible for the proper implementation of the regulatory framework and measures/programs carried out to ensure their implementation.

The Committee recalls that the right of access to care requires 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). 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 for information on the total expenditure on health as a percentage of GDP. The Committee asks also that the next report contain information on the proportion of out-of-pocket payments for health care.

The report indicates that according to the principle of equity of health care, health care is provided with no discrimination on grounds of race, sex, age, national affiliation, social origin, religious beliefs, political or other affiliations, income scale, culture, language, type of disease, mental or bodily disability. The Committee asks whether in practice adequate access to health care is ensured on an equitable basis throughout the country and for the most disadvantaged groups (such as ethnic groups, including Roma, LGBTI, etc).

The Committee notes that according to the EU Commission Report 2016 the health sector sustainability is endangered by the poor financial situation of the public health fund, which was aggravated by lowering the health insurance contribution in 2014. Shortages of medical staff in primary healthcare remain problematic. The Committee asks the Government's comments on these matters/information on the measures taken to address these matters.

The Committee recalls that arrangements for access to care must not lead to unnecessary delays in its provision. The Committee underlines that it will pay particular attention to whether access to treatment is based on transparent criteria, agreed at the national level, taking into account the risk of deterioration, in clinical terms as well as in terms of quality of life (Conclusions XV-2 (2001), United Kingdom). The Committee asks for information regarding the rules applicable to the management of waiting lists and waiting times as well as statistical data on the actual average waiting times for inpatient/outpatient care as well as for primary care, specialist care and surgeries.

The Committee also recalls that the number of health care professionals and equipment must be adequate. In the case of hospitals, the objective laid down by WHO for developing countries of 3 beds per thousand population should be strived at (Conclusions XV-2 (2001), Addendum, Turkey). A very low density of hospital beds, combined with waiting lists, could be an obstacle to access to health care for the largest possible number of people (Conclusions XV-2 (2001), Denmark). Conditions of stay in hospital, including psychiatric hospitals, must be satisfactory and compatible with human dignity (Conclusions 2005, Romania). The Committee asks that the next report contain statistical data on the number of health professionals and health facilities.

With regard to drug abuse prevention, the Committee notes from the European Commission Report 2016 that the monitoring centre for drugs and drug addiction was established in March 2016. It asks for information on the activities of this centre and their impact on drug addiction.

The Committee asks that the next report on Article 11§1 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 on Article 11§1 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 by Transgender Europe and the International Lesbian and Gay Association (European Region) (ILGA) stating that according to a letter by the President of the Commission for treating transgender disorders, "regulations prescribe that surgical transition

is performed in such a manner that all existing genitalia are removed, both internal and external, and new genitalia are reconstructed in keeping with the preferred sex. Those are standard procedures performed on our patients and patients in the region. [……]. After the surgical transition is finalised, a release letter is issued to the patient which contains a note that conditions for a name change and all other changes in keeping with the new sex have been fulfilled." The Committee asks that the next report confirm that in Serbia legal gender recognition for transgender persons does not require (in law or in practice) that they undergo sterilisation or any other invasive medical treatment which could impair their health or physical integrity.

Conclusion

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

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 Serbia. However, there are significant gaps in information provided in relation to the specific requirements of Article 11§2 of the Charter.

Education and awareness raising

The Committee recalls that under Article 11§2 States Parties must demonstrate through concrete measures that they implement a public health education policy in favour of the general population and population groups affected by specific problems (Marangopoulos Foundation for Human Rights (MFHR) v. Greece, complaint No.30/2005, decision on the merits of 6 December 2006, §§ 216 and 219). 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 (INTERIGHTS) v. Croatia, complaint No. 45/2007, decision on the merits of 30 March 2009, §43).

The report does not contain any information on such activities of information and awareness-raising. Thus, the Committee asks for information on concrete/specific activities, such as educational or awareness-raising campaigns/programmes, undertaken by public health services, or other bodies, to promote health and prevent diseases. It emphasises 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 under this provision.

The Committee further recalls that health education must form part of school curricula. Health education in school must be provided throughout the entire period of schooling and that it covers the following subjects: prevention of smoking and alcohol abuse, sexual and reproductive health education, in particular with regard to prevention of sexually transmitted diseases and AIDS, road safety and promotion of healthy eating habits.

Sexual and reproductive health education is regarded as a process aimed at developing the capacity of children and young people to understand their sexuality in its biological, psychological, socio-cultural and reproductive dimensions which will enable them to make responsible decisions with regard to sexual and reproductive health behaviour. 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 whether health education is part of the school curricula and which subjects are covered. The Committee asks in particular whether and how sexual and reproductive education is provided in schools in Serbia.

The report indicates that according to Health Insurance Act the following shall be provided: (i) health education consisting of special lectures or advisory sessions given by health professionals with regard to protection, preservation and improvement of health, preventing risk factors and gaining healthy lifestyle knowledge and habits; and (ii) health care education

with regard to family planning, pregnancy prevention, birth control and surgical sterilisation, pregnancy testing, testing and treatments of sexually transmitted diseases and HIV infections. The Committee asks that the next report contain information on the concrete measures taken to implement the public health policy and the legal framework (such as programmes, action plans or projects carried out on health education).

The Committee emphasises that, if this 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.

Counselling and screening

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). It also recalls that free medical checks must be carried out throughout the period of schooling. The assessment of compliance takes into account the frequency of school medical examinations, their objectives, the proportion of pupils concerned and the level of staffing (Conclusions XV-2 (2001), France).

The report indicates that according to the Health Insurance Act, general and other medical examinations shall be performed to children, school children and students up to 26 years of age, to women with regard to pregnancy and to adults in accordance with the national programme related to prevention and early-diagnosis of diseases of major social and medical importance, i.e. screening programmes. The Committee asks that the next report contain information on concrete measures/activities carried out to implement the legislation, in particular on the types of consultation and screening available for pregnant women as well as on the medical examination performed on children at school, their frequency and the proportion of pupils covered.

The Committee recalls that there should be screening, preferably systematic, for all the diseases that constitute the principal causes of death (Conclusions 2005, Republic of Moldova). Where it has proved to be an effective means of prevention, screening must be used to the full (Conclusions XV-2 (2001), Belgium). The report mentions that the National Programme “Serbia Against Cancer” was adopted since 2008. The Committee takes note of the information available on the website of the National Cancer Screening Office according to which Serbia has started the gradual introduction of organised screening for cervical, colorectal and breast cancer since 2012. The National Cancer Screening Office, at the Institute of Public Health of Serbia “Dr Milan Jovanovic Batut”, coordinates, organises, monitors and evaluates the implementation of screening programmes and provides training and technical assistance to other participants in organised screening.

The Committee asks that the next report contain information on the implementation and the impact in practice of the screening programme (whether it has had an impact on reducing the mortality rate). It also asks information on available screening programmes/initiatives for other diseases which constitute principal causes of death (besides cancer).

The Committee emphasises that, if the requested 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.

Conclusion

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

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

The Committee takes note of the information contained in the report submitted by Serbia. However, there are significant gaps in information provided in relation to the specific requirements of Article 11§3 of the Charter.

Healthy environment

The report does not provide any information on this point.

The Committee asks that the next report provide information on the concrete measures taken, as well as on the levels and trends with regard to air pollution, water contamination, waste management, asbestos and food safety during the reference period. The Committee points out that if the requested information is not provided in the next report, there will be nothing to demonstrate that the situation is in conformity with the Charter.

Tobacco, alcohol and drugs

The report does not provide any information on this point.

The Committee recalls that anti-smoking measures are particularly relevant for the compliance with Article 11 since smoking is a major cause of avoidable death in developed countries. To be effective, any prevention policy must restrict the supply of tobacco through controls on production, distribution, advertising and pricing (Conclusions XVII-2 (2005), Malta). In particular, the sale of tobacco to young persons must be banned (Conclusions XV-2 (2001), Portugal), as must smoking in public places (Conclusions 2013, Andorra), including transport, and advertising on posters and in the press (Conclusions XV-2 (2001), Greece). The effectiveness of such policies on the basis of statistics on tobacco consumption is assessed (Conclusions XVII-2 (2005), Malta). This approach also applies *mutatis mutandis* to anti-alcoholism and drug addiction measures.

The Committee notes from the EU Commission Report 2016 that no progress has been made towards the preparation of a new strategy on tobacco control. The same source indicates that, on drug abuse prevention, the monitoring centre for drugs and drug addiction was established in March 2016.

The Committee asks for information in the next report on the levels and trends with regard to tobacco, alcohol and drugs consumption, as well as the measures taken to reduce and prevent the consumption.

The Committee emphasises that, if this 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.

Immunisation and epidemiological monitoring

The report indicates that under the Health Insurance Act “inoculation, immunoprophylaxis and chemoprohylaxis” are provided which are compulsory under the national programme on immunisation of the population against certain contagious diseases. Hygienic and epidemiological measures and procedures with regard to prevention, discovery and treatment of HIV infection and other contagious diseases are also provided.

The report indicates that a new Law on Protection of the Population from Communicable Diseases was adopted in 2016 (outside the reference period). The Committee asks that the next report contain information on concrete measures taken to implement this law in practice.

The Committee recalls that States Parties must operate widely accessible immunisation programmes. They must maintain high coverage rates not only to reduce the incidence of these diseases, but also to neutralise the reservoir of the virus and thus achieve the goals

set by WHO to eradicate several infectious diseases (Conclusions XV-2 (2001), Belgium). Countries must demonstrate their ability to cope with infectious diseases, such as arrangements for reporting and notifying diseases, special treatment for AIDS patients and emergency measures in case of epidemics (Conclusions XVII-2 (2005), Latvia).

The Committee asks information on concrete measures taken to ensure the surveillance and prevention on communicable diseases, including AIDS. It also asks that the next report contain figures on the vaccination coverage rates for the main vaccines.

The Committee emphasises that, if this 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.

Accidents

The report does not contain any information on this point.

The Committee recalls that States Parties must take steps to prevent accidents. The main sorts of accident covered are road accidents, domestic accidents, accidents at school and accidents during leisure time (Conclusions 2005, Republic of Moldova). The Committee asks for information on measures/policies taken to reduce and prevent the number of the above mentioned types of accidents and trends in this field (whether the number of accidents increased or decreased).

The Committee emphasises that, if this 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.

Conclusion

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

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 Serbia.

In the case of **family** and **maternity benefits**, the Committee refers to its conclusions on, respectively, articles 16 and 8§1 (Conclusions 2015).

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions for a description of the social security system in Serbia, and notes that it continues to cover the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). The system also continues to rest on collective funding: it is funded by contributions (employers, employees) and by the State budget.

According to official statistics (Statistical Yearbook 2016, covering data of 2015), Serbia population in 2015 was estimated to be 7 095 383 in total, and the economically active population was estimated to be 3 126 100.

In response to the Committee's question, the report indicates that 96% of the total population is covered by the compulsory **health** insurance (see Conclusions 2013 for details on the categories of persons covered). The report also indicates that the number of persons covered by the compulsory Pension and Disability insurance (which covers in fact **old-age**, **disability**, **survivors**, disability resulting from **work accidents and occupational diseases** and care giver's assistance) was 2 508 384 in 2015, i.e. 80% of the active population. The number of pension beneficiaries was 1 729 629 as of June 2016 (out of the reference period). The Committee considers that the coverage for these branches is adequate. As regards **sickness**, the Committee notes from Missceo that a compulsory insurance covers employees, entrepreneurs, priests and clergymen suffering from temporary working incapacity (farmers are not covered). In view of the large categories covered by compulsory insurance, the Committee considers that the coverage is adequate, but asks the next report to provide more detailed information on the number of persons covered. Employees (including temporarily employed persons) and self-employed persons are covered in respect of **unemployment**. The report does not provide however any data concerning the personal coverage in respect of this branch. The Committee recalls that the social security 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. It accordingly reiterates its request for information on the number of persons covered by unemployment insurance, out of the active population, and asks that updated information on the rate of coverage (percentage of persons insured out of the total active population) for all the branches be systematically provided in each report concerning Article 12 of the Charter. It reserves in the meantime its position on this issue.

Adequacy of the benefits

According to Eurostat data, the median equivalised annual income was €2544 in 2015, or €212 per month. The poverty level, defined as 50% of the median equivalised income, was €1272 per year, or €106 per month. 40% of the median equivalised income corresponded to €85 monthly. The minimum wage was €235.

The Committee previously noted that the wage compensation for insured persons who are temporarily incapacitated for work due to **sickness** corresponds to 65% of their average salary of the last three months, and to 100% of that basis if the temporary incapacity results from **work accidents** or **occupational diseases**. On the basis of the minimum wage, the Committee considers that the level of these benefits is adequate.

As regards **old-age** pensions, the Committee refers to its assessment under Article 23.

Invalidity pensions are granted to persons who have lost completely and permanently their capacity to work, whether in relation to work (including military service) or not. The Committee notes from Missceo that in January 2015 the minimum pension amounted to RSD 13288 (€108) for retired employees, army officers and self-employed and RSD 10447 (€86) for retired farmers. The Committee recalls that, under Article 12§1, the level of income-replacement benefits should stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value. However, where an income-replacement benefit stands between 40% and 50% of the median equivalised income, other benefits, where applicable, will also be taken into account. As the level of minimum pension for farmers is only slightly higher than the 40% threshold, the Committee asks the next report to clarify whether the persons concerned are entitled to additional benefits (including social assistance). It reserves in the meantime its position on this point.

In order to be entitled to **unemployment** benefits, a person must have been insured at least 12 months over a period of 18 months. As regards the conditions upon which the right to benefits might be suspended, in case of refusal of a job offer, the authorities explained (Governmental Committee report concerning Conclusions 2013) that a person registered as unemployed is allowed to refuse an adequate job offer or involvement in an active employment policy measure only in case of temporary incapacity to work. They clarified however that such refusal is unlikely, insofar as the definition of what constitutes an adequate job offer or an adequate activation measure is defined jointly with the person concerned, through an individual employment plan established within 90 days from his/her registration as unemployed. The Committee notes from Missceo that the amount of the benefits corresponds to 50% of the average wage earned in the six month period before registering as unemployed, but cannot be less than 80%, nor more than 160%, of the minimum wage. On this basis, the minimum level of unemployment benefit in 2015 corresponded therefore to €188, which is in conformity with Article 12§1 of the Charter.

In its previous conclusion (Conclusions 2013), the Committee found that the duration of payment of unemployment benefit was too short, at least as regards persons with up to five years' insurance, who are only entitled to 3 months of unemployment benefits (the maximum duration being 12 months for persons with more than 25 years' insurance, or 24 months in exceptional cases where the person is close to retirement age). As the situation has not changed in this respect, the Committee maintains its finding of non-conformity.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 12§1 of the Charter on the ground that the duration of payment of unemployment benefits for people who have been insured up to five years is too short.

Article 12 - Right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

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

The Committee notes that Serbia has not ratified the European Code of Social Security. Therefore the Committee cannot take into consideration other sources such as the resolutions of the Committee of Ministers on application of the Code and has to make its own assessment based on the information received in the report.

The Committee recalls that Article 12§2 obliges states to establish and maintain a social security system which is at least equal to that required for ratification of the European Code of Social Security. The Code requires acceptance of a higher number of parts than ILO Convention 102 on Social Security (Minimum Standards), as six of the nine contingencies must be accepted although certain branches count for more than one part (medical care counts as two and old age counts as three).

The Committee notes that Serbia has ratified ILO Convention N° 102 and has accepted Parts II to VI, VIII and X. Part VI is no longer applicable as a result of the ratification of Convention No. 121 on Employment Injury Benefits.

The Committee recalls that in order to assess whether the social security system is maintained at a level at least equal to that necessary for the ratification of the Code, it has to assess the information regarding the branches covered, the personal scope and the level of benefits.

The Committee recalls its assessment under Article 12§1 which indicates that the social security system continues to cover the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). It recalls its assessment under Article 12§1 that the coverage for the branches which concern health, old-age, disability, survivors, work accidents and occupational diseases is adequate, and it refers to its request under Article 12§1 for further information on the number of persons covered by sickness insurance and unemployment insurance, out of the active population.

The Committee also recalls its assessment under Article 12§1 that the level of benefits for sickness, work accidents or occupational diseases, unemployment and invalidity is adequate. However, as the level of minimum pension regarding invalidity for farmers is only slightly higher than the 40% poverty threshold, the Committee requests under Article 12§1 that the next report clarifies whether the persons concerned are entitled to additional benefits (including social assistance) and it reserves its position on this point. As regards old-age pensions, the Committee refers to its assessment under Article 23.

The Committee notes that the 2017 Report of the ILO Committee of Experts on Application of Conventions and Recommendations does not refer to any observation or direct request to the Government with regard to ILO Conventions 102 and 121.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Serbia is in conformity with Article 12§2 of the Charter.

Article 12 - Right to social security

Paragraph 3 - Development of the social security system

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

The Committee refers to its previous conclusions on Article 12§1 and 12§3 for a description of the social security system in Serbia. In the case of family and maternity benefits, the Committee refers to its conclusions on, respectively, articles 16 and 8§1.

As regards other branches of social security, the Committee had previously asked to be informed of any changes implemented during the reference period, as well as of their impact on the personal coverage and the minimum levels of the benefits in case of income-replacement benefits (Conclusions 2013). However, the report does not provide information on improvements achieved during the reference period, apart from the granting of additional one-off benefits to the recipients of minimum pensions in 2012 and 2013 and the entry into force, on 1 January 2014, of a Revised Health Insurance Law which brought to 100% (instead of 65%) the wage compensation for temporary incapacity related to pregnancy complications or pregnancy-related illness.

The Committee recalls that Article 12§3 requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks or increase in the level of benefits, are examples of improvement. A restrictive evolution in the social security system is not automatically in violation of Article 12§3. The assessment of the situation depends on the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.); the reasons given for the changes and the framework of social and economic policy in which they arise; the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration); the necessity of the reform; the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13); the results obtained by such changes. However, where the cumulative effect of the restrictions can bring about a significant degradation of the standard of living and the living conditions of some groups of population, the situation may amount to the violation of Article 12§3 of the Charter. Even if individual restrictive measures are in conformity with the Charter, their cumulative effect, with the procedures adopted to put them into place, could be in violation with the right to social protection. Measures taken in order to consolidate public finances may be considered as a necessary means to ensure the maintenance and sustainability of the social security system. However, any modifications should not undermine the effective social protection of all members of society against social and economic risks and should not transform the social security system into a basic social assistance system. Therefore any changes to a social security system must ensure the maintenance of a basic compulsory social security system which is sufficiently extensive.

In the light thereof, the Committee reiterates its request for information in the next report on any relevant changes made during the reference period to the social security system, specifying the effect of these changes on the personal scope of the system and the minimum level of income replacement benefits. Such information must be provided in each report concerning Article 12§3, in order to assess compliance of the situation with the Charter. As the current report does not contain sufficient elements to assess the situation, the Committee reserves its position and holds that, should the information requested not be provided in the next report, there will be nothing to establish that the situation is in conformity with Article 12§3 of the Charter.

Conclusion

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

Article 12 - Right to social security

Paragraph 4 - Social security of persons moving between States

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

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

Right to equal treatment

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

The Committee asked in its previous conclusion (Conclusions 2013) whether and how equal treatment for nationals of States Parties legally residing or working in Serbia not covered by bilateral agreements is secured by unilateral measures. It also asked if negotiations are underway with the States Parties concerned to conclude such agreements.

As regards bilateral agreements concluded with other States Parties, the Committee notes from the report that Serbia concluded a new agreement with Croatia, opened negotiations with Greece, the Russian Federation and Ukraine and, plans to do so with Azerbaijan and Spain. It notes however that there is still no agreement concluded or planned with Albania, Andorra, Armenia, Estonia, Finland, Georgia, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova and Portugal.

As regards unilateral measures undertaken by Serbia, the Committee notes from the previous report that the Serbian legislation treats, as a matter of principle, nationals of other States Parties legally working in Serbia on an equal footing with nationals. The Committee asks the next report to further indicates on whether a length of residence or employment requirement is imposed on nationals of other States Parties for receipt of social security benefits. Meanwhile, it considers the situation to be in conformity with the Charter on this point.

In respect of payment to family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, Conclusions XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusions 2006, Cyprus).

The Committee previously considered (Conclusion 2013) the situation to be in conformity with the Charter on this point. However, it notes from the previous report that Parental allowance is granted to the mother (and in exceptional circumstances, to the father) of a child provided that she is a citizen of the Republic of Serbia residing in the Republic of Serbia in accordance with Article 14 of the Financial Support to Families with Children Act. Under Article 17 of the same Act, Child allowance is granted to one of the parents, custodian or foster parent provided that the child is a citizen of Serbia residing in Serbia as well as his/her parent, custodian or foster parent. The Committee observes that foreign nationals who legally work in the territory of the Republic of Serbia shall be entitled to child allowance if so prescribed by an international agreement, and asks the next report to provide more comprehensive information in this matter.

Given that there is still no agreement concluded or planned with Albania, Andorra, Armenia, Estonia, Finland, Georgia, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova and Portugal, the Committee considers the situation not to be in conformity with the Charter on this point.

Right to retain accrued benefits

The Committee recalls that invalidity benefit, old age benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one State Party according to the eligibility criteria laid down under that legislation are maintained irrespective of whether the beneficiary moves to another State Party. With respect to the retention of benefits (exportability), the obligations entered into by States Parties must be fulfilled irrespective of any other multilateral social security agreement that might be applicable. In order to ensure the exportability of benefits, States Parties may choose between bilateral agreements or any other means such as unilateral, legislative or administrative measures.

The Committee asked in its previous conclusion (Conclusions 2013), whether the right to retain the benefits accrued in Serbia by the nationals of States Parties not bound by a bilateral agreement is secured by unilateral measures and if so, how. It also asked why there are no agreements with some States Parties as well as information on the planned agreements and when these might be signed. The report states that beneficiaries are entitled to receive pension and disability benefits payments outside the territory of Serbia under conditions agreed in social security agreements. In this regard, the Committee asks whether the existing social security agreements concluded with the other States Parties ensure retention of accrued benefits. It also asks whether negotiations carried out with Greece, the Russian Federation and Ukraine plan to include provisions on this principle.

The Committee understands that unemployment benefits are only exportable to Bosnia and Herzegovina. It requests the next report to clarify whether this understanding is correct.

The Committee recalls that retention of accrued benefits may also be achieved on the basis of unilateral measures, legislative or administrative. In this regard, it asks the next report to provide information on unilateral measures planned or undertaken. Meanwhile, it reserves its position on this point.

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

The Committee recalls that there should be no disadvantage for a person who changes his/her country of employment, where he/she has not completed the period of employment or insurance necessary under the national legislation to be entitled to certain benefits. This requires, where necessary, the aggregation of the employment or insurance periods completed in another territory and, in case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefits.

States Parties may choose between the following means in order to ensure the maintenance of accruing rights: multilateral conventions, bilateral agreements or, unilateral, legislative or administrative measures.

The Committee asked in its previous conclusion (Conclusions 2013) whether and how the right to accumulate insurance and employment periods is secured for the nationals of the States Parties not bound by a bilateral agreement with Serbia. It also asked why there are no agreements with some States Parties as well as information on the planned agreements and when these might be signed. The Committee understands from the report that the principle of accumulation and maintenance of periods and benefits is ensured by bilateral agreements only. In this regard, the Committee notes from the report that Serbia concluded a new social security agreement with Croatia, opened negotiations with the Russian Federation, Greece and Ukraine and, plan to do so with Azerbaijan and Spain.

The report states that Serbia intend to extend the network of social security agreements to all the other States Parties. However, there has to be mutual interest between both sides in concluding such an agreement.

The Committee recalls that maintenance of accruing rights may also be achieved on the basis of unilateral measures, legislative or administrative. In this regard, it asks the next

report to provide information on unilateral measures planned or undertaken. Meanwhile, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 12§4 of the Charter on the ground that equal treatment with regard to access to family benefits is not guaranteed to nationals of all other States Parties.

Article 13 - Right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

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

Types of benefits and eligibility criteria

The Committee further notes from the report that the Government is planning to provide social welfare without any cuts in social benefits. However, to avoid accumulation of arrears, the policy of preservation and extension of social rights, maintenance of the achieved level of benefits and their accurate and punctual exercise is envisaged to continue.

In its previous conclusion (Conclusions 2013) the Committee took note of the Social Welfare Act which guarantees the right to social welfare services and financial assistance. Financial assistance includes cash social assistance, caregiver's benefit, one-off cash allowance, benefit in-kind and other types of financial assistance. There is an entitlement to cash social assistance for an individual and/or family. The right to cash social assistance can be exercised by unemployed individuals who are capable of work provided that they are registered as unemployed. According to the report, in 2015 there were 251,358 persons in receipt of social assistance. The Committee further takes note of the benefits covered under the Law on Financial Support for Families with Children. It notes however that under Article 13§1 it only examines the situation of a single person without resources.

In its previous conclusion the Committee asked what forms of social assistance could be reduced or withdrawn if the person does not accept an offer of employment or training and whether the withdrawal of such assistance could amount to the deprivation of all means of subsistence for the person concerned. In this connection, the Committee notes from MISSCEO that the beneficiary of social assistance must be registered as unemployed and cannot refuse an offer of employment, part-time working engagement, seasonal work, professional education or pre-qualification. The Committee notes from the report in this regard that under Section 80 of the Social Welfare Act, every person is responsible for meeting their own living needs and needs of their family, and an individual capable of work shall be entitled to take part in the activities enabling them to overcome their unfavourable social situation, and/or in the measures ensuring their social inclusion.

The Committee notes from the report that according to Section 83, cash social assistance may be granted to an able-bodied individual who has not declined an offered employment or hiring for temporary, casual or seasonal period, vocational training, re-training, additional training or elementary school education. As a result, any decline of an offered employment, hiring for temporary, casual or seasonal term, vocational training, re-training, additional training or elementary school education shall have for a consequence termination of eligibility to social cash assistance. The Committee reiterates its question whether in such cases the assistance is withdrawn in its entirety and may amount to the deprivation of all means of subsistence for the person concerned. The Committee holds that if this 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.

In its previous conclusion the Committee noted that those able to work are entitled to social assistance for the maximum period of nine months and asked whether social assistance was withdrawn in its entirety after the statutory period. The Committee notes from MISSCEO in this regard that the benefit is paid for as long as the claimant remains entitled to it. Families with a majority of members who are able to work, may only receive benefits for up to nine months per calender year. Rights are revised yearly. The Committee notes from the report in this regard that under Section 85, paragraph 3 of the Social Welfare Act any individual who is capable of work, and/or family with most members capable for work shall be granted social assistance for up to nine months in a calendar year, if they meet requirements under the law and thus as a result after nine months their entitlements shall cease. The Committee understands that for these persons the entitlement to the benefit will be renewed in the

following year if the person concerned continues to meet the eligibility criteria. The Committee asks the next report to confirm its understanding.

Level of benefits

To assess the level of the social assistance during the reference period, the Committee takes the following information into account:

- Basic benefit: the Committee notes from MISSCEO that the base of calculation of the financial assistance benefit is 20% of the net average wage. In January 2015 it stood at RSD 7,789 (€ 64). The Committee notes that for persons covered under Section 85, paragraph 3 of the Social Welfare Act the actual monthly level of benefit stood at € 48 (considering that the benefit is paid for nine months per year).
- Additional benefits: according to MISSCEO cash benefit beneficiaries, depending on the number of family members are entitled to reduced electricity, water and other utility bills. This reduction fall within the responsibility of the city-municipality Governments. The Committee asks the next report to indicate the average amount of assistance provided for a single person without resources, in receipt of the financial assistance. It also asks the next report to indicate the average amount of other additional benefits (i.e.one-off cash allowance, benefit-in-kind) that such person would be entitled to.

The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: estimated at € 106 in 2015.

In its previous conclusion the Committee found that the situation was not in conformity with the Charter as the level of social assistance was not adequate. In notes from the report of the Governmental Committee (GC (2014) 21) that in order to remedy the situation, important steps were planned to be taken and preparations were underway for an overall reform of the social system, including measure that would directly contribute to increasing the minimum level of social assistance. The strategic document, the Employment and Social Policy Reform Paper, was due to be adopted by the end of January 2015. This document foresees a more adequate coverage, an increased amount of benefits, especially for children, disabled people, elderly and people living alone. It also envisaged setting an income threshold at the level of the absolute poverty threshold. The Committee asks the next report to inform about the implementation of the strategic document and concrete results achieved.

The Committee considers that during the reference period, the level of assistance is still manifestly inadequate as the total assistance that could be obtained by a single person without resources falls below the poverty threshold. Therefore, the Committee reiterates its previous finding of non-conformity.

Right of appeal and legal aid

In reply to the Committee's question the report states that all the decisions related to the recognition or maintaining the entitlements and benefits under social care system are appealable, and reviewing authorities are vested with the powers to decide on the point of law in cases as provided for under Articles 232 and 233 of the Law on General Administrative Procedure.

In its previous conclusion the Committee asked whether the review bodies have the power to judge the cases on their merits. The Committee reiterates this question and holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Personal scope

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation of Articles 13§1 and 13§4 (Conclusions 2013) regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that as regards emergency social and medical assistance, foreign nationals in an irregular situation in the territory of the State concerned are also covered under Article 13§1, rather than under Article 13§4, which was previously its practice.

The Committee henceforth examines whether the States who have accepted Article 13§1 ensure the right to:

- adequate social and medical assistance for their own nationals and for nationals of other States Parties lawfully resident within their territory on an equal footing;
- emergency social and medical assistance to foreign nationals unlawfully present in their territory.

Nationals of States Parties lawfully resident in the territory

The Committee recalls that under Article 13§1, foreigners who are nationals of the States Parties and are lawfully resident or working regularly in the territory of another States Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals. Equality of treatment means that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners and that the criteria applied in practice for the granting of benefits do not differ by reason of nationality. Equality of treatment also implies that additional conditions such as the length of residence, or conditions which are harder for foreigners to meet, may not be imposed.

The Committee further recalls that under the Charter nationals of States Parties lawfully resident in the territory cannot be repatriated on the sole ground that they are in need of assistance. Once the validity of the residence and/or work permit has expired, the Parties have no further obligation towards foreigners covered by the Charter, even if there are in a state of need. However, this does not mean that a country's authorities are authorised to withdraw a residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of his/her family. The Committee asks whether the legislation and practice comply with these requirements.

The Committee notes from MISSCEO that foreigners and stateless persons may become beneficiaries in accordance with international agreements. The Committee asks the next report to clarify whether nationals of States Parties lawfully resident in the territory either with permanent or with temporary residence permits, are treated on an equal footing with nationals as regards access to social assistance, without any length of residence requirement. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Foreign nationals unlawfully present in the territory

In its previous conclusion the Committee asked the next report to confirm that any foreign national in a situation of need is entitled, in law and in practice, to receive emergency medical care free of charge, as well as emergency social assistance (accommodation, food, clothing etc.).

In this connection, the Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It

likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The Committee cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The Committee has considered that even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country (Complaint No. 90/2013, Conference of European Churches (CEC) v. the Netherlands, decision on the merits of 1 July 2014, §123).

The Committee asks the next report to confirm that the legislation and practice comply with these requirements.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources in not adequate.

Article 13 - Right to social and medical assistance

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

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

Section 24 of the Social Welfare Act on Principles of the Respect for Beneficiaries' Integrity and Dignity provides that the beneficiary under the law shall be entitled to social care founded on social justice, responsibility and solidarity, and provided with respect for their physical and mental integrity, safety, and moral, cultural and religious beliefs in accordance with guaranteed human rights and liberties.

According to the report, persons in deprivation are not exposed, either in the context of law or practice, to any form of discrimination in exercising their political or social rights on the basis of the fact that they are beneficiaries of social assistance or allowance. They exercise their political or social rights as other citizens.

Conclusion

The Committee concludes that the situation in Serbia is in conformity with Article 13§2 of the Charter.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

The Committee notes from the report that the Social Welfare Law has managed to a considerable extent to open the door for counselling services, therapy, social services and training under the social care system. These include counselling services, therapy, social services and training as intensive services offered to families in crisis; counselling and support for parents, foster parents, and adoptive parents; support to families taking care of their child or adult family member with a disability; maintaining family relations and family reunion; counselling and support in cases of violence; family therapy; mediation; help lines; activation; other counselling services, trainings, and activities. The Committee takes note of the statistical information provided by the Republic Institute for Social Care concerning the numbers of cases of counselling and guidance provided, including guidance for persons in social need. These services are mostly funded from local Government sources.

According to the report, municipalities that have such services developed, provide them free of charge. The Committee notes however that only a small number of municipalities have financial means to provide such services to an adequate extent and in line with the needs of the population.

The Committee further recalls that Article 13§3 concerns free of charge services offering advice and personal assistance specifically addressed at persons without adequate resources or at risk of becoming so. The social services covered by Article 13§3 must play a preventive, supportive and treatment role. This means offering advice and assistance to make those concerned fully aware of their entitlement to social and medical assistance and how they can exercise those rights. In assessing national situations under this provision the Committee specifically examines whether there are mechanisms to ensure that those in need may receive help and personal advice services free of charge and whether such services and institutions are adequately distributed on a geographical basis. The Committee asks the next report to provide updated information on how these requirements are met in legislation and practice.

Conclusion

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

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

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

The Committee refers to its conclusion under Article 13§1 (personal scope) and recalls that Article 13§4 from now on will cover emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

The Committee recalls that States Parties are required to provide non-resident foreigners without resources emergency social and medical assistance (accommodation, food, emergency care and clothing), to cope with an urgent and serious state of need (without interpreting too narrowly the 'urgency' and 'seriousness' criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171).

The Committee notes from the report that social assistance is granted as monthly cash allowance. It may be granted to a person seeking asylum and/or a person with granted asylum under condition they are not placed in an asylum centre and members of their families do not have income or they are such as to be below a threshold as set under the Rules. Persons who reside in an asylum centre are not entitled to such assistance as they are entitled to all subsistence and survival conditions, placement and basic living items (clothing, footwear, cash assistance, etc.) at the centre itself, as provided for under Article 39 of the Asylum Law.

The threshold level has been taken from the social welfare system, i.e. minimum level of social security in effect in social care system for eligibility to financially jeopardised and vulnerable citizens. Thus, the same treatment of asylum seekers is ensured. The application for monthly cash social assistance is decided by a centre for social work in a municipality of application, i.e. where a person with duly granted asylum is staying.

According to the report, eligibility requirements for cash social assistance applicable to asylum seekers and persons with granted asylum are to be aligned further with the eligibility requirements applicable to nationals of Serbia as provided for under the Social Welfare Act.

The Committee notes from the report that every non-national in the situation of depravity shall be entitled under the law and in practice to emergency social care (shelter, food, clothing). The Committee notes that in 2015 1462 non-nationals/stateless persons in need of social care were registered by the social welfare centres.

The Committee asks the next report to provide information regarding medical assistance that is provided to lawfully present foreign nationals in need.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Serbia is in conformity with Article 13§4 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 Serbia.

Organisation of the social services

The report indicates that according to the Social Welfare Law (adopted in 2011) , social care services are grouped by relatedness, such as:1) services of assessment and planning, 2) community-based day care services, 3) services of support for independent living, 4) counselling services, therapies, social services and trainings, and 5) placement services. Services are provided temporarily, casually and/or continually, following the needs and best interest of beneficiaries. Social care services are organized as services for children, young persons, and family, and services for adults and elderly persons.

The report indicates that the Social Welfare Law has managed to introduce counselling services, therapy, social services and training under the social care system, including: 1. Counselling services, therapy, social services and training as intensive services offered to families in crisis; 2. Counselling and support for parents, foster parents, and adoptive parents; 3. Support to families taking care of their child or adult family member with disability; 4. Maintaining family relations and family reunion; 5. Counselling and support in cases of violence; 6. Family therapy; 7. Mediation; 8. Help lines; 9. Activation; 10. Other counselling services, trainings and activities.

Social services may be provided by public entities, natural or legal persons, associations, companies, as well as by other forms of organisations established by law. At the local level, the local governments are in charge of developing the social services and prioritising the objectives according to the needs of the citizens in the community.

Effective and equal access

The report indicates that the Social Welfare Law, provides that the payment of the services depends on the socio-economic status of the users: the user or his/her relatives may have to pay the fees entirely, partially or not at all (Article 72 of the Law).

The report underlines that there are 140 centres for social work within the system of social care which execute delegated public powers and ensure that all the citizens who find themselves in social need may exercise their rights, without discrimination, in accordance with the Rules on organisation, norms, and standards of operation of centers for social work. The territory of Serbia has social work centre equally distributed. In addition, there are also 75 public residential care institutions.

In its previous conclusion (Conclusions 2013), the Committee asked which legal remedies are available to users, such as a right to appeal to an independent body, in urgent cases of discrimination and violations against human dignity. As the report, once more, does not provide this information, the Committee reiterates its question 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.

In its previous conclusion (Conclusions 2013) , the Committee asked information on whether nationals of other States Parties lawfully resident or regularly working in Serbia have the same entitlement of access to social services as citizens of Serbia, and if not, what restrictions are applied. The report does not provide any information. The Committee therefore reiterates its question and considers 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.

Quality of services

The Committee notes that the Social Protection Act introduced a quality system that consists of the defining of basic standards, their application, as well as of the introduction of a system of accreditation for the training and licensing of service providers, whether public or private. The licenses are issued by Social Care Chamber.

The report focuses on the description of the inspection of social care institutions' and social care service providers. conducted by inspectors of the ministry in charge of social care services. The inspectors are entitled to: 1) conduct immediate inspection of their work; 2) impose compulsory instructions for law enforcement and other legislation and to control compliance; 3) withdraw powers from an inspector who failed to conduct its tasks timely, professionally, legally and conscientiously, and to instruct establishment of accountability with a body with inspection powers delegated; 4) to organise joint actions with inspectors from authorities with delegated inspection powers; 5) to conduct an immediate inspection, if authorities with delegated powers fail to do so; 6) to demand reports, data and information on execution of delegated inspection powers.

In its previous conclusion (Conclusions 2013), the Committee asked for information on the total number of staff providing social services, as well as on whether this number is sufficient in relation to the number of users.

The report indicates that according to the data available with the Social Care Chambers and its Register of Licenses, there are 3278 licensed workers of which 2747 persons have license for basic social care and 226 for specialized social care activities, 329 are licensed for supervision of basic social care and 7 for specialized social care activities, 486 persons are licensed to conduct legal affairs in the context of social care.

The report underlines that regarding administrative capacities in social care institutions (centres for social work and residential care) there has still been insufficient staffing and constant need for knowledge and skill upgrade and trainings of current professional staff and the new coupled with insufficient means at their disposal. The report indicates that by the Government Decision (Official Gazette of RS 101 of 8 December 2015) a Law on setting a ceiling for number of the staff in public sector was passed and the ceiling was set in 2015 for a maximum number of 9226 fixed term employees in social care institutions, a decrease of 79 employees compare to 2014. In this respect the Committee asks if this situation of insufficient staffing in public services has had repercussion on the quality of services and if the Government envisages taking specific measures to improve the situation.

In its previous conclusion (Conclusions 2013), the Committee asked for information on the total amount of the public spending on the social protection services. As the report does not provide this information, the Committee reiterates its question and asks the next report to provide all relevant information.

In its previous conclusion (Conclusions 2013), the Committee asked whether there is any legislation on personal data protection.

The report indicates that in 2008 a Personal Data Protection Law was passed laying down provisions for collection and processing of personal data, rights of the persons concerned, and protection of the persons whose data are collected and processed.

Conclusion

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

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 Serbia.

In its previous conclusion (Conclusions 2013) the Committee requested statistical data on any subsidies paid by the Government and the local authorities to voluntary organisations, which provide social services. It also requested information on any other types of support that may exist for the voluntary organisations, such as tax incentives.

As the report does not answer these questions, the Committee reiterates them and holds that if the information requested is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

In its previous conclusion (Conclusions 2013) the Committee recalled that States Parties shall encourage individuals and organisations to play a part in maintaining the services, for example by taking action to strengthen the dialogue with the civil society in the areas of welfare policy affecting the social welfare services, and asked if and how the dialogue with the civil society in respect of the social welfare services is ensured.

The Committee again notes that the report does not provide this information and reiterates its question. It 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.

In its previous conclusion (Conclusions 2013) the Committee asked, in the absence of information concerning the issue of discrimination, whether and how the Government ensures that the services managed by the private sector are effective and accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The Committee notes that the report does not provide this information. It 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.

Conclusion

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

Article 23 - Right of the elderly to social protection

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

Legislative framework

The report states that the National Strategy on Ageing adopted in 2006 was completed at the end of 2015. The Committee notes that a report on the results of the implementation of the Strategy was published by the United Nations Population Fund (UNFPA). According to that report, in most cases the issues regarding ageing have been incorporated into local, municipal and national development plans, although in practice some measures have yet to be implemented. The Strategy should be renewed and limited to the goals set previously.

The report specifies that the co-ordination of the monitoring and implementation of policies regarding the ageing of the population was delegated to the Council for Old Age and Ageing, a specialised advisory body set up in 2011 to defend and promote the interests of older people.

The report also states that many older people, mostly from cities, are members of clubs or associations which, in addition to their relevance for integration in society, organise forums and round tables for advocating and impacting decision-making in municipalities and/or cities.

The Committee recalls that the main aim of Article 23 of the Charter is to enable elderly persons to remain full members of society and it consequently invites the States Parties to make sure that they have appropriate legislation, firstly, to combat age discrimination outside employment and, secondly, to provide for a procedure of assisted decision-making.

With regard to the fight against age discrimination, in its previous conclusion (Conclusion 2013), the Committee asked whether the Law 2009 prohibits age discrimination with respect to goods, services and facilities provided by private bodies. The report does not provide any information on this issue. However, the Committee notes from the European Network of legal experts in gender equality and non-discrimination report on Serbia that the abovementioned law prohibits explicitly all forms of discrimination based on age. According to the same source, Article 21§3 of the Serbian Constitution also prohibits age discrimination.

With regard to assisted decision-making for the elderly, the Committee previously asked whether such a procedure exists and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision-making. The Committee notes that the report does not provide any information on this subject, but merely states that, regarding social security, the beneficiary has the right to free and informed consent and to its corollary, the right to information, as well as the right to respect for their private life. The Committee reiterates its question.

Adequate resources

When assessing the adequacy of the resources of elderly persons under Article 23, the Committee takes into account all social protection measures guaranteed to elderly persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons. These resources are then compared with median equivalised income. However, the Committee points out that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The report does not provide any information on the minimum old age pension. However, the Committee notes from MISSCEO that this was equal to RSD 13 288 per month in 2015 (approximately €108) for retired employees, army officers and the self-employed, and RSD 10 447 per month (approximately €86) for farmers. The report does not provide any information on the amount of the allowance paid four times a year to pensioners, the amount of the cash social assistance or the amount of the long-term benefits available to those taking care of persons who are dependent. The Committee wishes to receive in the next report updated information on the amount of these benefits.

In response to the Committee's question (Conclusion 2013), the report indicates that, at present, there is no social pension.

As regards the benefits that people above 65 years living in poverty are entitled to, the report continues not to provide information on this subject. The Committee therefore reiterates its question. However, the Committee notes from the UNFPA report that local self-governments provide the families of elderly people with assistance in cash or kind.

The Committee, however, found that the situation was not in conformity with Article 13§1 of the Charter (Conclusion 2017, Article 13§1) due to the manifestly inadequate level of social assistance. It noted that the basic allowance was RSD 7,789 (approximately €64) per month for a single person and RSD 11,683 (approximately €102) for a couple.

The Committee points out that it considers pensions and social assistance levels to be appropriate where the monthly amount of benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold (set between 40-50% of the median equivalised income). The poverty threshold, defined as 50% of median equivalised income and calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated at €106 per month in 2015 (the threshold defined on the basis of 40% of median equivalised income was €85). The Committee notes that the minimum pension is above 50% of median equivalised income (and that farmers' pensions are just above 40%), but it also notes that 19.7% of people aged 65 and over live on the at-risk-of-poverty threshold. It further notes from the Governmental Committee report concerning the 2013 Conclusions that 5% of the population aged 65 years and over have no pension**.**

For these reasons, the Committee considers that the level of social assistance is manifestly inadequate, given in particular the large number of elderly persons who must rely on it. It therefore concludes that adequate resources are not guaranteed**.**

Prevention of elder abuse

In its previous conclusion (Conclusion 2013), the Committee asked *inter alia* what the public authorities were doing, firstly, to evaluate the extent of the problem in Serbia and, secondly, to raise awareness on the need to eradicate elder abuse and neglect. The report states that social services take due account of cases of violence against the elderly by, on the one hand, recording all cases of violence against elderly persons and, on the other hand, providing assistance to victims. In particular, they removed 66 older people from their families, instituted 68 court proceedings, offered financial and legal assistance or counselling to 1 193 victims of violence, and placed 275 elderly victims in other suitable institutions**.**

The Committee notes that the National Strategy envisaged introducing measures to prevent neglect, discrimination and violence against the elderly and to protect them from abuse of this kind. The Committee wishes to be informed of the measures and projects implemented in this connection, as well as of their results.

Services and facilities

The Committee points out that, although Article 23 makes reference only to information about services and facilities, it presupposes that such services and facilities exist.

With regard to the services and facilities as such, the Committee firstly asked in its previous conclusion (Conclusion 2013) information on access to community-based services. The report states that a third of the municipalities have put in place day care services, meals in soup kitchens, particularly in the big cities, as well as discounts on the cost of medicine, transport, and even exemptions from some costs for the most disadvantaged elderly persons. 9 018 older people were provided with help at home in 2015 and 1 511 benefited from services provided by day care centres. The Committee observes, however, in the UNFPA report that many public services are not or are no longer available to the elderly living in rural areas.

Secondly, the Committee asked how the quality of the services was monitored, and if there was a possibility for elderly persons to complain about the services. The report states that the setting of standards and the establishment of monitoring mechanisms fall under the authority of the State and local self-governments. Service providers, whether public or private, must be registered. The monitoring of the quality of social services is managed by social care inspectors. The Committee asks the next report to provide further information on the number of licences delivered, the status of these inspectors, the number of their inspections as well as the measures they are entitled to take in cases of established breaches or abuse. It also wishes to find in the next report information on the organisation of the monitoring mechanisms at the national and municipal level, and particularly, the powers of each of them in this regard.

Thirdly, the Committee asked if some of these services were subject to fees and if so, how the fees were calculated. The report does not provide any information on this subject, so the Committee reiterates its question.

Fourthly, the Committee asked for information on any possible services or facilities which families caring for elderly persons, in particular highly dependent persons, could request, as well as on any particular services for those suffering from dementia or Alzheimer's disease. The report states that a number of local authorities provide benefits in cash or in kind and home assistance. Some local authorities also provide psychological support to the families of elderly persons. The Committee asks the next report to provide for more information on this subject, and in particular whether these services are provided across the entire country.

Fifthly, the Committee enquired about the cultural, leisure and educational facilities available to elderly persons. The report indicates that the elderly are very active in citizens' associations, charities and other non-governmental organisations working on the issue of the active ageing of the population.

With regard to measures to inform people about the existence of services and facilities, the report states that the Strategy has made it possible to set up a number of portals, such as the "Penzin" portal, aimed at informing elderly persons of their rights and the services available at national and local level. The Gerontological Centre in Belgrade also runs an information centre. The Committee further notes from the UNFPA report that elderly persons can turn to the social protection centres which are particularly active in providing them with information. The Committee notes, however, that elderly persons living in rural areas are less well informed of their rights than others, and asks in this regard, if any measures have been taken or are envisaged to remedy this situation.

Housing

In its previous conclusion (Conclusion 2013), the Committee asked whether the needs of the elderly were taken into account in national or local housing policies. The report provides no information in this regard. However, the Committee notes from the Replies to the Questionnaire of the Special Rapporteur on the Right to Adequate Housing, Ms Leilani Farha, that Serbia has passed a number of laws which take into consideration the requirements and needs of elderly persons**.**

Secondly, the Committee asked whether sheltered or supported housing was provided, and whether the supply of such housing was sufficient. The report indicates that under the Law on Social Welfare, local authorities have been given an opportunity to finance the provision of social housing in protected conditions. The Committee asks the next report to provide for more information on this subject, and in particular on the number of buildings constructed, the housing services offered to the elderly and whether there is financial assistance to adapt/renovate elderly persons' private dwellings. It also asks how many older people live in their own dwellings, if other types of alternative housing (social housing and housing in small communities) have been built, and if so, how many and in which regions. Moreover, the Committee notes from this other source that the Serbia intends developing a plan for the reconstruction of at least 90 buildings in the 30 least developed municipalities in the Republic of Serbia to make them more accessible. It asks the next report to provide further information on this.

The report also indicates that vulnerable persons living in social housing may be granted a discount on their electricity, gas and heating bills. The Committee asks if this assistance is systematically given to vulnerable elderly persons, whatever local community they reside in. It also wishes to receive more detailed information on the level of the costs of social housing and on what happens when the individuals concerned or their families are unable to meet the relevant costs..

In the meantime, the Committee reserves its position on this point.

Health care

In its previous conclusion (Conclusion 2013), the Committee asked for more information on the programmes and health care services for the elderly. It also asked for information on any new measures taken to improve the accessibility and quality of the geriatric and long-term care or the co-ordination of the social and healthcare services in respect of the elderly. The report states that a new facility was opened for the placement of the elderly in palliative care in the Gerontological Centre in Subotica outside the reference period.

The Committee notes from the UNFPA report that large numbers of elderly persons do not have access to primary health care. The capacity for long term health care is limited and often badly organised. The Committee wishes to know what are the measures envisaged/planned to remedy this situation.

Institutional care

According to the report, 14 059 elderly persons were accommodated in public and private residential care in 2015. The report further states that housing-type residential care has significantly improved. Conditions in the homes have also improved (increased comfort, upgraded and standardised services), rehabilitation services have been enhanced and many activities and programmes are currently proposed to the beneficiaries.

In its previous conclusion (Conclusion 2013), the Committee asked how the different facilities were licensed and inspected, and whether procedures existed for complaining about the standard of care and services or about possible ill-treatment. In this respect, the Committee notes that the Serbia has recently put in place an accreditation system for service providers – namely institutions and professionals in direct contact with the beneficiaries. The report states that the development of standards and monitoring mechanisms is a matter for national and municipal authorities. It moreover indicates that social work centres and residential care facilities are bound by law to report annually to the competent minister on their work. A beneficiary who is dissatisfied with a service or a service provider may file a complaint with the relevant authority. The Committee notes that a comprehensive database on service providers and care provided should be put in place. It asks the next report to indicate whether the establishment of such database is still planned and, if so, on what timescale.

The Committee also asked which authority or body was responsible for the inspection of homes and residential facilities (both public and private). The report states that quality control of services, including placement in institutions, is carried out by social welfare inspectors. It further states that the Social Care Inspectorate issued some 37 operating bans on retirement homes in the second half of 2014 and in 2015 (33 were illegal and four did not have the requisite permits).The Committee asks that the next report provide more information on this subject, in particular on whether these inspectors are part of an independent body.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 23 of the Charter on the ground that adequate resources are not guaranteed.

Article 30 - Right to be protected against poverty and social exclusion

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

Measuring poverty and social exclusion

The Committee notes that the national indicator used to measure poverty is based on the concept of absolute poverty.

In 2014, according to the report, 8.9% of the population had expenditures that were below poverty line/threshold of poverty, i.e. RSD 11.340 = 94.99 EUR monthly per spending unit), and therefore was not in a position to satisfy basic living needs. The profile of poverty indicates that absolute rate of poverty is significantly higher in non-urban areas in which it reaches 12.2% in comparison to urban areas in which it is 6.2%.

Following European practice, the risk of poverty line/threshold is also the subject of tracking and reporting on the basis of the Survey on Income and Living Conditions (SILC). According to this relative indicator, the at-risk-of-poverty rates went from 42% in 2013 to 41.3% in 2015 (European Semester headline poverty indicator). For 2016, which is outside the reference period, the rate decreased to 38.7%.

The at-risk-of-poverty rate before social transfers went from 32.6% in 2014 to 37.2% in 2015, whereas the at-risk-of-poverty rates after social transfer stayed at the same level, namely 25.4% in 2014 and 2015. For household with zero or very low work intensity the rates went from 13.7% in 2013 to 15.6% in 2015. The rates for severe material deprivation went from 26.9% in 2013 to 24.0% in 2015.

The Committee notes from the report that child poverty is significantly above the average for the population both when measured in absolute and relative terms. Thus, in 2014 12.2% children less than 13 years of age, and 11.5% of children aged 14-18 were absolutely poor. In the same year, 29.9% children under 18 years of age were at the risk of poverty.

The Committee observes from the 2015 Eurostat data with respect to Serbia that the main poverty indicators (41.3%) are significantly above the EU-28 average (23.8%)

Approach to combating poverty and social exclusion

Section 4 of the Law on Social Welfare states that "every individual or family in need of social assistance and support for overcoming social and living difficulties and creating conditions of basic subsistence needs, shall be eligible to social welfare, in compliance with the Law". This right shall be ensured by providing the social welfare services and financial assistance, to which other provisions of the same Law are dedicated: social care beneficiaries should be nationals (Section 6), though non-national and stateless persons may also be beneficiaries under law and international agreements; income support is provided in the form of cash social assistance, caregiver’s benefit, vocational training benefit, in kind benefit and other types of financial income support.

According the the same Law, services for intensive support of family, which are community-based , should be developed and provided in the settings where the family lives (Section 40).

The Ministry of Labour, Employment, Veteran and Social Affairs also supports development of community-based services, not only as a coordinator of large-scale projects through which such services are funded, but with a concrete financial support for local governments and organisations of civil society whereby new community-based services are established or the sustainability of already established ones are supported. Local governments may ensure funds from different sources – from donations, municipal budget, State Budget, etc.

Beneficiaries are entitled to:

- information on all the data of relevance for identification of the social needs and on how such needs may be satisfied (Section 34)
- take part in the assessment of their situation and needs and in the decision-making; to timely receive all the information needed; to be briefed on alternative services which are available to them and be provided with all other information of relevance for service provision. No service shall be provided without the beneficiary's consent unless in cases provided for under law. (Section 35)
- free choice of services and service providers (Section 36)
- confidentiality of all private data (Section 37)
- respect of their privacy in provision of social care services (Section 38)
- file a complaint with a competent authority if not satisfied with a provided service,or a procedure or behaviour and conduct of service provider (Section 39)

The Committee notes that amendments of the Law on Social Welfare are underway, which should improve targeting of cash social assistance recipients, along with an increase of the related amount for children in family as well as undertaking of the measures for protecting long-term unemployed persons, older persons and persons with disability.

The Committee further notes from the report that the share of the expenses for social care in Serbia's GDP (below 25%) is lower than the EU28 average which is in the recent years around 29%.

The Regulation on policy of social inclusion for the cash social assistance recipients which was adopted in 2014 (Official Gazette of RS, 112/14) imposes measures aimed at overcoming of unfavourable social situation of social assistance recipients who are capable for work. An agreement is concluded among four ministries (Ministry of Labour, Employment, Veterans and Social Affairs, Ministry of Health, Ministry for Public Administration and Local Government, Ministry of Education, Science and Technological Development) with view to implementing the Regulation.

The process of licensing of all service providers is on-going. A database on local services is expected to be set up by the end of 2016.

A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget. Under the Regulation on Earmarked Transfers adopted in March 2016, a total annual amount of the appropriations for earmarked transfers set at 1.5% related to an adequate programme of social care as estimated under the budget line of the Ministry of Labour, Employment, Veteran and Social Affairs will be in application as of 1 January 2017.

The Committee notes that, though several measures were put in place – in particular in the framework of the process of accession to the European Union – a very high percentage of the population, in particular children, is still at-risk-of-poverty. In order to have further indication on the overall and coordinated approach to combating poverty and social exclusion, it asks that the next report contains information on the existence of coordination mechanisms for these measures, including at delivery level (i.e. on how the coordination is ensured in relation to the individual beneficiaries of assistance and services), the resources allocated to them and the number of beneficiaries for every year of the reference period.

The Committee further refers to its conclusions of non-conformity under other provisions of the Charter which are relevant to its assessment of compliance with Article 30 (see Conclusions 2013, Statement of interpretation on Article 30). It refers in particular to

- Article 1§1 and its conclusion that it has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation (Conclusions 2016);

- Article 10§4 and its conclusion that it has not been established that special measures for the retraining and reintegration of the long-term unemployed have been effectively provided or promoted (Conclusions 2016);
- Article 12§1 and its conclusion that the duration of payment of unemployment benefits for people who have been ensured up to five years is too short (Conclusions 2017);
- Article 13§1 and its conclusion that the level of social assistance paid to a single person without resources is not adequate (Conclusions 2017);
- Article 15§2 and its conclusion that persons with disabilities are not guaranteed effective access to the open labour market and that it has not been established that the legal obligation to provide reasonable accommodation is respected (Conclusions 2016);
- Article 16 and its conclusion that equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured (Conclusions 2015).

On the basis of all the information at its disposal, the Committee notes that, though some modest positive results have been achieved (more significantly after the reference period), the risk of poverty or social exclusion is still very high, in particular for children, the share of expenses is low, and that there is no overall and coordinated approach to combating poverty and social exclusion. The Committee therefore considers that the situation is not compatible with the requirements of Article 30.

Monitoring and evaluation

According to the report, the Government regularly tracks and reports on social inclusion and activities targeted at poverty reduction. The source of the data is the statistical surveys undertaken regularly, as well as the analyses of administrative data on the recipients of benefits for the poor. More precise findings are contained in the papers such as the First and Second National Report on Social Inclusion and Poverty Reduction (adopted respectively in 2010 and in 2014), and the Employment and Social Policy Reform (ESPR) in the process of accession to the European Union defining measures and activities in the years to come and linking them to budget appropriations, with the aim of provision of better protection to vulnerable population. An *inter-ministerial working group*, set up on the basis of the Government decision tasked with development of the ESRP is in charge of the monitoring of its implementation. The Ministry of Labour, Employment Veterans and Social Affairs coordinated the overall process of design and development with the expert assistance of the Team for Social Inclusion and Poverty Reduction.

The Committee takes note of the fact that the Team for Social Inclusion and Poverty Reduction monitors and reports on social exclusion and poverty thus strengthens the Government capacities for development and implement social inclusion policies.

However, the Committee recalls that Article 30 of the Charter requires the existence of monitoring mechanisms for reviewing and adapting the efforts in all areas and sectors, at all levels, national, regional, local, to combat poverty and social exclusion; mechanisms which should involve all relevant actors, including civil society and persons directly affected by poverty and exclusion (see Conclusions 2003, France, Article 30). It therefore asks that the next report contain comprehensive information on such mechanisms covering all sectors and areas of the fight against poverty and social exclusion.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 30 on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.