



January 2018

## **European Social Charter**

European Committee of Social Rights

Conclusions 2017

**AZERBAIJAN**

*This text may be subject to editorial revision.*



The following chapter concerns Azerbaijan, which ratified the Charter on 2 September 2004. The deadline for submitting the 10th report was 31 October 2016 and Azerbaijan submitted it on 7 February 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).

Azerbaijan has accepted all provisions from the above-mentioned group except Articles 3, 12, 13, 23 and 30.

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

The conclusions relating to Azerbaijan concern 5 situations and are as follows:

– 3 conclusions of non-conformity: Articles 11§1, 11§3 and 14§1.

In respect of the 2 other situations related to Article 11§2 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 Azerbaijan under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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

- the right of children and young persons to protection – prohibition of employment of children subject to compulsory education (Article 7§3),
- the right of children and young persons to protection – special protection against physical and moral dangers (Article 7§10),
- the right of employed women to protection of maternity – prohibition of dangerous, unhealthy or arduous work (Article 8§5),
- the right of workers with family responsibilities to equal opportunity and treatment – participation in working life (Article 27§1),
- the right of workers with family responsibilities to equal opportunity and treatment – parental leave (Article 27§2).

The Committee examined this information and adopted the following conclusions:

- 2 conclusions of conformity: Articles 7§10 and 8§5;

- 3 deferrals: Articles 7§3, 27§1 and 27§2.

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The next report will deal with the following provisions of the thematic group "Labour Rights":

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),

- the right to information and consultation (Article 21),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right to dignity at work (Article 26),
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- the right to information and consultation in collective redundancy procedures (Article 29).

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

- the right to work – freely undertaken work (Article 1§2),
- the right to work – vocational guidance, training and rehabilitation (Article 1§4),
- the right to vocational guidance (Article 9).

The deadline for submitting that report was 31 October 2017.

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Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter) as well as in the HUDOC database.

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

**‘Health, social security and social protection’**

## **Article 11 - Right to protection of health**

### *Paragraph 1 - Removal of the causes of ill-health*

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

### **Measures to ensure the highest possible standard of health**

The Committee notes from WHO that life expectancy at birth in 2015 (average for both sexes) was 72.7 which indicates that it has dropped since the previous reference period when was estimated at 73.8 in 2011. The life-expectancy rate is low compared to other European countries (for example, the average life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015).

The Committee notes from the World Bank data that the death rate (deaths/1,000 population) was 6 in 2015 (compared to 5.9 in 2011 and 6.3 in 2007 as noted in its previous Conclusion 2013).

The Committee noted previously that cardiovascular diseases and cancer continued to be the main causes of death for both men and women, followed by diseases of the digestive and respiratory systems. Tuberculosis still remained a significant health issue (Conclusions 2013). The Committee repeatedly asked what measures were being taken to combat these causes of mortality (Conclusions 2009 and 2013). The report provides information on the measures taken through the 'Action Plan on Combating Tuberculosis 2011'. It also mentions the 'National Strategy on Combating Non-infectious Diseases 2015-2020' through which a screening program is implemented by the National Oncology Centre for early detection of cancer. The Committee asks the next report to provide information on the implementation of these actions and their outcome on the mortality rates as well as measures taken to combat the other causes of mortality.

The report indicates that the infant mortality rate stood at: 10.8 per 1 000 live births in 2013; 10.2 in 2014; respectively 11 per 1 000 live births in 2015 (compared to 10.8 per 1,000 live births in 2011, down from 12,1 per 1,000 live births in 2007 as noted in its previous Conclusions 2013). According to Eurostat, the average EU-28 rate was of 3.7 per 1,000 live births in 2013/2014. The same source indicates that the infant mortality rate in Azerbaijan stood at 10.8 in 2012 and 2013, respectively at 9.7 in 2014.

As regards the maternal mortality rate, the report indicates that the level of maternal 'morbidity' stood at: 14.5 per 100 000 live births in 2013, 14.6 in 2014 and 14.4 in 2015 (the previous report indicating a rate of 15.3 deaths in 2011).

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

The Committee takes note from the report of the measures taken to improve the situation, mainly the "State Program on Improvement of Maternal and Child Health 2014-2020" through which financial and technical capacity of medical points providing services for mothers and children in cities and rayons has been reinforced, and their provision with various drug and medical equipment has been improved. Furthermore, the report indicates that training courses were held for perinatal staff in leading health clinics in the country and abroad; clinical protocols and methodical instructions have been developed; the single Registry of Pregnant Women set up in 2014 has been improved; health institutions providing antenatal care services in the regions have been supplied with relevant computer equipment; specific programmes have been developed including one of breast-feeding and a project titled "Early detection of acute heart failure among new-born children". The Committee notes that the representative of Azerbaijan to the Governmental Committee stated that significant measures had been taken in recent years to improve the quality of medical services provided to mothers and children. As a result, the infant mortality rate

dropped from 15.5 per 1 000 live births in 2003 to 10.8 per 1 000 live births in 2013. The maternal maternity rate dropped during the same period from 18.5 per 100 000 live births to 14.5 per 100 000 live births (Report of the Governmental Committee concerning Conclusions 2013).

The Committee takes note of the reforms initiated and the measures taken to reduce maternal and child mortality. It asks to be informed on the implementation of such measures, their effect on reducing the maternal and infant mortality rate, updated data regarding the trends of the mortality rates and on any developments in this field. Meanwhile, the Committee maintains its conclusion of non-conformity on this point.

### ***Access to health care***

The Committee noted previously that the Constitution states that citizens have the right to the protection of their health and to receive health care services. The Law on Protection of the Health of the Population as well as the Concept on Health Finance Reform also stress the importance of access to health care for every citizen. The Committee asked to be informed on the implementation of recent reform initiatives in the health sector, and whether they are having a positive impact in terms of life expectancy, mortality and quality of life (Conclusions 2013). Since the report does not address this question, the Committee reiterates its question.

In its previous conclusion, the Committee noted that medical institutions subordinated to the Ministry of Health and financed by the State budget provide free medical services to the population since 1 February 2008. There is also a list of drugs which are provided free of charge pursuant to Cabinet of Ministers decision No. 38 of 7 March 2005 (Conclusions 2013). The Committee asked the next report to provide information on the content and scope of the public health care services provided, and in particular whether they are sufficient to meet the health challenges of the population. The report indicates that the number of medications prepared on the basis of free medication prescriptions has been revised in 2013 and their number reached 184. Moreover, state budget allocations for the implementation of targeted state programs are currently available and 11 state programs ensure the free supply of pharmaceutical drugs to the sick.

The Committee noted previously that the average distribution of medical staff across the country disguises significant regional differences, as there are difficulties with recruiting and retaining staff in rural areas. The Committee wished to be kept informed of further measures which might be taken to ensure an adequate presence of healthcare professionals in rural areas (Conclusions 2013). The report does not provide any information on this point. The Committee requests that the next report contain up-to-date information on healthcare facilities and professionals distinguishing between urban and rural areas or between regions.

The Committee recalls that the right of access to health care also requires that arrangements for access to care must not lead to unnecessary delays in its provision. It has repeatedly asked for information about the rules that apply to the management of waiting lists and statistics on average waiting times in health care (Conclusions 2009 and 2013). No information is provided on this point in the report. The Committee reiterates its question. It points out that in the absence of information in this respect in the next report, there will be nothing to show that the situation is in conformity with the Charter on this point.

The Committee previously asked for information on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments (Conclusions 2009 and 2013). The report indicates that Action Plan No. 116 dated 07.11.2014 regarding the implementation of the "Program on treatment, rehabilitation and resocialisation of the drug addicts" was approved and the construction of the new building for the Republican Narcological Centre is underway. It is planned to establish a rehabilitation department in the new centre. The Committee wishes to be kept informed on the implementation of this Action

Plan, especially on the rehabilitation facilities, and its impact on preventing and reducing drug consumption. It reserves its position on this point.

In its previous conclusions the Committee found that the situation was not in conformity with the Charter on the ground that the health care budget was significantly lower than that of other European countries (Conclusions 2009) and public healthcare expenditure, in absolute terms and as a share of GDP, is too low (Conclusions 2013). The Committee noted that health expenditure as a percentage of GDP remained stable throughout most of the previous reference period, representing 0,9% in both 2008 and 2011 (whereas in 2008, European Union countries devoted 8.3% of their GDP on average to health spending). The current report indicates that every year the amount of state allocations for the health sector is increasing. For example, the budget allocations for health were 335 mln. manats in 2008; they reached 669 mln. manats in 2013, 725 mln manats in 2014 and 777 mln. manats in 2015. The Committee notes that the Representative of Azerbaijan to the Governmental Committee stated that in 2014 the budget allocation to public health had multiplied by 13 since the year 2004. This figure was equal to 1.8 to 2% of GDP and would be further increased. The Committee notes from WHO data that the out-of-pocket expenditure as a percentage of total expenditure on health reached 72.08% in 2014. It also notes that the OECD average for health expenditure represented 8.9% of the GDP in 2013. Although the report states that public funding on health has risen since 2004, the Committee notes that it is still significantly lower compared to that of other European countries. It maintains therefore its conclusion of non-conformity on this point.

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

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

The Committee takes note of the comments submitted by Transgender Europe and the International Lesbian and Gay Association (ILGA- Europe) on the implementation of Article 11 of the Charter in the current cycle stating that Azerbaijan is one of the states that require sterilisation as a condition for legal gender recognition. The Committee asks for information on this matter in the next report, in particular whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilization or any other invasive medical treatment which could impair their health or physical integrity.

### *Conclusion*

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

- the measures taken to reduce infant and maternal mortality have been insufficient;
- public healthcare expenditure is too low.



## **Article 11 - Right to protection of health**

### *Paragraph 2 - Advisory and educational facilities*

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

### ***Education and awareness raising***

The Committee takes note of the detailed information in the report on the information and awareness raising activities carried out during the reference period on issues such as healthy life style, healthy nutrition, tobacco, drugs, including in schools. Training activities and conferences were organised for medical staff and educators/trainers on topics such as education on reproductive health of adolescents.

As regards health education in schools, the Committee already noted in its previous conclusions that a course entitled "education centered on life skills" was part of the school curricula, and included questions related to healthy lifestyles and sexual education (Conclusions 2009) and that this topic also addressed issues around road safety, healthy eating and the prevention of sexually transmitted diseases (Conclusions 2013).

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

### ***Counselling and screening***

In its previous conclusion, the Committee noted that all women were entitled to free specialised healthcare during pregnancy and childbirth. Having regard to the high infant and maternal mortality rates noted in the Conclusion on Article 11§1, the Committee asks whether this free entitlement is implemented in practice. It asks updated information on the frequency of medical checks and proportion of women covered as well as on the effectiveness of such screenings. The Committee reserves its position on this point.

Moreover, the Committee noted that medical examinations were organised annually for all schoolchildren (Conclusions 2009). Free medical examinations for children and adolescents are organised at state healthcare facilities. The Committee noted previously that in 2011 in Baku, 98.5% of pupils underwent in-depth medical examinations and asked if the coverage rate is equally high in other parts of the country (Conclusions 2013). The report does not address this matter. The Committee wishes to know the proportion of pupils covered by the medical examinations throughout the country, especially in rural areas.

With regard to screening programmes, the Committee noted previously that mass examination tests for the diagnosis of tuberculosis are available pursuant to a Ministry of Health Order of 2001 (Conclusions 2013). The Committee asked if there are other screening programmes available, for example for the detection of cancer or the diagnosis of HIV (Conclusions 2013).

The report indicates that the current healthcare system in the country enables the detection of HIV infection. Anonymous and confidential check-ups are available in the Republican Centre for Combating with HIV infection and its 10 regional laboratories, the laboratories

under Hygiene and Epidemiology Centre, Nakhchivan Autonomous Republic Centre for Combating HIV Infection and 48 voluntary check-up and counselling centres in the regions. Initial screening test of HIV infection also takes place in the specialised diagnostic laboratories of healthcare institutions. In order to increase accessibility of these services, various mobile voluntary examination and counselling services have been established in the country. As a result of these measures, the number of HIV examinations in the country increased each year and reached 777 000 in 2015 compared to 429 000 in 2011.

With regard to screening programmes for cancer, the report indicates that according to the Presidential Decree dated 23 December 2015 on “National Strategy on combating non-infectious diseases, 2015-2020” for early detection of oncological diseases, a screening program is regularly implemented by the National Oncology Centre.

The Committee asks that the next report provide information on screening available in relation to the other principal causes of death.

### *Conclusion*

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

## **Article 11 - Right to protection of health**

### *Paragraph 3 - Prevention of diseases and accidents*

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

### **Healthy environment**

The Committee took note previously of the different pieces of legislation and regulations adopted for the reduction of environmental risks, in particular in the field of air quality, water safety, waste management, noise, ionising radiation and food safety (Conclusions 2013). However it noted that despite taking measures and implementing a number of environmental projects, the levels of air pollution remain high and that supply of safe drinking water was still a problem in several areas of the country (Conclusions 2013). The Committee asked to be kept informed on the implementation of the measures and regulations mentioned in the previous report, as well as on levels of air pollution, contamination of drinking water and food intoxication, namely whether trends increased or decreased during the reference period (Conclusions 2013). The report does not provide any information on this point. The Committee reiterates its question. It points out that in the absence of information in this respect in the next report, there will be nothing to show that the situation is in conformity with the Charter on this point.

In its previous conclusions, the Committee found that the situation was not in conformity with the Charter on the ground that the legislation did not prohibit the sale and use of asbestos (Conclusions 2009 and 2013). It noted previously that draft legislation in this area has been prepared and submitted to the relevant bodies for comments, but it has not been adopted yet (Conclusions 2013). The report does not provide any information on this issue. The Committee notes from another source ("Asbestos Global. Asbestos Bans and Regulation") that Azerbaijan is one of the countries that has not yet banned asbestos use, nor has regulated the use of asbestos. Thus, the Committee reiterates its previous conclusion of non-conformity.

### **Tobacco, alcohol and drugs**

With regard to tobacco, the Committee noted previously that smoking was banned in healthcare facilities, educational facilities and universities. However, smoke-free legislation does not exist in respect of bars, restaurants, pubs, public transport, or indoor offices (Conclusions 2013). The Committee asked for updated information in the next report on the state of legislation on smoke-free environments, health warnings on tobacco packages, and if there is a ban on tobacco advertising, promotion and sponsorship, throughout the whole country. Prevalence of tobacco use should also be indicated (Conclusions 2013).

The Committee takes note from the report of the applicable legislation related to health warnings on tobacco packages, design of tobacco packages, as well as sale of tobacco, tobacco advertising, promotion and sponsorship.

The report indicates that the prevalence of smoking among adults (15 and above) in Azerbaijan was 18.2% (men: 35.9%; women: 0.0%) (without specifying the year/period). The Committee notes from WHO Report on the global tobacco epidemic 2017 that the estimated prevalence of smoking among those aged 15 years or more in 2015 was 21.3% (43.5 for men and 0.3 for women). The same source indicates that the prevalence for youth (13-15 years old) was 7.3%.

With regard to smoke-free environments, the Committee notes from WHO Report on the global tobacco epidemic 2017, Azerbaijan Country Profile, that smoke-free legislation still does not exist with respect to indoor offices and workplaces, government facilities, restaurants, cafés, pubs and bars, public transport.

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 Committee assesses the effectiveness of such policies on the basis of statistics on tobacco consumption. The Committee asks for updated information in the next report on trends in the consumption of tobacco (adults and youth) and measures taken to prevent and reduce tobacco consumption. Meanwhile, it reserves its position on this point.

The Committee repeatedly asked for information on policy regarding alcohol consumption and drug consumption (Conclusions 2009 and 2013).

The Committee takes note from the report of the detailed statistics regarding the consumption of alcohol as reflected in a study carried out in 2011. It notes that in 2014, 9.4 per 100 000 population were diagnosed with alcoholism and alcoholic psychosis and 13.4 per 100 000 population were diagnosed with drug and substance abuse. The Committee asks for updated data in the next report on the prevalence of alcohol and drug consumption as well as on trends in consumption.

The report indicates that Action Plan No. 116 dated 07.11.2014 regarding the implementation of the "Program on treatment, rehabilitation and resocialisation of the drug addicts" was approved and the construction of the new building for the Republican Narcological Centre is underway. It is planned to establish a rehabilitation department in the new centre. Trainings in the field of treatment and rehabilitation of the drug addicts were organised for the experts of the Republican Narcological Centre in other countries such as Russia, Belarus and Kazakhstan. The Committee wishes to be informed on the implementation of this Action Plan and its impact on preventing and reducing drug consumption.

### ***Immunisation and epidemiological monitoring***

The Committee noted previously that the National Immunisation Schedule of Azerbaijan includes vaccination against ten infections: tuberculosis, hepatitis B, poliomyelitis, diphtheria, pertussis, tetanus, measles, rubella and mumps and, since 2011, Haemophilus influenzae type B (Conclusions 2013).

As regards epidemiological monitoring of infectious diseases, the report indicates that an Electronic Observation System of Contagious Diseases (EOSCD) was established in 2010 in order to improve the process of collection, processing and analysis of data on contagious diseases, as well as to strengthen epidemiological and epizootic observation.

In its previous conclusion, the Committee noted that the number of tuberculosis cases increased slightly between 2008 and 2011 from 4 186 to 4 893, and asked to be kept informed on the measures taken to combat tuberculosis (Conclusions 2013).

The report provides information on the measures taken through the Action Plan on combating tuberculosis 2011 such as: supply of modern equipment for diagnosis, increase in the number of cabinets established for medication in order to provide ambulatory treatment, setting up of specialized TB hospitals for stationary treatment of drug-resistant TB, training of the medical staff. The report further indicates that the number of tuberculosis cases decreased compared to 2011 and TB related deaths decreased from 4.2 to 3.9 per 100 000 persons.

The Committee asks for updated figures on the vaccination coverage in the next report.

## ***Accidents***

The Committee previously recalled that under Article 11§3 states must take steps to prevent accidents. The main sorts of accidents covered are road accidents, domestic accidents, accidents at school and accidents during leisure time. The Committee repeatedly asked for information on measures taken to prevent accidents, as well as on trends in accidents (Conclusions 2009 and 2013). In its previous conclusion, the Committee pointed out that in the absence of information in this respect in the next report, there will be nothing to show that the situation is in conformity with the Charter on this point (Conclusions 2013).

Given the lack of information on this point in the report, the Committee concludes that the situation is not in conformity with the Charter as it has not been established that adequate measures were taken to prevent accidents.

## ***Conclusion***

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§3 of the Charter on the grounds that:

- legislation does not prohibit the sale and use of asbestos;
- it has not been established that adequate measures were taken to prevent accidents.

## **Article 14 - Right to benefit from social services**

### *Paragraph 1 - Promotion or provision of social services*

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

### **Organisation of the social service**

The Committee refers to its previous conclusion (Conclusions 2013) where is indicated that the Law "On Social Services", approved by the Presidential decree No. 600 on 14 March 2012, provides that all persons in need shall benefit from social services of quality that apply modern standards. This law defines four forms in respect of the provision of social services: home social services, semi-stationary social services (daytime), stationary social services and social/consultation assistance.

The current report states that in the Development Concept of "Azerbaijan 2020: Vision to Future" approved with the Presidential Decree No 800, dated December 29, 2012 has been indicated as one of the main priorities, the enlargement of the network and type of centres providing social services. Since 2013, several social projects developed by the Ministry of Labour and Social Protection of the Republic of Azerbaijan have been launched in the regions for provision of social services to the vulnerable groups of population, their social rehabilitation and supporting their families. From 2013 to 2015, 95 projects were developed by several NGOs in different cities and regions, to support social rehabilitation of children and adolescents with specific needs and their families as well as people facing poverty and social exclusion. In this respect the Committee asks that the next report provide information on the implementation and outcome of these projects.

The report states that a new mobile social service is provided by the urban and district departments of the State Social Protection Fund under the Ministry of Labour and Social Protection of Population to the elderly people living alone, people with disabilities in accordance with the "Regulations on social service provision at home (mobile)" approved with Decision No 108, dated April 22, 2014 of the Cabinet of Ministers of the Republic of Azerbaijan, (since the adoption of the law 1253 social workers provided mobile social services to 11901 elderly and disabled people up until 1/7/2016).

### **Effective and equal access**

In its previous conclusion (Conclusions 2013) the Committee found that eligibility criteria established by law, for foreigners legally residing and regularly working in the country to be entitled to receive social services assistance are too restrictive due to the excessive length of residence requirement (five years). Therefore the Committee concluded that the situation was not in conformity on the ground that access to social services by nationals of other States Parties is subject to an excessive length of residence requirement.

The report indicates that Article 3 of the Law of the Republic of Azerbaijan on "Social Services" states that social service is provided to the citizens of the Republic of Azerbaijan who need social services, foreigners permanently residing in Azerbaijan and people without citizenship on equal basis irrespective of ethnical background, religion, disability, age, sexual orientation and political stance. However, the report does not answer the question and therefore the Committee reiterates its conclusion of non-conformity.

### **Quality of services**

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

- staff shall be qualified and in sufficient numbers;
- decision-making shall be as close to users as possible;

- there must be mechanisms for supervising the adequacy of services, public as well as private.

In its previous conclusion (Conclusions 2013), the Committee asked information on these three elements. It also asked the next report to provide information on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers.

The report indicates that the Law on Social Services provides that quality of social services is under direct control of the Ministry of Labour and Social Protection. In this respect the Committee asks if the Ministry of Labour and Social Protection is also responsible for supervision of social services provided by private providers.

The report underlines that minimum operational requirements were developed by Ministerial Decree and in accordance with a "Joint Work Plan on Reforms in Child Care System" (2014-2015) signed between the Ministry of Labour and Social Protection of the Republic of Azerbaijan and UNICEF Representative Office in Azerbaijan for the purpose of regulating the activities of several centres providing social services and improve quality of services provided. In this respect the Committee asks what kind of requirements are needed and if they apply to all welfare system.

The report indicates a number of activities and measures aiming at improving the quality of social services provided to different categories of vulnerable people (young unhealthy people ,disabled children, elderly, former prisoners, victims of human trafficking). The report also indicates a number of projects: a) in the framework of TAIEX program on learning international practice in the field of provision of social services to neglected children under social threat and ex-prisoners. and elderly people which started in 2015; b) twinning project on "Improving social services for people in need of special care "for improving institutional capacity of structural divisions of the Ministry working in the area of social services; c) a two-year (June 2015-June 2017) twinning project on "Development of social service provision in Azerbaijan" between Azerbaijan and the relevant authorities of Austrian Republic for specific target group such as low-income families, the elderly, people released from penitentiary institutions and people suffering from domestic violence. These projects aim also to promote good practices in the field of social service provision to the staff working in the area of social service provision (modern social worker model) and improve accessibility to social services, improve training of social workers, and extend the coverage of these services to all regions in Azerbaijan. In this respect the Committee asks the next report to provide information on implementation of projects outcomes and follow up.

The Committee notes that the report does not answer to its questions in particular on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers and therefore reiterates its questions and reserves its position on this point. The Committee 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*

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

## **Article 14 - Right to benefit from social services**

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

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

The Committee refers to its conclusion 2009 for a general description of the legal framework for the provision of social welfare services by charity organisations which is contained in the Act No. 894-1Q of 13 June 2000. Under this Act, local authorities are invited to work in co-operation with charity organisations to ensure the provision of welfare services.

In its previous conclusion (2013), the Committee asked the next report to provide updated information on public participation in the establishment and maintenance of social services.

The report indicates that an enlargement of the network of centres providing social services is one of the main priorities of the Development Concept of "Azerbaijan 2020: Vision to Future" approved with the Presidential Decree No 800, dated December 29, 2012. Moreover, the report underlines that during 2013-2015, ad hoc projects were implemented by NGO's in different regions on identified priority areas. Initial projects covered two main priority areas: social rehabilitation of unhealthy children and support for families of adolescents under social threat. Later, the project priority areas were extended to include social services to people facing extreme poverty condition.

The report indicates that an accreditation commission was established in accordance with the "Regulation of accreditation of non-governmental assistance centres for people suffering from domestic violence", approved with Decision No 89, dated April 25, 2012 of the Cabinet of Ministers of the Republic of Azerbaijan. Since its adoption, a total of 10 non-governmental centres providing support to people who suffered from domestic violence were accredited by the Commission. In this respect the Committee asks if these non-governmental centres are operational also in other areas of social services.

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

The report indicates that Article 3 of the Law of the Republic of Azerbaijan on "Social Services" states that social service is provided to the citizens of the Republic of Azerbaijan who need social services, foreigners permanently residing in Azerbaijan and people without citizenship on equal basis irrespective of ethnical background, religion, disability, age, sexual orientation and political stance. However, the Committee notes that the report does not answer to the question and therefore reiterates its question and reserves its position on this point. 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.

The report states that a new mobile social service is provided by the urban and district departments of the State Social Protection Fund under the Ministry of Labour and Social Protection of Population to the elderly people living alone, people with disabilities and severely ill people in accordance with the "Regulations on social service provision at home (mobile)" approved with Decision No 108, dated April 22, 2014 of the Cabinet of Ministers of the Republic of Azerbaijan, (since the adoption of the law 1253 social workers provided mobile social services to 11901 elderly and disabled people up until 1/7/2016).

### *Conclusion*

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



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

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 3 - Prohibition of employment of children subject to compulsory education*

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

The Committee takes note of the information submitted by Azerbaijan in response to the conclusion that it has not been established that children who are still subject to compulsory education are guaranteed the benefit of an uninterrupted rest period of at least two weeks during summer holiday.

In its previous conclusion (Conclusions 2015) the Committee asked whether the rest period free of work had a duration of at least two consecutive weeks during the summer holiday. It also asked what are the rest periods during the other school holidays. The Committee notes from the report in this regard that employment of children in compulsory education is prohibited even during their school holiday times, as it is contrary to the law. The Committee notes that the Decision No 362 of 2014 of the Cabinet of Ministers has introduced amendments to the Model Charter of Secondary School which regulates the periods of school term and school holidays.

However, as the Committee noted in its previous conclusion from another source, as of January 2011 20,000 children were working in agriculture (Observation (CEACR) – adopted 2014, published 104<sup>th</sup> ILC session (2015), Minimum Age Convention, 1973 (No. 138) – Azerbaijan (Ratification: 1992). Therefore, in order to assess the conformity of the situation with the requirements of the Charter, the Committee requests to be provided with data on the situation in practice as regards employment of children subject to compulsory education and information on children carrying out an economic activity in the informal economy during school holidays. In the meantime, it reserves its position on this issue.

### *Conclusion*

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

## **Article 7 - Right of children and young persons to protection**

*Paragraph 10 - Special protection against physical and moral dangers*

### ***Protection against the misuse of information technologies***

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

The Committee takes note of the information submitted by Azerbaijan in response to the conclusion that it has not been established that children are protected against the misuse of information technologies.

The Committee takes note of the awareness-raising activities carried out by the State Committee on Family, Women and Children Affairs, such as the training on internet security of children (30 September, 2015). The Committee further notes that according to the Law dated April 29, 2016 on making amendments to the Law on Telecommunications, internet operators and providers are obliged to ensure safe access to online information resources at the request of a subscriber for the protection of their children against the information which may be harmful to their health or development.

According to the report, protection of children against information which is harmful to their health and development is regulated by the amendment introduced to Article 15 of the Law on Children's Rights. Moreover, the Committee notes that the instructions have already been given by the President to prepare a draft law on the protection of children against the misuse of information technologies. The Committee wishes to be informed about this legislative development.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Azerbaijan is in conformity with Article 7§10 of the Charter as regards protection against the misuse of information technologies.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work*

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

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

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

The report recalls that Article 241 of the Labour Code prohibits women from being employed in hard and dangerous activities and, in response to the Committee's request, refers to a list of prohibited activities, which was adopted by the Cabinet of Ministers with decision No. 170 of 1999. The Committee notes on the one hand that the activities listed are prohibited for all women, not just those who are pregnant or nursing. On the other hand, the Committee notes that the list seems to refer exclusively to industrial activities; it accordingly asks whether specific protection measures are provided for pregnant or nursing women who might be exposed to specific risks in a different context, such as the provision of medical services, which might for example involve exposure to viral agents or ionizing radiation. It reserves in the meantime its position on this issue.

The report also indicates that Article 243 of the Labour Code sets provisions for transferring pregnant women and women with children aged under 1.5 years to lighter duties. For pregnant women production or service norms shall be reduced in accordance with the medical reference or they shall be assigned to lighter duties excluding any influence of harmful production factors. If breastfeeding women face difficulties to concile their work duties with breastfeeding, they can request the employer to be transferred to a lighter work or to be provided with the necessary conditions for breastfeeding up until the child reaches 1.5 years old. When female workers are transferred to a lighter work due to the reasons stated in this Article their average wage shall be maintained. It is prohibited to reduce women's wage due to pregnancy or breastfeeding. The Committee asks whether the women concerned are entitled to a paid leave, if it is impossible to transfer them to lighter duties. It also asks whether, at the end of the protected period, the women transferred are reinstated to their initial post.

The Committee recalls that the situation concerning other aspects covered by Article 8§5 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Azerbaijan is in conformity with Article 8§5 of the Charter.

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

### *Paragraph 1 - Participation in working life*

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

### ***Child day care services and other childcare arrangements***

The Committee takes note of the information submitted by Azerbaijan in response to the conclusion that it had not been established that there are enough places in childcare facilities. (Conclusions 2015, Azerbaijan).

In its previous conclusion (Conclusions 2015) the Committee wished to receive updated information regarding the numbers of places in kindergartens, by age group and by the number of applications turned down. It wished to know whether services are affordable and of high standard.

The Committee notes that the information provided on children's homes is not relevant to the assessment of national situations under this provision. This information should be provided under Article 17§1 of the Charter. As regards child daycare services, the Committee notes that the Action Plan on implementation of the State Strategy for the development of education, approved in 2015, stipulates the establishment of pre-school educational bodies to achieve 90% involvement of children in pre-school education. The Committee asks the next report to reply to its above questions and provide information about the implementation of this Strategy and the results achieved.

### *Conclusion*

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

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

### *Paragraph 2 - Parental leave*

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

The Committee takes note of the information submitted by Azerbaijan in response to the conclusion that it had not been established that legislation provides for an individual, non-transferable right to parental leave for each parent, who are not single (Conclusions 2015, Azerbaijan). It notes from the report that Article 117 of the Labour Code provides for additional parental leave for single fathers of two additional days of annual leave. Furthermore, according to Article 127 one of the parents, or other family member, has a right to partially paid social leave to take care of a child up to 3 years of age. The Committee asks whether Article 127 specifically refers to single parents or to one of the parents.

The Committee considers it important that national regulations should entitle men and women to an *individual right* to parental leave on the grounds of the birth or adoption of a child. With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided to each parent and at least some part of it should be non-transferable. The Committee asks the next report to confirm that the right provided for in Article 127 is an individual right of both mothers and fathers (and not only of single parents) and asks whether at least some part of it is non-transferable.

### *Conclusion*

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