January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

TURKEY

This text may be subject to editorial revision.

The following chapter concerns Turkey, which ratified the Charter on 27 June 2007. The deadline for submitting the 9th report was 31 October 2016 and Turkey submitted it on 20 April 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).

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

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

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

– 5 conclusions of conformity: Articles 11§2, 12§2, 12§3, 13§2 and 13§3,

– 8 conclusions of non-conformity: Articles 3§3, 11§1, 12§1, 13§1, 14§1, 14§2, 23 and 30.

In respect of the 6 other situations related to Articles 3§1, 3§2, 3§4, 11§3, 12§4 and 13§4 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 Turkey 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 12§3

- The number of people insured for old age has increased by 19% (from 17 076 451 to 20 380 319) from 2011 to 2015, while the total population growth in the same period was below 6% (from 74 525 696 to 78 741 053);
- In 2013, the personal coverage of healthcare insurance has been extended to children below 18 years old who were not already covered on account of their family or curators, to persons under a protective injunction (victims of domestic violence), to persons training to work in penal institutions and jails and their families, to persons who graduated from high-schools or higher education in the last two years (subject to age conditions) and were not already covered as dependants;
- In 2014 (Law No. 6552) the time limit for survivors to claim their pension has been extended from 6 to 12 months;
- In 2014 and 2015, certain measures have been taken in favour of workers performing underground works in the mines, in particular their earliest pensionable age has been set for 50 years (instead of 55) for those who worked underground for at least 20 years (Law No. 6552) and favourable provisions have been taken in favour of survivors of miners deceased because of work accidents in coal and lignite mines in the last ten years (Law No. 6645).

Article 13

New legislation in Turkey to strengthen the link between social assistance and the labour market (Law No 6704) was adopted on 14 April 2016.

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

- the right of children and young persons to protection – fair pay (Article 7§5);
- the right of children and young persons to protection – inclusion of time spent on vocational training in the normal working time (Article 7§6);
- 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 – illegality of dismissal during maternity leave (Article 8§2);
- the right of the family to social, legal and economic protection (Article 16);
- the right of children and young persons to social, legal and economic protection – assistance, education and training (Article 17§1);
- the right of migrant workers and their families to protection and assistance – assistance and information on migration (Article 19§1);
- the right of migrant workers and their families to protection and assistance – equality regarding legal proceedings (Article 19§7);
- the right of migrant workers and their families to protection and assistance – guarantees concerning deportation (Article 19§8);
- the right of migrant workers and their families to protection and assistance – teaching language of host state (Article 19§11);
- the right of migrant workers and their families to protection and assistance – teaching mother tongue of migrant (Article 19§12);
- 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 – egality of dismissal on the ground of family responsibilities (Article 27§3);
- the right of workers with family responsibilities to equal opportunity and treatment – adequate housing (Article 31§1);
- the right of workers with family responsibilities to equal opportunity and treatment – reduction of homelessness (Article 31§2);
- the right of workers with family responsibilities to equal opportunity and treatment – affordable housing (Article 31§3).

The Committee examined this information and adopted the following conclusions:

- 1 conclusion of conformity: Article 7§6,

- 10 conclusions of non-conformity: Articles 7§10, 17§1, 19§1, 19§7, 19§8, 19§11, 19§12, 31§1, 31§2 and 31§3,

- 5 deferrals: Articles 7§5, 8§2, 16, 27§1 and 27§3.

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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 – vocational guidance, training and rehabilitation (Article 1§4),
- the right to vocational training – long term unemployed persons (Article 10§4),
- the right of persons with disabilities to independence, social integration and participation in the life of the community – vocational training for persons with disabilities (Article 15§1),
- the right of persons with disabilities to independence, social integration and participation in the life of the community – employment of persons with disabilities (Article 15§2),
- the right of persons with disabilities to independence, social integration and participation in the life of the community – integration and participation of persons with disabilities in the life of the community (Article 15§3).

The deadline for submitting that report was 31 October 2017.

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

CONCLUSIONS RELATING TO ARTICLES FROM THE THEMATIC GROUP

‘Health, social security and social protection”

Article 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 Turkey.

General objective of the policy

In its previous conclusion (Conclusions 2013), the Committee noted the existence of a policy which aimed at fostering and preserving a culture of prevention as regards occupational safety and health. It asked for detailed information on the Act No. 6331. It also reiterated its request relating to whether the policy was regularly assessed and reviewed in light of changing risks.

In reply, the report states that Act No. 6331 of 20 June 2012 on occupational health and safety sets out a permanent review of health and safety conditions, develops a prevention policy in the workplaces, sets out risk assessment at every step of the production process, includes information to workers about the risks they face at the workplace, and institutes an occupational health and safety official. In addition, it defines the main stakeholders namely employees, employers and the State, and their duties and responsibilities in working life.

The report states that there are two policy documents concerning the reference period: National Occupational Health and Safety (OHS) Policy Document II for 2009-2013, and National OHS Policy Document III for 2014-2018. According to the report, there are 7 fundamental goals, 42 action plans and 28 performance indicators in the National OHS Policy Document III and Action Plan for 2014-2018. More specifically, the goals planned to be reached are the following: improving the quality of activities in the field of OHS and their standardisation; improving occupational health and safety statistics and a recording system; reducing the rate of accidents at work in 100 000 workers for each sector in metal, mining and construction sectors; collecting pre-diagnosis through identifying possible occupational diseases; increasing the activities for improving OHS in public and agricultural sector; extending the occupational health and safety culture in the society; and making Professional Competence Certificates obligatory in hazardous and very hazardous work. The report contains however no mention of the activities implemented and the results obtained according to the National OHS Policy Document for 2009-2013.

The Committee notes from the observation raised by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted in 2015 (105th ILC session) on Occupational Safety and Health Convention No. 155 (1981), that, according to information provided by the International Trade Union Confederation and the Confederation of Public Employees' Trade Unions, the new document and plan are merely a repetition of previous plans that are not implemented. The Committee invites the authorities to comment on this observation in the next report and to provide all relevant information in this respect.

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.

The Committee notes that there is a legislative framework, which provides for an overall approach to occupational health and safety policy. However, it requests again that the next report indicate whether policies and strategies are periodically reviewed and, if necessary, adapted in the light of changing risks. It also asks the next report to provide information on the activities implemented and the results obtained by the Action Plan 2014-2018. It

reserves in the meantime its position on these points. 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 Turkey is in conformity with Article 3§1 of the Charter.

Organisation of occupational risk prevention

In its previous conclusion (Conclusions 2013), the Committee noted the existence, at national and territorial level, of measures for the prevention of occupational risks suited to the nature of the risks, together with measures of information and training for workers. It also noted that the Labour Inspection Board (LIB) and territorial labour inspectorates participated in developing an occupational health and safety culture among employers and employees and in sharing knowledge acquired during inspection activities.

The report indicates that the most important step of the preventive occupational health and safety approach is to make an appropriate risk assessment in the workplace. According to the Occupational Health and Safety Act No. 6331, the employers should perform risk assessment and has the responsibility of taking all necessary measures to ensure OHS.

According to Article 4 of Act No. 6331, the employer has a duty to ensure the safety and health of workers in every aspect related to work. In this respect the employer shall take the measures necessary for safety and health protection of workers, including provision of necessary organisation, designating safety and health staff, informing and training of workers, carrying out risk assessment, implementing measures related to occupational safety and health in accordance with the legislation, etc.

According to Article 6 of Act No. 6331, the employer shall designate workers as occupational safety experts; designate occupational physicians and other health staff: meet the need for means of space and time to help designated people or organisations fulfil their duties; ensure cooperation and coordination among the occupational safety and health staff, etc. Moreover, Article 6(e) requires employers to ensure that designated persons, external services consulted and other workers and their employers from any outside enterprise or undertaking engaged in work in their undertaking or enterprise receive adequate information regarding the factors known to affect, or suspected of affecting, the safety and health of workers.

In its previous conclusion (Conclusions 2013), the Committee asked for information on how small and medium-sized enterprises discharge their obligations to assess work-related risks and adopt preventive measures geared to the nature of risks in practice. In reply, the report indicates that the risk assessment should be made regardless of the size (big, medium, small) of the workplaces. In addition, the studies of risk assessment were realised through visiting the workplaces with many projects that were completed or are still going on. The relevant parties were assisted on risk assessment through trainings, workshops and conferences. Moreover, the Council of Ministers may authorise the Ministry to provide subsidies to enterprises employing fewer than ten workers and classified as less hazardous. The studies on risk assessment are included within this scope (Article 7 of the Act No. 6331).

However, the Committee notes from the report that the application of Articles 6 (occupational health and safety services), 7 (State subsidies to occupational health and safety services) and 8 (occupational physicians and occupational safety specialists) of the Act No. 6331 is postponed to 1st July 2017 (out of the reference period) as regards public institutions and enterprises where less than 50 workers are employed and which are classified as less hazardous.

Improvement of occupational safety and health

In its previous conclusion (Conclusions 2013), the Committee noted the existence of a system aimed at improving occupational health and safety through scientific and applied research, development and training, in which public authorities were involved. However, it

reiterated its request for examples of training and counselling conducted by the Directorate General for Occupational Health and Safety (DGOHS). It also asked for information on the respective competencies of the Occupational Health and Safety Centre (İSGÜM) and the Ministry of National Education and the Ministry of Labour and Social Security Training and Research Centre for Labour and Social Security (ÇASGEM) within the national system, as well as on the resources allocated to the mentioned institutions and bodies.

In reply, the report indicates that the Regulation on the Duties, Authority and Responsibilities of the Presidency of Occupational Health and Safety Research and Development Institute No. 29417 of 15 July 2015 identifies the organisational structure, working rules and procedures and the quality, duty, authority and responsibilities of the staff of the Presidency of Occupational Health and Safety Research and Development Institute, the affiliated Regional Laboratory Directorates of Occupational Health, and the Safety Research and Development Institute.

According to Article 5 of the Regulation No. 29417 of 15 July 2015, İSGÜM is authorised, among others, to make measurement, analysis and counselling in the workplaces on occupational health and safety and to take the necessary samples for this purpose. The expertise training for asbestos – dismantling experts is given by İSGÜM (Article 19 of the Regulation No. 28539 of 25 January 2013 on Health and Safety Measures in the Work with Asbestos). The related training was conducted seven times in total as of January 2014, and certificates were given to 255 asbestos – dismantling experts. The Committee takes note of other competencies of İSGÜM detailed in the report as well as training and counselling activities realised during the reference period. The amount of resources allocated to İSGÜM for 2017 is TRY 10 233 000 (€2 377 141).

The Labour and Social Security Training and Research Centre (ÇASGEM), which is a body affiliated to the Ministry of Labour and Social Security, is a public institution. It organises training courses and conferences and developed training materials. It also carries out research activities and organises seminars on working life, social security, employer-worker relations, ergonomics, first aid, labour statistics, etc.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee noted that social partners were consulted in the design and implementation of the occupational health and safety policy. However, it reiterated its request for information on the functioning and duties of the National Occupational Health and Safety Council as a body separate from the Tripartite Advisory Board. In reply, the report indicates that the National Occupational Health and Safety Council is chaired by the Undersecretary of the Ministry of Labour and Social Security and Secretarial support is provided by General Directorate of Occupational Safety and Health. There are 26 members in the Council, half from public institutions and half from civil society organisations (employees' and employers' associations, engineering and medical associations and other relevant organisations). Its aim is to advise the Ministry and the government on developing policies and strategies to improve occupational safety and health conditions in the country, taking into consideration the national and international developments. The Council meets twice in a year with a pre-determined agenda.

Conclusion

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

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 Turkey.

Content of the regulations on health and safety at work

In its previous conclusion (Conclusions 2013), the Committee asked for detailed and up-to-date information on Occupational Health and Safety Act No. 6331 of 20 June 2012. In reply, the report indicates that this Act applies to all employees of all occupations and workplaces in both the public and private sectors, regardless of their field of activity or number of workers. It covers all employees, interns, employers and their representatives. This Act regulates the duties, authority, responsibilities, rights and obligations of employers and employees in order to ensure occupational safety and health in the workplaces. The report specifies that the application of Articles 6 (Occupational health and safety services), 7 (State subsidies to occupational health and safety services) and 8 (Occupational physicians and occupational safety specialists) of this Act is postponed to 1st July 2017 (out of the reference period) as regards public institutions and enterprises where less than 50 workers are employed and which are classified as less hazardous.

The report also refers to a number of amendments to the Occupational Health and Safety Act which were adopted during the reference period. In this regard, the Committee notes that Act No. 6645 of 4 April 2015 on Amendments to the Occupational Safety and Health Act and other Acts and Decrees contains some provisions aimed at improving working conditions and notably in the mining sector.

However, the Committee notes from the report that the Act No. 6331 does not apply to domestic services, persons producing goods and services in their own name and on their own account without employing workers. The Turkish Armed Forces, the Police Department and specific activities in civil defense services (intervention activities of disaster and emergency units) are not covered by this law. 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.

The report indicates that following the entry into force of the Occupational Health and Safety Act No. 6331, 36 regulatory texts regarding occupational health and safety were issued during the reference period. They concern, *inter alia*, the measures of health and safety in working with asbestos, carcinogenic or mutagen substances, chemical substances, screen equipment, ceasing work in the workplaces, health and safety conditions in the use of work equipment, the protection of workers from the hazards of explosive environment, prevention of exposure risks to biological factors, emergency in the workplaces, the use of personal protective equipment in the workplaces, manual handling, protection of workers from noise related risks, risks of vibration, etc.

The Committee notes that, according to the ILO website, Turkey ratified the ILO Conventions No. 187 on Promotional Framework for Occupational Safety and Health (2006) on 16 January 2014, No. 176 on Safety and Health in Mines (1995) on 23 March 2015 and No. 167 on Safety and Health in Construction (1988) on 23 March 2015.

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. It reserves in the meantime its position on this point.

Levels of prevention and protection

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

Establishment, alteration and upkeep of workplaces

In its previous conclusion (Conclusions 2013), the Committee asked whether the Ministry of Labour and Social Security Regulation No. 25369 of 10 February 2004 refers to the protection of machines, manual handling of loads, work with display screen equipment; hygiene (commerce and offices); maximum weight; air pollution, noise and vibration; personal protective equipment; safety and/or health signs at work. In reply, the report indicates that the Regulation No. 28710 of 17 July 2013 on the Health and Safety Measures in Enterprises and Their Premises abrogated the old Regulation No. 25359 of 10 February 2004, and identifies the minimum health and safety conditions in enterprises.

In addition, the report gives a list of regulations issued and amended during the reference period: Regulation No. 28628 of 25 April 2013 on Health and Safety Conditions in the Usage of Equipment, Regulation No. 28620 of 16 April 2013 on Health and Safety Measures in the Work with Screen Equipment, Regulation No. 28717 of 24 July 2013 of Manual Handling, Regulation No. 28721 of 28 July 2013 on the Protection of Workers from the Risks Related to Noise, Regulation No. 28743 of 22 August 2013 on the Protection of Workers, Regulation No. 28695 of 2 July 2013 on the Use of Personal Protective Equipment in the Workplaces, Regulation No. 28762 of 11 September 2013 of Health and Safety Signs, and Regulation No. 28741 of 20 August 2013 on the Laboratories Making Work Hygiene Measurement, Testing and Analysing.

Moreover, the report indicates that, according to Article 5 of the Act No. 6331, the employer shall fulfil the responsibility of avoiding risks, evaluating risks which cannot be avoided, combating the risk at its source, adapting the work and working conditions to the individual, adapting to technical progress, substituting dangerous substances or procedures with a non-dangerous or less dangerous ones, provide appropriate training and instructions to the workers, etc.

Protection against hazardous substances and agents

Protection of workers against asbestos

The report indicates that the Regulation No. 28539 of 25 January 2013 on the Measures of Health and Safety in Working with Asbestos (as amended by Regulation No. 28884 of 16 January 2014) takes into account Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, Directive 2009/148/CE of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work, and Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work.

Protection of workers against ionising radiation

In its previous conclusion (Conclusions 2013), the Committee asked whether Regulation No. 18861/1985 took account of the Recommendations (1990) by the International Commission on Radiological Protection (ICRP Publication No. 60), relating to exposure limit values in the workplace but also to persons who, although not directly assigned to work in a radioactive environment, may be exposed occasionally to ionising radiation.

In reply, the report indicates that the existing legislation of the Turkish Atomic Energy Authority was prepared on the basis of the report of ICRP published in 1990. The limit values concerning radiation doses in the Legal Notice No. 18861 of 7 September 1985 on Radiation

Safety were reviewed in compliance with the report published by ICRP in 1990 for public persons and those working with radiation (Article 10 of the Regulation No. 23999 of 24 March 2000 on Radiation Safety).

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 concrete examples of how workers employed on fixed-term contracts, temporary and agency workers received, occupational health and safety information and training, including when re-hired and upon change of job. It also asked for information on whether they had access to occupational health services and representation at work.

In response, the report indicates that the Regulation No. 28744 of 23 August 2013 on Occupational Health and Safety Requirements for Temporary or Fixed-Term Employment was prepared in line with Article 30 of the Act No. 6331 and Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship. The purpose of this Regulation is to ensure that employees with temporary or fixed-term employment contracts have the same level of protection as other employees concerning health and safety.

The Committee notes from the report that the qualifications of workers' representative and the rules and procedures of their election are determined by the Legal Notice No. 28750 of 29 August 2013 on the Qualifications of Workers' Representative and the Rules and Procedures of Their Election related to Occupational Health and Safety. In order to be a workers' representative, the worker should be a full-time, permanent worker, have at least 3 years of work experience and be at least a secondary school graduate. However, the conditions relating to full-time work and work experience do not apply to temporary or fixed-term workers.

Other types of workers

The report indicates that the Occupational Health and Safety Act No. 6331 of 20 June 2012 does not apply to domestic services, persons producing goods and services in their own name and on their own account without employing workers. The Committee asks whether this means that these categories of workers are left without any standard of protection or if other protective rules apply. It reserves in the meantime its position on this point.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee noted that social partners were consulted in the design and implementation of occupational health and safety regulations. It asked for information on workers' representation in undertakings with less than 50 employees.

In reply, the report indicates that, according to Article 20 of the Act No. 6331, in the event that no person is elected or chosen to represent workers, the employer shall designate a workers' representative considering the risks present at work and the number of workers with special attention to balanced participation of workers. One representative shall be designated for enterprises between two and fifty workers.

Conclusion

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

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 Turkey.

Accidents at work and occupational diseases

In its previous conclusion (Conclusions 2013), the Committee noted that the situation was not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents were inadequate. It asked for detailed information on obligations to report occupational accidents and on any measures taken to counter potential under-reporting in practice. It also reiterated its requests for information on accidents at work with respect to different sectors of activity and for figures on cases of occupational diseases. It further asked for the standardised rate of fatal accidents.

The Committee notes from the report that according to Article 14 of the Act No. 6331, the employer shall keep a list of all accidents at work and occupational diseases and draw up reports after required studies are carried out. The employer shall also investigate and draw up reports on incidents that might potentially harm the workers, workplace or work equipment or have damaged the workplace or equipment despite not resulting in injury or death. He shall notify the Social Security Institution within three work days of the date of accident at work and after receiving the notification of an occupational disease from health care providers or workplace physicians. Occupational physician or health care providers shall refer workers who have been pre-diagnosed with an occupational disease to health care providers authorised by the Social Security Institution.

The Committee notes that according to Article 26 of the Act No. 6331, administrative fines apply in cases where an employer or health service provider fails to notify the competent authority of any accidents at work or occupational diseases. According to Article 4 of the Law No. 6645 of 4 April 2015 to amend the Occupational Health and Safety Act and certain Statutory Decrees, the administrative fine is given by the Social Security Institution. The amount of administrative fine which shall be applied with the final regulation varies according to the hazard category of the workplace and the number of workers.

The report indicates that in 2014, 221 366 insured workers had an accident at work (74 871 in 2012) and 1 626 had a fatal accident at work (744 in 2012). The report indicates an increasing trend in the standardised incidence rate of accidents at work per 100 000 workers (627 in 2010 and 1 672 in 2014) and a downward trend in the standardised incidence rate of fatal accidents at work and occupational diseases (14.5 in 2010 and 12.3 in 2014). The Committee notes that these figures relate to just two years out of the reference period, and remains that figures should be given for the whole of the reference period.

The Committee takes note of the distribution of fatal accidents at work per activity branch in 2013-2014: construction sector (34.6%), mining sector (14.8%), transport (13.2%) and metal sector (7.4%). It notes that this information relates to just two years out of the reference period, and remains that figures should be given for the whole of the reference period. The Committee asks the next report to provide the most frequent causes of accidents at work and the preventive and enforcement activities undertaken to prevent them.

The report also indicates that that one of the objectives of the National OHS Policy Document III 2014–18 aims to develop occupational accident and disease statistics and a recording system. The Committee asks that the next report provide information on the activities implemented and the results obtained according to this objective.

As regards occupational diseases, the report indicates that there were 494 occupational diseases in 2014 and 395 in 2012, including one fatal occupational disease. The Committee notes that figures should be given for the whole of the reference period. It asks that the next report provide information on the legal definition of occupational diseases; the mechanism for recognising, reviewing and revising of occupational diseases (or the list of occupational

diseases); 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 the 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.

The report states that Turkey is not at the required level in terms of both occupational diseases and accidents at work. The Committee notes from the report that nearly 606 accidents at work occur a day and 4.5 persons lose their lives as a result of such accidents.

The Committee notes that the number of accidents at work remains at a high level and that the standardised incidence rate remains very high, especially in the mining and construction sectors. It considers that the figures provided do not establish that accidents at work and occupational diseases are monitored efficiently. The Committee recalls that satisfactory application of the Charter cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised, and that the frequency of accidents at work and their evolution are key aspects of monitoring the effective observance of the right enshrined in Article 3§3 of the Charter. In the meantime, the Committee concludes that the situation is not in conformity with Article 3§3 of the Charter on the ground that measures taken to reduce the number of accidents at work are insufficient.

Activities of the Labour Inspectorate

The report indicates that the Presidency of Labour Inspection Board supervises and makes inspections whether the legislation is implemented as required in terms of occupational health and safety and whether or not its execution in the workplaces is covered by Occupational Health and Safety Act No. 6331 and the Labour Law No. 4857. Within the scope of occupational health and safety inspections, corrective and preventive measures concerning the risks determined by the risk team in the workplaces are fulfilled by the responsible persons identified in the risk assessment document. The Labour Inspection Board carries out two types of inspections: scheduled (programmed) and unscheduled (incidental) inspections. Scheduled inspections are performed for a number of predetermined targets and for the purpose of checking enforcement of either the whole or any particular legislative provisions. In case of notification of a workplace accident or an occupational disease, an unscheduled inspection is carried out.

The Committee notes from the report that the number of inspection visits dealing with occupational health and safety increased during the reference period (from 11 533 in 2012 and 8 332 in 2013 to 13 296 in 2015).

The total amount of administrative fines imposed for occupational health and safety breaches also increased, from 26 891 194 TRY (€6 205 944) in 2012 (3 030 workplaces), 19 504 330 TRY (€4 501 205) in 2013 (2 640 workplaces) workplaces and 59 490 680 TRY (€13 731 598) in 2015 (4 298 workplaces).

In reply to the Committee's question for detailed and up-to-date information on the number of inspectors, the report indicates that 122 assistant inspectors were recruited in 2012 and 58 in 2015. In 2015, a total of 974 labour inspectors were working at the Labour Inspection Board. More than half (572) were occupational safety and health inspectors, while 402 were inspectors of labour relations. The Committee notes that recruitment of an additional number of 61 labour inspectors is expected to be completed in 2016 (outside of the reference period).

The Committee notes, according to figures published by ILOSTAT, that the number of labour inspectors was 853 in 2015, 714 in 2013 and 960 in 2012; the average number of labour inspectors per 10 000 employed persons was 0.4 in 2012 and 0.3 in 2013 and in 2015; the number of labour inspection visits to workplaces during the year increased from 11 533 in

2012 to 21 304 in 2015; and the average of labour inspection visits per inspector also increased during the reference period (12 in 2012, 32.9 in 2013 and 25 in 2015). The Committee requests the next report to explain why the numbers which are stated in the report and those published by ILOSTAT are different.

In reply the Committee's question on the resources allocated to the Labour Inspection Board (LIB) and the Social Insurance Inspection Board, the report indicates that the number of resources allocated to the Presidency of Labour Inspection Board increased during the reference period, from 65 455 300 TRY (€15 100 895) to 84 855 500 TRY (€19 577 621).

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 (Conclusions 2013) in the report with regard to this point, the Committee requests again the next report to contain this information.

The Committee concludes that due to the low level of human resources in the inspectorate service responsible for monitoring compliance with occupational health and safety legislation, the labour inspection system cannot be considered efficient with regard to Article 3§3 of the Charter. The Committee asks that the next report provide information on the measures taken to increase staffing levels in the labour inspectorate. It also requests the next report to indicate the proportion of workers who are covered by inspections and the percentage of companies which underwent a health and safety inspection in the years covered by the reference period. Furthermore, it asks for information on the application of the legislation and the regulations on the labour inspectorate throughout the country in practice; details, by category, of administrative measures that labour inspectors are entitled to take and, for each category, the number of such measures actually taken; the outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings; and figures for each year of the reference period.

Conclusion

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

- measures taken to reduce the number of accidents at work are insufficient;
- the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

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 Turkey.

In its previous conclusion (Conclusions 2015), the Committee found that the situation as regards national occupational health services was not in conformity with the Charter on the ground that it had not been established that there was a strategy to institute access to occupational health services for all workers in all sectors of the economy.

The report lists the laws and regulations issued and amended during the reference period: Regulation No. 28512 of 29 December 2012 on Occupational Health and Safety Services, Regulation No. 28512 of 29 December 2012 on Occupational Health and Safety Risk Assessment, Regulation No. 28512 of 29 December 2012 on the Duties, Powers, Responsibilities and Education of Occupational Health and Safety Specialists, Regulation No. 29401 of 29 June 2015 on Occupational Health and Safety Services Conducted by the Employer or Employer Representative in the Workplaces, Legal Notice No. 28989 of 3 May 2014 on the support for Occupational Health and Safety Services.

The report indicates that according to the Occupational Health and Safety Act No. 6331 of 20 June 2012 which applies to all employees of all works and workplaces in both the public and private sectors, all of the workers of a workplace, regardless of the number of workers, are given the means to benefit from OHS services. The Committee takes note that, according to the report, the application of Articles 6 (occupational health and safety services), 7 (State subsidies to occupational health and safety services) and 8 (occupational physicians and occupational safety specialists) of this Act is postponed to 1st July 2017 (outside the reference period) as regards for the public institutions and enterprises where less than 50 workers are employed and which are classified as less hazardous. Moreover, the Committee notes that, according to the information from the observation raised by the ILO Committee of Experts on the Application of Conventions and recommendations (CEACR) adopted in 2016 (106th ILC session) on Occupational Health Services Convention No. 161 (1985), there is an obligation for the assignment of an occupational health and safety physician and specialist in all workplaces without any limitation as to the number of employees, sector and class of danger, including the public sector as of 1 July 2016 (outside the reference period).

Under Article 6 of the Act No. 6331, employers are required to recruit occupational physicians and occupational safety experts in all undertakings to assist them in relation to OHS matters and that pursuant to Article 8 of the Act, occupational physicians and occupational safety experts have a duty to inform the employer in writing of any shortcomings relating to OHS, failing which their certification may be suspended. In the event that the employer fails to implement any measures in relation to life threatening hazards, occupational physicians and occupational safety experts shall notify the Ministry. The Committee notes from the ILO National Profile on Occupational Safety and Health (2017), that, according to Article 8 of the Act No. 6331, as amended in 2015 (Act No. 6645 of 2015 amending the OHS Act and several other statutes and decrees with force of law), a compensation, amounting to at least one-year’s salary, shall be paid to occupational safety experts dismissed for complying with their reporting obligations.

The Regulation No. 28512 of 29 December 2012 on Occupational Health and Safety Services (as amended by Regulation No. 29209 of 18 December 2014) aims to define the creation of occupational health and safety units to carry out the health and safety services, their empowerment, cancellation of certificates, duties, powers and responsibilities and working methods and principles. According to Article 5 of this Regulation, the employer shall designate one or more workplace physician or an occupational safety expert among his workers in order to identify occupational health and safety measures and their follow-up in the workplace, to prevent accidents at work and occupational diseases, to carry out the first-aid and urgent treatment as well as protective health and safety services of the workers.

The Committee notes from the report the number of certificated occupational safety experts (5 003 in 2012 and 37 105 in 2015) and occupational physicians (6 336 in 2012 and 4 089 in 2015) during the reference period. The number of education and training centres authorised by General Directorate of Occupational Health and Safety decreased during the reference period (34 in 2012, 195 in 2013, 11 in 2015). The number of joint occupational health and safety unit increased during the reference period (from 191 in 2012 to 406 in 2015), but the number of Community health centres decreased (from 11 in 2012, 38 in 2013 to 3 in 2015).

The report also indicates that that one of the objectives of the National OHS Policy Document III 2014–18 provides for increasing activities that aim to develop occupational safety and health in the public and agriculture sectors. The Committee asks the next report to provide information on the activities implemented and the results obtained according to this objective.

The Committee observes that the Law no. 6331 require employers to provide medical examination to employees. In view of the progressive nature of the obligation in Article 3§4 of the Charter, the Committee repeats its request for information regarding the percentage of employees covered by occupational health services be provided in the next report.

The Committee reiterates its previous questions (Conclusions 2013) for detailed information in the next report on the tasks of occupational health services; the proportion of undertakings equipped with such services, and the number of workers monitored by such as compared to the previous reference period. It asks the next report to provide more detailed information on duties and responsibilities of a workplace physician and of the occupational safety expert and to explain how the functions performed by them are adapted in practice to all undertakings, especially in small and medium-sized enterprises. It also requests information clarifying the manner in which access to occupational health services takes place in practice for temporary workers or workers on fixed-term contracts, self-employed workers and domestic workers. It reserves in the meantime its position on these points.

Conclusion

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

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 Turkey.

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) has risen to 76.9. The average life-expectancy rate in Turkey is still low relative to other European countries, for example the EU-28 average that same year was 80.6.

The death rate (deaths/1 000 population) has increased during the reference period, standing at 6 from 5.1 in the last cycle.

The Committee notes from the report that the most common causes of death are circulatory diseases, cancer, and respiratory diseases and takes note of the measures taken to fight them. In particular, a comprehensive National Cancer Control Program 2011–2015 was introduced, prompted by late stage diagnosis (III–IV) for most cancers, including breast and cervical.

The focal point for screening is the KETEMs (Cancer Early Diagnosis, Screening and Training Centers), which provide early cancer diagnosis, screening and training. 140 KETEMs opened in 2012/2013 bringing the total number of KETEMS to 264. Cancer screening coverage rates have increased rapidly as a result of the programme and roll-out of KETEMs. Between 2007 and 2012, the opening of KETEMs has led to a doubling of coverage rate from 16% to 27% for mammography, and from 6% to 13% for cervical cancer screening.

Infant mortality increased since the last reference period. In 2015 the rate was 11.7 per 1,000 live births from 7.8 in 2010. The Committee notes that the rate remains above that in other European countries (for example, the EU-28 rate in 2015 was 3.6 per 1,000).

As regards the maternal mortality rate, it has not changed since the last reference period. In 2015 the rate reached 16 deaths per 100 000 live births. This rate however also remains above the average in other European countries.

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

Access to health care

The report mentions that one of the major reforms during the reference period was the implementation of the second phase of the Health Transformation Program. In particular the Family Medecine Program which assigned each patient to a specific doctor was established throughout the country. In addition, access to health insurance has been expanded by including stateless persons and refugees within the scope of Universal Health Insurance. The report indicates that on the management of waiting lists and waiting time, as well as on measures to further improve access in rural areas a centralized Hospital Appointment System (CHAS) has been established aiming to ensure better planning for hospitals, effective use of resources and higher service quality for citizens. A unified call center number (182) is at the heart of the system, enhancing better resource planning for hospitals and decreasing queues. The patient can also make an appointment via Internet through the CHAS portal. Resource planning and allocation is measurable, making it possible to ensure the quality and effectiveness of healthcare services.

The Committee recalls that arrangements for access to care must not lead to unnecessary delays in its provision. It 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). Concerning management of waiting lists and waiting times, the

Committee repeatedly asked for specific information on the average waiting time for care in hospitals, as well as for a first consultation in primary care, with a view to showing that access to health care is provided without undue delays. The Committee reiterates its request 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 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.

The present report does not provide information on reforms in the private health sector and their impact, as previously requested by the Committee (Conclusions 2013), therefore it reiterates its question.

In the European Commission country report 2015, the Committee notes that public health in Turkey has generally improved. Quantitative capacity of health services improved, including the number of doctors per capita.

Total health spending held at 5.4% of GDP during the reporting period. However, Turkey's total health expenditure per capita amounts to only one third of the EU average. The Committee also notes that out of pocket health expenditure was 17.8 in 2014, a rate that still remains above that in other EU-28 average.

In addition, the Committee notes from the European Commission country report 2015, that significant shortcomings persist on integration and empowerment of persons with disabilities with respect to their environment, social attitudes and quality of services. Lack of early and suitable diagnosis hinders many children with disabilities or developmental delays from early access to appropriate services. Turkey still has no mental health law. There is no independent body to monitor mental health institutions. The Committee asks the next report to provide comments to these observations.

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).

The report indicates that in order to raise the awareness of mouth and teeth health in schools, a "Protocol of Collaboration on Development of Mouth and Teeth Health Awareness" has been signed between the Ministry of National Education and Colgate Palmolive Cleaning Products Industry and Trade Incorporation. In total 2 535 824 students have been reached in 53 provinces within 5 years (2008 – 2013). This Protocol has been renewed for another 5 years. The Committee asks that the next report contain information on dental care services and treatments (such as who is entitled to free dental treatment, the costs for the main treatments and the proportion of out-of-pocket paid by the patients).

As regards the right to protection of health of transgender persons, the report indicates that alteration of sex is regulated by the Article 40 of the Turkish Civil Code. According to the article, the permission can only be given if the person is over 18 and unmarried and if the person has obtained official medical board reports to prove that the operation is psychologically needed and that the ability to reproduce is permanently lost. The Committee notes that in March 2015 the European Court of Human Rights ruled on Turkey's excessive domestic requirements for the recognition of the preferred gender. In the Chamber judgment in the case of Y. Y. v. Turkey (application no. 14793/08) the European Court held, unanimously, that there had been a violation of Article 8 (right to respect for private and family life of the European Convention on Human Rights due to the refusal by the Turkish authorities to grant authorisation for gender reassignment surgery on the grounds that the person requesting it, a transsexual, was not permanently unable to procreate. The Committee takes note of the information provided in the report and by other sources. It reserves its position on this point until a decision is taken in the Collective Complaint No. 117/2015 Transgender-Europe and ILGA-Europe v. Czech Republic.

Conclusion

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

Article 11 - Right to protection of health

Paragraph 2 - Advisory and educational facilities

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

Education and awareness raising

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

In its previous conclusion (Conclusions 2013) the Committee asked the next report to include up-dated information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases, with examples of specific information campaigns.

In reply, the report indicates that 127 133 persons have been trained on reproductive health training in 2014 and 220 533 persons in 2015.

The Committee notes from the report that the Ministry of National Education has created the “Healthy school” web page. A guide booklet for “Healthy School” is also available online for public use. Health related activities at schools aiming to prevent and increase the awareness about Malnutrition have been organised such as: "Calorie for Life", "Run for Health" as well as the “School Milk Program” conducted in Primary Schools. In terms of promoting physical activity in schools Turkey is working on “physical activity education certificates” in primary, secondary and high schools. Nutrition Friendly Schools Project Studies have been launched within the scope of the Protocol on Nutrition Friendly Schools signed on 21 January 2010 between the Ministry of National Education and the Ministry of Health, and the schools are assessed whether they bear the conditions required concerning healthy nutrition criteria. 202 schools have received the “Nutrition Friendly School Certificate” as of 3 August 2011. This Protocol was renewed on 20 September 2013 for another 5 years. In order to raise the awareness of mouth and teeth health in schools, the “Protocol of Collaboration on Development of Mouth and Teeth Health Awareness” has been signed between the Ministry of National Education and Colgate Palmolive Cleaning Products Industry and Trade Incorporation. In total 2 535 824 students have been reached in 53 provinces within 5 years (2008 – 2013). This Protocol was renewed on 4 February 2013 for another 5 years.

The report indicates that sexual and reproductive health education, hygiene, nutrition, harmful effects of tobacco products, alcohol and drug and their consumption is provided throughout all school life, starting from the 1st level class to 12th level class. Health related special Days and Weeks are set in all elementary and secondary education institutions.

The Committee recalls that sexual and reproductive health education is 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. It is acknowledged that cultural norms and religion, social structures, school environments and economic factors vary across Europe and affect the content and delivery of sexual and reproductive health education. However, relying on the basic and widely accepted assumption that school-based education can be effective in reducing sexually risky 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 for information in the next report on whether and how sexual and reproductive education is provided in schools in Turkey.

Counselling and screening

In its previous conclusion, the Committee asked what mass screening programmes are available in the country, and also what is the situation concerning school health services.

In reply, the report indicates that scanning school health services are shared between family physicians and Community Health Centers. During the school year 2011 – 2012, seventeen million students in primary, secondary and pre-school education periods went through the Scanning School health service representing 22.5% of the population.

In addition, it points out a variety of preventive health services for pregnant women and their children, which include health controls, screening and vaccination. The Committee asks the next report to provide information on the proportion of women covered. It also asks for information on access to such screenings for women living in rural areas.

As indicated in the report, Turkey has adopted a systematic approach to cancer screening bringing results in terms of earlier detection, more successful treatment and ultimately reducing cancer mortality. The focal point for screening is the KETEMs (Cancer Early Diagnosis, Screening and Training Centers), which provide early cancer diagnosis, screening and training. The centres also provide smoking cessation services. In 2012/2013 the total number of operational KETEMS was 264. The Ministry of Health plans to have one KETEM per 250 000 population and mobile KETEMs. KETEMs are located mostly in hospitals and collaborate closely with family medicine centres. Between 2007 and 2012, the opening of KETEMs has led to a doubling of coverage screening rate from 16% to 27% for mammography, and from 6% to 13% for cervical cancer screening. The Committee notes in the European Commission 2016 country report that there has been good progress in the fight against cancer through improved infrastructure. Cancer screening coverage reached 35% for breast and 80% for cervical cancer. The cancer control programme has been integrated into primary healthcare and active cancer registration expanded to every province. The Committee asks the next report to provide updated information on the cancer screening coverage rate.

Conclusion

The Committee concludes that the situation in Turkey is in conformity with Article 11§2 of the Charter.

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 Turkey.

Healthy environment

The Committee notes that Turkey's environmental policy has been shaped by international regulatory frameworks. As a candidate state to the European Union, Turkey has been harmonizing the national environmental legislation with the EU environmental acquis. An important impetus to strengthen air management policy in Turkey came when Turkey adopted its EU Integrated Environmental Strategy which called for the full harmonization of the Turkish legal frame work with the EU Air Quality Framework Directive.

Since 2012, air quality data have been available in a new format. They come from 195 stable air quality measurement stations and four mobile air quality measurement stations in the context of National Air Quality Observation Network program. The data are made available in real time to the public through the Ministry of Environment and Urbanization website.

However, the Committee notes from the 2015 European Commission Country report that national air quality legislation still needs to be adopted in line with the current directives on ambient air quality, national emissions ceilings and volatile organic compounds. In particular severe air pollution in some cities has been reported. Local clean air action plans have to be prepared.

A national recycling strategy and action plan were adopted by the Higher Planning Council in December 2014.

In the area of water quality, the preparation of river basin management plans is under way. The Committee asks information on the concrete measures taken, including environmemtal legislation and regulations on the prevention of avoidable risks, as well as on the levels of water contamination during the reference period.

The Committee asks the next report to also include information on measures taken with regard to industrial pollution control and risk management.

In respect of noise pollution, the Assessment and Management of Environmental Noise Regulation, has been published in the Official Gazette No. 27601 dated 4 June 2010. Under this Regulation, it has been made compulsory to prepare noise maps for the areas having more than 100,000 resident population and settlements which have more than 1,000 people per km, also for the main highways, for major railways and airports. It is also compulsory to prepare prevention and control measures taking into account the results of the noise maps. The programs, duties, authorizations, responsibilities are determined for the preparation of noise maps and action plans.

The report does not provide any information on food safety. The Committee wishes to receive updated information on the levels of air pollution, contamination of drinking water and food intoxication during the reference period, namely whether trends in such levels increased or decreased. It also asks information on the noise pollution, waste management, and risks related to asbestos.

It reserves in the meantime its position on these points.

Tobacco, alcohol and drugs

In its previous conclusion (Conclusions 2013), the Committe took note of the legal framework providing for a ban on smoking of tobacco products in public places and restrictions on the advertising of tobacco products. The current report states that regulations have started to be implemented on passive smoking. It is now prohibited to smoke in all open and closed public spaces.

In the area of tobacco control, an action plan for 2015-2018 became effective. The support programme for tobacco addiction drugs was initiated by the Ministry of Health since 2011. 413 centres are proceeding to provide services as of May 2012 within the scope of smoking cessation services within the body of the Ministry of Health and the universities. The report indicates that the rate of smokers throughout the society has decreased from 33,4% to 31,2%.

The Law No. 4250, on the Monopoly of Alcohol and Alcoholic Beverages has been amended in 2013 providing in particular that advertising activities and promotions aimed at consumers shall under no circumstances be conducted. No campaign, promotion or activity that encourages or promotes the use of such products shall be conducted. Alcoholic beverages cannot be sold and cannot be served to people under the age of 18.

Moreover the amended law stipulates increased penalties for breaching the aforementioned articles. As per the amendments to Article 9 of the Law in 2013, enterprises selling retail or serving alcoholic beverages are required to be situated at least 100 meters away from educational institutions, student dormitories, and places of worship. The Committee asks the next report to also include information on consumption trends.

On drugs, Turkey is implementing its 2013-2018 national strategy and 2013- 2015 action plan under the coordination of the national police. The strategy and action plan address topics such as coordination, reduction of supply, prevention, treatment, rehabilitation, harm reduction, international cooperation, data collection, research and assessment. Following a Prime Ministry circular of November 2014, an anti-drug emergency action plan has entered into force with a number of complementary objectives.

The Committee asks for updated data and information on trends in consumption of tobacco, alcohol and drugs.

It reserves in the meantime its position on these points.

Immunisation and epidemiological monitoring

In its previous conclusion, the Committee asked that updated information on national immunisation programmes, as well as on measures to prevent epidemic diseases be included in every report. As no information has been provided on that matter, the Committee reiterates its request. It points out that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Accidents

The Committee previously noted that an Action Plan on Road Safety for 2011-2020 had been adopted, with a view to reducing traffic accidents and asked to be kept informed of the measures implemented in this area. It also asked information on the measures taken to prevent domestic accidents, accidents at school and accidents during leisure time. As no information has been provided on that matter, the Committee reiterates its requests. The Committee points out that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point. The Committee notes that states must take steps to prevent accidents. The main types of accidents covered are road accidents, domestic accidents, accidents at school and accidents during leisure time (Conclusions 2005, Republic of Moldova).

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 Turkey.

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 Turkey, and notes that it continues to rest on collective funding: it is funded by contributions (employers, employees) and by the State budget. The system covers since 2008 the following social insurance branches (Law No. 5510): medical care, sickness, old age, work accidents/occupational diseases, maternity, invalidity and survivors. Employees from the public and private sector are covered in respect of unemployment under a separate system (Law No. 4447), but not civil servants, workers in agriculture and forestry, household workers, military personnel, students, and self-employed persons. Furthermore, Turkey does not have yet a national scheme of family benefits, except for civil servants.

The Committee notes from official statistics that the total population in 2015 was 78 741 053 and that the active population was 28 929 000 (25 890 000 employed persons between 15 and 64 years and 3 039 000 unemployed persons in the same age range). According to the report, which refers to the Social Security Institution's data, the number of insured persons was 20 700 000 (72% of the active population). According to other data presented in the report, the number of persons covered by social security was 67 330 236, i.e. 86% of the total population. The Committee asks the next report to clarify whether this refers to the healthcare coverage or also to other branches and to ensure that the figures provided are consistent and clear.

The Committee previously noted (Conclusions 2013) that the resident population was covered in respect of **healthcare**, under the universal health insurance programme introduced in 2008. According to the information provided in the latest report concerning the European Code of Social Security, the population group benefiting from the Institution's health care benefits for the year 2015 was 66 945 138, i.e. approximately 85% of the overall population. The Committee asks the next report to clarify what categories of the population are not covered by the healthcare system. As regards the other branches, the report indicates that, in 2015, the number of people insured in respect of **sickness** was 17 635 257, i.e. 61% of the active population; the number of people insured in respect of **old-age** was 20 380 319, i.e. 70% of the active population and the number of workers protected against **unemployment** was 14 100 000, i.e. 49% of the active population. The Committee recalls that, to comply with Article 12§1 of the Charter, the system should cover a significant percentage of the active population as regards income-replacement benefits, such as sickness, maternity and unemployment benefits, pensions, and work accidents or occupational diseases benefits. It notes that, according to the figures provided, the rate of personal coverage is rather low in respect of sickness, old-age or unemployment and no data is provided in respect of maternity, work accidents/occupational diseases, invalidity and survivors branches. The Committee accordingly asks the next report to provide updated information concerning the number of persons covered in respect of all these risks, out of the active population (employed and unemployed persons, but not the economically inactive, such as students or retired people). In the meantime, it considers that it has not been established that the existing social security schemes cover a significant percentage of the population.

Adequacy of the benefits

The Committee notes that no Eurostat data is available for 2015 as regards the median equivalised annual income or the poverty level. The latest available data from Eurostat refer

to 2013, when the median equivalised income was €3438, and the poverty level, defined as 50% of the median equivalised income, was €1719 per year, or €143 per month. 40% of the median equivalised income corresponded to €57 monthly. The minimum wage was €416. According to the report, the national poverty line, corresponding to 50% of the median income was 5554 TRY (€1966 at the rate of 31/12/2014) for 2014 or 462.8 TRY (€164) per month. In 2015, 50% of the median income was 6246 TRY (€1961, at the rate 31/12/2015), i.e. 520.5 TRY (€163) per month. The 40% threshold was 4997 TRY (€1670), i.e. 416 TRY monthly (€139). The minimum wage was €424 in 2015.

The report indicates that the **sickness** insurance covers all temporary incapacity for work resulting from sickness, but also from **work accidents/occupational diseases** and maternity. In order to be entitled to sickness cash benefits, the worker must have contributed for at least three months in the last 12 months (no qualifying period applies in case of accident). The amounts paid – both in case of sickness and in case of work accidents/occupational diseases – correspond to half of the reference earnings in case of hospital treatment and two thirds of the reference earnings in case of outpatient treatments. According to Missceo, the minimum daily amount paid in the case of hospital treatment was 21.22 TRY (€7) in 2015. The Committee finds the level of these benefits to be in conformity with the Charter.

As regards **old-age** pensions, the Committee refers to its assessment under Article 23. As regards **invalidity** pensions, in the second half of 2015, the minimum amount, according to the report, was 535.10 TRY (€168). The Committee finds this level to be in conformity with the Charter.

In order to qualify for **unemployment** benefits, the person must have contributed for at least 600 days. In addition, according to Missceo, the person must have been in permanent work during the last 120 days prior to redundancy. The Committee asks the next report to provide more detailed information on the conditions required to be entitled to the benefits. The Committee previously noted (Conclusions 2013) that unemployment benefits are paid for a maximum of 180 days (6 months) for those with 600 days of unemployment insurance contributions, 240 days for those with 900 days of unemployment insurance contributions, and up to 300 days for those with 1080 days of unemployment insurance contributions.

In response to the Committee's question, the report indicates that the payment of unemployment benefits can be suspended if the recipient refuses, without a valid reason, a job offer which is professionally appropriate, close to the wage and working conditions of his/her previous job and within the municipal adjacent area where the person resides. The Committee asks the next report to further clarify what is considered to be an "adequate job offer", what valid reasons can justify an offer to be refused without the benefits being suspended and what remedies are available to contest a decision to suspend or withdraw the payment of the benefits.

The amount of benefits, according to the report, corresponds to 40% of the gross average earnings of the last 4 months before the end of employment. The amount so calculated cannot exceed 80% of the gross minimum wage. Accordingly, in the second half of 2015, unemployment allowances paid were at least 505,53 TRY (€159). The Committee notes that this amount falls between 40% and 50% of the median income. It accordingly asks the next report to clarify what additional (contributory or non contributory) benefits, if any, might be added for persons who get the minimum amount of benefit. It reserves in the meantime its position on this point.

The Committee asks the next report to provide updated information concerning the poverty threshold (defined as 50% of the median equivalised income), the minimum wage and the minimum levels of income-replacement benefits (sickness, work accidents and occupational diseases, unemployment, old age and disability).

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that the existing social security schemes cover a significant percentage of the population.

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 Turkey.

The Committee notes that Turkey has ratified the European Code of Social Security on 7 March 1980 and has accepted Parts II, III, V, VI, VIII, IX and X.

The Committee notes from Resolution CM/ResCSS(2016) 20 of the Committee of Ministers on the application of the European Code of Social Security by Turkey (period from 1 July 2014 to 30 June 2015) that the law and practice in Turkey continue to give full effect to all the Parts of the Code that have been accepted, subject to determining the reference wage used for the calculation of the replacement rate of benefits.

Conclusion

The Committee concludes that the situation in Turkey 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 Turkey.

It refers to its previous conclusions (Conclusions 2009 and 2013) for a description of the Turkish social security system, following the reforms which entered into force in 2008. As regards changes concerning 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 takes note of the legislative developments during the reference period. In particular, the report mentions the following improvements:

- the number of people insured for old age has increased by 19% (from 17 076 451 to 20 380 319) from 2011 to 2015, while the total population growth in the same period was below 6% (from 74 525 696 to 78 741 053);
- in 2013, the personal coverage of healthcare insurance has been extended to children below 18 years old who were not already covered on account of their family or curators, to persons under a protective injunction (victims of domestic violence), to persons training to work in penal institutions and jails and their families, to persons who graduated from high-schools or higher education in the last two years (subject to age conditions) and were not already covered as dependants;
- in 2014 (Law No. 6552) the time limit for survivors to claim their pension has been extended from 6 to 12 months;
- in 2014 and 2015, certain measures have been taken in favour of workers performing underground works in the mines, in particular their earliest pensionable age has been set for 50 years (instead of 55) for those who worked underground for at least 20 years (Law No. 6552) and favourable provisions have been taken in favour of survivors of miners deceased because of work accidents in coal and lignite mines in the last ten years (Law No. 6645);
- as from 2015 (Law No. 6645), a lower reduction has been applied to people who continue working as self-employed while receiving an old-age pension.

With regard to the other changes mentioned in the report, the Committee points out that in order to assess their scope in relation to Article 12§3 and thus assess whether they involve improvements to the system or restrictions, it must be informed of their impact (categories and numbers of people concerned, levels of allowances before and after alteration). It therefore requests that future reports always provide this information. As regards in particular the measures, mentioned in the report, concerning partial retirement and the cumulation of work earnings with old-age and invalidity pensions (Law No. 6663) the Committee notes that they have entered into force in 2016, out of the reference period, it accordingly asks the next report to provide information on their implementation and impact.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey is in conformity with Article 12§3 of the Charter.

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 Turkey.

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.

In its previous conclusion (Conclusions 2013), the Committee concluded that equal treatment was guaranteed to all foreigners in respect of all branches of insurance (work accident, unemployment, occupational disease, sickness, maternity, invalidity, old age and death). However, the Committee notes from the report that foreign nationals residing in Turkey are deemed to be insured under the Universal Health Insurance Scheme provided that the principle of reciprocity apply. Indeed, Article 60§2, sub-paragraph d) of the Law No 5510 states that individuals of foreign countries who have residence are deemed to be insurance holders, provided that the principle of reciprocity is also taken into consideration. The Committee understands that the application of this Law is still conditional upon reciprocity and asks the next report to clarify this point.

The Committee also notes that Law No. 5510 on Social and Health Insurance imposes a residence condition of one year minimum for foreign citizens to be covered by universal health insurance. It asks the next report to clarify whether this also concerns emergency healthcare.

In respect of payment to family benefits, the Committee recalls 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 asked (Conclusions 2013) whether conclusion of agreements with States Parties with which there are no such agreements or unilateral measures were planned and, if so, when. The report provides no information in this regard. However, the Committee refers to its previous conclusion on Article 16 (Conclusions 2015) where it concluded that the situation was not in conformity with the Charter on the ground that there was no general system of family benefits; only civil servants and workers covered by collective agreements were eligible for such benefits. It notes from the report that there is still no general system of family benefits in Turkey. In this respect, it asks whether there is a citizenship requirement to be eligible for civil service and, if not, whether family benefits are granted to nationals of other States Parties who are civil servants or covered by a collective agreement on an equal footing with Turkish nationals placed in such situations**.** It also asks whether entitlement to family benefits for those concerned is conditional upon a "child residence requirement". It reserves in the meantime its position on this point.

The Committee finally notes from MISSCEO that maternity (and paternity) benefits are granted to Turkish parents. The Committee asks whether such benefits are also awarded to nationals of other States Parties.

Right to retain accrued benefits

The Committee previously asked (Conclusions 2013) information on the current state of the law. As the report provides no information on this point, the Committee reiterates its request.

It asks in particular how the principle of retention of accrued benefits is guaranteed since the reform in 2006. It points out that in the absence of a reply in the next report, there will be nothing to prove that the situation is in conformity with the Charter on this point. It reserves in the meantime its position on this point.

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

In its previous conclusion (Conclusions 2013), the Committee pointed out that Turkey had ratified the European Convention on Social Security to demonstrate that it had undertaken to apply the accumulation of insurance or employment periods to non-nationals. The Committee, thus, reiterates its conclusion of conformity in this respect.

Conclusion

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

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 Turkey.

Types of benefits and eligibility criteria

Legal basis

In its previous conclusion (Conclusions 2013) the Committee found that the situation in Turkey was not in conformity with the Charter on the ground that during the reference period there was no legally established general assistance scheme that would ensure that everyone in need had a subjective, enforceable right to social assistance.

The Committee notes from the report that social benefits are given to those who are in need and who meet certain criteria. These criteria are broken down in the Law No. 3294 on Social Assistance and Solidarity Encouragement. According to the report, social assistance programmes implemented by the General Directorate of Social Assistance (SYGM) in Turkey are carried out in accordance with the legal regulations such as Law No. 3294, Law No. 2022 on payment of pensions to elderly persons (65 years old and over) who are destitute and the Law No. 2828 on Social Services.

The Committee notes from the Flash Report of the European Commission (ESPN 2016/40) that the new legislation in Turkey to strengthen the link between social assistance and the labour market (Law No 6704) was adopted on 14 April 2016 (outside the reference period). Compared with the earlier law on social assistance (Law on the Promotion of Social Assistance and Solidarity), it brings two important novelties. First, social assistance recipients whose per capita household income is lower than one third of the minimum wage and who are deemed to be “employable” will be registered with the official employment agency (İŞKUR), which is regulated by the Ministry of Family and Social Policies (MoFSP). Then, if they refuse to participate in active labour market programmes or to take a job offer three times, social assistance will be stopped for one year. Secondly, a subsidy will be given to employers who offer job opportunities to social assistance beneficiaries. The Government will pay the employer’s share of social security contributions for one calendar year for those who move from social assistance to a job.

The Committee understands that during the reference period social assistance was provided under the Law No 3294. According to the report *periodic aid* (food aid, accommodation and heating materials), *regular aids* (conditional education and health assistance) as well as disaster and emergency assistance were provided under this law. The Committee notes that *regular* aid continues to be provided as long as there is a need for it and other necessary conditions are met.

The Committee recalls that under Article 13 the system of assistance must be universal in the sense that benefits must be payable to ’any person’ on the sole ground that he/she is in need. This does not mean that specific benefits cannot be provided for the most vulnerable population categories, as long as persons who do not fall into these categories are also entitled to appropriate assistance.

The Committee asks the next report to describe how these requirements are met both by the Law No 3294 as well as the Law of 14 April 2016. In particular, the Committee asks the next report to indicate which legal provision guarantees the subjective right to a basic benefit (e.g. *regular aid*), for any person in need, subject to a means-test, as well as additional benefits (e.g. *periodic aids*, such as housing and heating allowances). In the meantime, the Committee reserves its position as to whether the legislation provides for a legally recognised enforceable right to social assistance for any person in need.

Eligibility criteria

The Committee takes note of the reforms implemented during the reference period. The provision of social benefits were gathered under the roof of the Ministry of Family and Social Policy (ASPB) and institutional unity was ensured with the legislative arrangements made in 2011. The General Directorate of Social Assistance (SYGM), which is structured as the main service unit of the Ministry, has become the largest public institution in terms of both the target group reached and the amount of the resources used in the field of social assistance. It conducts its services through the Social Assistance and Solidarity Foundation (SYDV) established in every province and district.

The Committee takes note of the Integrated Social Assistance Information System, which manages applications for social assistance, household files, including the reports related to the on-site social examination related to the socio-economic status of the family. The Committee notes that as of January 2012, information about the persons based on households, including socio-economic data, social examination reports, help received by persons are kept electronically. Social benefits beneficiaries are registered through the integrated system, so that employment-social assistance relationship is established. Upon receipt of an application, as a first step, central database enquiry is conducted regarding the application. The enquiry is carried out by online questioning via web sites of relevant public authorities. After the initial profiling of the applicant, the Social Assistance and Solidarity Encouragement Foundation staff makes visits and conducts inspections on-the-spot.

The Turkish Statistical Institute (TUIK) is the responsible body to define poverty threshold which is used to qualify individuals' and families' eligibility for particular types of benefits and services and also is an important guideline for plans and programmes to be pursued

The Committee notes that in 2015 over one million households received *regular aid* and 699,927 households received *periodic* aids. The General Directorate of Social Assistance by its Solidarity Foundations reached approximately 3 million families in 2015 with more than 30 social assistance programmes.

As regards the obligation to accept the job offered, sanctions are imposed by Social Assistance and Solidarity Encouragement Fund if a member of a targeted household rejects to accept the job offered without any reasonable excuse. Cash aids may be suspended as a result, but *regular aid* will continue to be paid.

Medical assistance

As regards medical assistance, in its previous conclusion the Committee asked for confirmation that those persons who are not covered by the green card system and are, therefore, not entitled to health coverage either under contributory or non-contributory system, are financed by the state budget (for in-patient, out-patient treatment, including medical examinations). The Committee notes in reply that since 2012 all citizens are included in the universal health insurance scheme under Article 60 of the Law No 5510. All persons whose per capita income in the family is lower than one third of gross minimum wage are covered. The Committee asks whether all persons in receipt of social assistance are included in the universal health insurance and whether the latter goes beyond emergency assistance.

Level of benefits

- Basic benefit: the Committee notes that there is no information regarding the level of basic and supplementary benefits that would be paid to a single person without resources.
- Additional benefits: the Committee asks the next report to provide an estimate of all additional benefits (e.g.periodical aid, home assistance, housing allowance, food aid etc) that a single person without resources, in receipt of the basic benefit is entitled to.

- Poverty threshold: the Committee notes that no Eurostat data is available for 2015 as regards the median equivalised income. The latest available data from Eurostat refer to 2013, when the median equivalised income was €3,438, and the poverty level, defined as 50% of the median equivalised income, was €1719 per year, or €143 per month. According to the report, the national poverty line, corresponding to 50% of the median income was 5554 TRY (€1966 at the rate of 31/12/2014) for 2014 or 462.8 TRY (€164) per month. In 2015, 50% of the median income was 6246 TRY (€1961, at the rate 31/12/2015), i.e. 520.5 TRY (€163) per month.

The Committee notes that the report does not provide information as regards the amounts of different benefits. In the absence of the monetary values of basic and additional benefits and also, pending receipt of the information as to the universality of social assistance, the Committee considers that it has not been established that the level of social assistance paid to a single person without resources is adequate.

Right of appeal and legal aid

According to the report, a beneficiary of social assistance can file a legal action before administrative court about monthly social payments or implementation of social assistance services, against public institutions and organisations. In accordance with Article 45 of Administrative Procedure Law No 2577, objection can be made on disputes arising from the implementation by the public institutions. The decisions of the regional administrative courts are final and lodging an appeal with the Supreme Court is not possible. The Committee refers to its reservation of the position as to whether the legislation provides for a legally recognised enforceable right to social assistance and also reserves its position as to whether the right to social assistance is supported by an effective right of appeal.

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 persons 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 persons unlawfully present in their territory.

Nationals of States Parties lawfully resident in the territory

In its previous conclusion the Committee found that foreign nationals of other States Parties, lawfully resident in Turkey were entitled to social and medical assistance on an equal footing with Turkish nationals only under condition of reciprocity. According to the report, social benefits are given to those who are in need and who meet certain criteria without reciprocity. These criteria are broken down in the "Social Assistance and Solidarity Encouragement Law" No. 3294, which, in its Article 1 provides that social assistance programmes shall be implemented for nationals who are in need and where necessary, for foreigners who come to Turkey, to ensure that income distribution is fairly managed by taking measures to reinforce social justice, to encourage social assistance and solidarity. According to the report, social

assistance and solidarity funds provide various types of social assistance for foreigners through Social Assistance and Solidarity Encouragement Foundation.

The Committee further notes that the Law No 6458 of 2013 on Foreigners and International Protection provides in its Article 2 that this Law shall be implemented without prejudice to provisions of international agreements to which Turkey is party. Furthermore, Temporary Protection Regulation was issued in accordance with Article 91 of the Law No. 6458, by the Directorate General of Migration Management in 2014. According to this Regulation, the foreigners who are in need may benefit from the social assistance in accordance with the procedures and principles to be determined by the Council of Social Assistance and Solidarity Encouragement Fund under the Law No 3294. In addition, the same Regulation enables foreigners who are in need to benefit from social services in accordance with the procedures and principles determined by the Ministry of Family and Social Policies.

The Committee asks whether nationals of States Parties lawfully resident in Turkey are entitled to social and medical assistance on an equal footing with nationals, without being subject to any length of residence requirement. In the meantime, the Committee reserves its position on this issue.

Foreign nationals unlawfully present in the territory

In its previous conclusion the Committee asked the next report to clarify what social and medical assistance was available to migrants in an irregular situation who are not considered to be "victims" and are not in a repatriation centre. It also asked what was the nature and extent of the assistance which is provided to unlawfully present foreigners and whether a specific legal basis exists for the provision of this form of assistance in cases of urgent need.

The Committee notes from the report that the Directorate General of Migration Management was established by the Law No. 6458 of 2013 on Foreigners and International Protection.This Law regulates the principles and procedures with regard to foreigners' entry, stay and exit from Turkey and the scope and implementation of the protection to be provided to foreigners who seek protection.

It is the responsibility of the Ministry of Family and Social Policies to determine the social assistance to be provided for foreigners under temporary protection, to determine the principles and procedures for granting these benefits, and to ensure that the social benefits are distributed equally and fairly.

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 Turkey is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that the level of social assistance paid to a single person without resources is 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 Turkey.

The Committee takes note of Law No 6701 on Human Rights and Equality Institution which entered into force on 20 April 2016 (outside the reference period). Article 3 of this law prohibits discrimination based on sex, race, colour, language, religion, belief, philosophical and political opinion, ethnicity, wealth, marital status, health status, disability and age.

In its previous conclusion (Conclusions 2013) the Committee noted that the beneficiaries of social and medical assistance are not exposed to any restriction in their political and social rights. The Committee asks the next report to provide updated information as regards whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey 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 Turkey.

The Committee 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, whether by means of the Social Assistance and Solidarity Funds or otherwise.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey is in conformity with Article 13§3 of the Charter.

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 Turkey.

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, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, 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 asks the next report to confirm that these requirements are met.

As regards emergency medical assistance for foreign nationals, according to Article 98 of the Law no 2918 on Highway Traffic, all expenses for healthcare-related services provided by all public and private healthcare facilities and hospitals affiliated to universities, due to traffic accidents shall be reimbursed by the Social Security Institution within the framework of reimbursement rules and procedures for healthcare services, irrespective of whether the victim is covered under social security or not. The Committee asks whether medical emergencies, other than road accidents are treated in the same way as regards lawfully present foreign nationals without resources.

Conclusion

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

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 Turkey.

Organisation of the social services

The Committee previously found that the situation in Turkey was not in conformity with Article 14§1 of the Charter on the ground that it had not been established that there existed an effective and equal access to social services (Conclusions 2013). It then took note of the information submitted by Turkey in response to this finding (Conclusions 2015) and noted that information was still lacking on any eligibility criteria for social services and the decision making procedure, including appeals possibilities, on the resources available to the social services (both financial and human) and on their geographical distribution. It recalled that figures were needed on the number of beneficiaries broken down by type of service, on staff and on expenditure. In the absence of this information the Committee reiterated its finding of non-conformity on the grounds that it had not been established that there existed an effective access to social services.

In response to the Committee's request for detailed information on the new legislation in force and its implementation (Conclusions 2013), the report states that the new Ministry of Family and Social Policy is responsible for providing social services in collaboration with municipalities, associations, foundations and private organizations.

The report focuses in particular on the organisation of social services for the elderly and disabled persons describing the different institutions (public and private care and rehabilitation centers, day care and home care support services).

The report indicates that a new law No. 6284 is in force from 8 March 2012 on the protection of the family and women victims of domestic violence. This new law provides protective measures against victims of violence and preventive measures for offenders or those likely to practice violence. The Law establishes Violence Prevention and Monitoring Centers (ŞÖNİM) the duties, powers and responsibilities of the personnel working in them, in particular "Psycho-social support services," "legal support services," "education support services," "health support services," and "call support" services are provided to the persons who are victims of violence.

The report provides information on the regulation on Social Service Centers (SSC) entered in force on 9 February 2013. The report underlines that SSC are institutions that work to assess and help the persons in need. They take the necessary measures to intervene in order to provide preventive, protective, supportive, and developmental services, guidance and counseling for different beneficiaries in the most appropriate and accessible way. They are also responsible for providing services in coordination with local authorities, universities, non-governmental organizations and volunteers when needed and facilitating coordination of these services. The SSC shall provide services that are supply-oriented as well as services upon application, on-site, with an integrated approach and monitoring capacity. The number of SSC have been determined considering geographical location of the districts, social and demographic structure and the existence of institutions and organizations that can cooperate in the provision of services. In 2015 there were 175 Social Service Centers in 81 provinces that contributed to give assistance to 1 267 304 beneficiaries.

Effective and equal access

The Committee previously requested (Conclusions 2013) clarifications as to how, generally speaking, decisions concerning the provision of social services were taken; it furthermore requested information on whether and how nationals of other States Parties had access to social services.

The report provides a partial answer by only mentioning the case of the elderly, disabled and unaccompanied children. The Committee, therefore, 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 the law No. 6701 on Human Rights and Equality Institution of Turkey became effective with its publication in the Official Gazette dated 20 April 2016 No. 29690, (outside the reference period). The law aims to protect and develop human rights, to secure the right to equal treatment of persons on the basis of human dignity, and to prevent discrimination in the enjoyment of legally recognized rights and freedoms. Article 3 of this law prohibits discrimination based on age, sex, racial or ethnic origin, religion or belief, disability, philosophical and political belief, colour, language, wealth, birth, marital status and health conditions.

Quality of services

In its previous conclusion (Conclusions 2015), the Committee requested information on the geographical distribution of social services and on the qualification and number of staff in social services and to indicate the ratio of staff to users.

The report answers only in part, by mentioning some data on services for the elderly, disabled, children and people victims of domestic violence. There are SSC for the elderly and disabled in 64-63 provinces out of a total of 81. There are 159 specialised centers for disabled in 56 provinces. The report indicates that there are no data on children social services geographical distribution. The Committee notes that the statistical data provided are not sufficient to establish that staff working in social services is qualified and in sufficient numbers, and that the geographical distribution is sufficiently wide. Figures are needed on the number of beneficiaries broken down by type of service, on staff and on expenditure. In the absence of this information the Committee reiterates its finding of non-conformity.

As regards the supervision mechanisms in charge of ensuring the adequacy of services, public as well as private (see Conclusions 2013), the report indicates that public and private institutions are inspected on the basis of the provisions of the Regulation on the Presidency of the Inspection Services of the Ministry of Family and Social Policy, Social Services and Child Protection Agency Law No. 2828 and Regulation on Nursing Homes and Elderly Care and Rehabilitation Centers. The Ministry of Family and Social Policy inspectors and the provincial directorate personnel perform regular or unplanned inspections on institutions. In this respect, the Committee asks whether regular inspections are undertaken also in the social services provided by non governmental organisations and the impact of inspections activities on the improvement of quality of social services.

In response to the Committee's question (Conclusions 2013) as to whether there was any legislation on personal data protection, the report indicates that the Law on the Protection of Personal Data No. 6698 entered into force in March 2016, out of the reference period.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 14§1 of the Charter, on the ground that it has not been established that the number of social services staff is adequate and has the necessary qualification to match user's needs.

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 Turkey.

In its previous conclusion (Conclusions 2015), the Committee took note of the information submitted by Turkey in response to the conclusion of non conformity with Article 14§2 of the Charter on the ground that it had not been established that the conditions under which non-public providers take part in the provision of welfare services were adequate (Conclusions 2013). The Committee noted that information was still lacking and requested detailed information on the types of social services provided by voluntary associations and individuals and on the number of beneficiaries of these services. It also wished to receive information on the public and/or private funding set aside for encouraging participation by voluntary associations and individuals in social services provision and on the results of the supervision carried out by the public authorities. Finally, it asked whether and how the users of social services were consulted on questions concerning the organisation and delivery of social services.

The Committee notes that the report provides only information on 159 special care centers for persons with disabilities opened by private entities and that voluntary associations, organizations and private people can cooperate as social service providers by participating to the construction or renting of the service building and providing the specialised staff. The report indicates that between 2010-2015, the Ministry of Interior provided support for 454 projects on social assistance run by private non-governmental organisations with a total amount of TRY 24 152 279. The Committee notes that the current report does not answer its questions and therefore considers that, in view of the lack of information, it has not been established that the conditions under which non-public providers take part in the provision of welfare services are in conformity with Article 14§2 of the Charter.

The Committee furthermore previously asked (Conclusions 2013) 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. It also asked information on the financial measures taken to promote the activities of voluntary organisations.

As the report does not answer to these questions, the Committee repeats them and reserves in the meantime 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.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 14§2 of the Charter on the ground that it has not been established that the conditions under which non-public providers take part in the provision of welfare services are adequate.

Article 23 - Right of the elderly to social protection

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

Legislative framework

The Committee takes note of the information provided concerning the implementation programme on the situation of elderly persons in Turkey and the ageing national action plan and asks in this respect to be kept informed about the practical measures taken and their results.

The Committee would point out 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 combating age discrimination, the Committee notes from the report that Article 3 of Law No. 6701 on the Human Rights and Equality Institution prohibits age discrimination but that the said law entered into force outside the reference period. The Committee therefore considers that the situation was not in conformity with the Charter during the reference period. It asks the next report to contain information on this new Law as well as its implementation in practice.

With regard to assisted decision-making for the elderly, the Committee asked in its previous conclusions (Conclusions 2009 and 2013) whether such a procedure existed and, in particular, whether there were safeguards to prevent the arbitrary deprivation of autonomous decision-making by the elderly. As the report does not provide any information on this subject, the Committee reiterates its question and considers that, in the meantime, it has not been established that such procedure exists.

Adequate resources

When assessing adequacy of 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 Committee notes from the report that the poverty threshold, calculated as 50% of the median value of the consumption expenditure per equivalent household, was TRY 6 246 in 2015 (TRY 520.50 per month, or €163.28). The Committee will take this indicator into account when assessing the adequacy of income-replacement benefits.

The Committee notes from MISSCEO that the minimum pension for civil servants was no less than TRY 1 455.52 (approximately €456.60) at the end of 2015. For other workers, the minimum pension was TRY 462 (approximately €144.93) at the end of 2015. The Committee nevertheless notes that the information in the report refers to a minimum pension of TRY 535.10 (approximately €168) in 2015. The Committee notes that this is substantially higher than the above-mentioned poverty thresholds and points out that it previously (Conclusion 2013) requested clarification in this respect. As there is no information on the subject in the report, the Committee reiterates its question. It also asks for information concerning the pensions paid to elderly persons under Laws Nos. 1479 and 2926.

The Committee also asked for information on the conditions for entitlement to the minimum pension as well as the share of elderly persons in receipt of such a pension as well as full information on all assistance available to elderly persons not in receipt of a pension, including information on the conditions for receipt of such assistance. The report provides no information on the conditions for entitlement but indicates that 8 534 000 elderly persons have received an old-age pension in 2015. The Committee further notes from the report that in accordance with Law No. 2022 as amended, the elderly in need and their spouse receive an aid amounting to TRY 217.48 per month (i.e. approximately €68.22). 546 207 seniors received this benefit in 2015.

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

Prevention of elder abuse

In its previous conclusion (Conclusions 2013), the Committee requested information on the measures taken to prevent elder abuse and what the authorities were doing to evaluate the extent of the problem and to raise awareness of the need to eradicate elder abuse and neglect. The report states that trainings on the elimination of elder neglect and abuse have been provided to service providers and elderly persons. A survey covering 2013-2014 was also conducted on the identification of neglect and abuse victims in nursing homes of the Ministry of Family and Social Policy. The Committee takes note of the information provided on the subject in the report and asks what measures have been taken or are planned to remedy the situation.

The report also indicates that, under the implementation programme on the situation of elderly persons in Turkey and the ageing national action plan, it is planned to set up a specialised support and advisory service on the issues of neglect, abuse and violence, to introduce new regulations on preventing elder abuse, to provide training on the subject and to establish mechanisms for reporting such abuse. The Committee notes that the planned regulations have still not been introduced since the previous reference period. The Committee requests that the next report provide details on the content of the draft legislation and its expected timeframe for adoption.

The Committee also notes from the report that violence prevention and monitoring centres (ŞÖNİM) exist. It requests that the next report indicate whether these centres are authorised to deal with issues relating to cases of elder abuse.

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 themselves, the Committee asked in its previous conclusions (Conclusions 2009 and 2013) whether, in general, the supply of home help services for the elderly match the demand for them, how their quality is monitored and if there is a possibility for elderly persons to complain about services. Furthermore, it asked whether the extent of their provisions differ from one municipality to another and whether there is a charge for any of these services. The report states that Turkish municipalities have duties and responsibilities for providing services for elderly persons. The services provided by municipalities vary between regions and depending on the needs of the persons concerned; They include benefits in kind and financial aid, home health services, home technical services (maintenance, repairs and renovation, etc.), house cleaning, personal hygiene, catering, assignment of accompanying persons, social support services (cultural events and sightseeing) and psychological support.

The report further states that inspectors from the Ministry of Family and Social Policy and staff from provincial directorates conduct regular inspections, whether planned or unannounced, of both public and private service providers. The findings of the inspections

are notified to the institutions concerned, which must take the necessary steps to remedy any problems identified. If the latter persist, penalties are applied and the institutions concerned may be closed by order of the Ministry.

While taking note of this information, the Committee nevertheless notes that the report does not answer the questions whether the supply of home help services for the elderly matched the demand for them, whether the extent of their provisions differ from one municipality to another and whether there is a charge for any of these services and, therefore, reiterates them. It underlines that if the relevant information is not provided in the next report, there will be nothing to show that the situation is in conformity with the Charter in this respect.

The Committee also asked for more information on any services or facilities (such as respite care) for families caring for elderly persons, in particular highly dependent persons, as well as on any particular services for those suffering from dementia. The Committee takes note of the information in the report, including those relating to the Support Program for Elderly entitled "YADES", which entered into force outside the reference period, and requests to be informed of the implementation of this program. It also asked whether temporary care centres and public day-care services are available for elderly persons' families. The Committee also notes from the report that the social service centres under the Ministry of Family and Social Policy offer solutions to psychosocial and socioeconomic problems of elderly persons as well as consultancy and guidance services to increase social solidarity and promote active ageing.

With regard to measures to inform people about the existence of services and facilities, the Committee asks the next report to provide information on this matter.

Housing

The Committee previously asked whether a housing policy had been designed for those elderly persons living in their own homes. The Committee notes from the report that the implementation programme on the situation of elderly persons in Turkey and the ageing national action plan includes a section on housing.

The Committee also asked (Conclusions 2013) whether the needs of elderly persons were taken into account in national or local housing policies, whether adequate sheltered/supported housing was provided, whether the supply of such housing was sufficient and whether assistance for home adaptation was available. The report states that housing policy for the elderly in Turkey is aimed at enabling them to stay in their own homes for as long as possible. The Committee asks what share of persons aged 65 years and over remain in their own homes.

The report states that persons aged 65 years and over who live in old, neglected or substandard houses are entitled to financial support within the scope of housing aid from the Social Assistance and Solidarity Fund to refurbish their homes or build new ones. The Committee notes that the grants are means-tested. The persons concerned must also be able to prove that they have been living in the relevant dwelling for at least five years. The Committee requests that the next report indicate whether other types of housing benefit exist.

The report also indicates that 25% of housing projects carried out by the Housing Development Administration (TOKİ) are allocated to elderly persons. A payment system suited to elderly persons has been introduced, under which 7 717 houses payable in monthly instalments starting from TRY 250 (approximately €78.42) for up to 240 months have been made available for sale to elderly persons who do not have their own housing.

The Committee notes that a new type of specialised housing is available for elderly persons: houses for the elderly. The aim of the dwellings concerned is to enable elderly persons to remain in their own homes while receiving care and enjoying a higher standard of living. The dwellings may either be attached to existing retirement homes, in which case the needs and

expenditure of the elderly persons are covered by the relevant home, or be stand-alone. The Committee asks the next report to indicate how many elderly persons benefit from such dwellings, what the overall capacity is and what they cost when the elderly persons themselves have to pay.

Health care

The Committee previously asked (Conclusions 2013) for more information about health care programmes and services specifically aimed at the elderly, in particular mental health programmes, palliative care services and training for individuals caring for elderly persons. It also asked for information on any new measures taken to improve the accessibility and quality of geriatric and long-term care or the co-ordination of the social and health care services in respect of the elderly. The Committee notes from the report that the Turkey Healthy Ageing Action Plan and Implementation Programme 2015-2020 is aimed, among other things, at the development of health services, including specialised care services geared to the needs of elderly persons, and ensuring their accessibility. The Committee wishes to be informed of the practical measures and the results of this policy.

With regard to the co-ordination of health care services, the Committee also notes that a protocol on the implementation of health care and social support services at home at provincial level was signed in March 2015 and then distributed to municipalities for application. The Committee asks the next report to further indicate what rules and measures this protocol imposes on local authorities and how they are monitored.

Institutional care

The report states that institutional care nursing homes may be provided by public or private-sector providers. In this respect, the Committee takes note of the exhaustive list of the various categories of care institutions provided in the report.

The Committee also takes note of the statistics provided in the report but notes that they refer to a date outside the reference period.

As regards public institutions, the Committee in its previous conclusion (Conclusions 2013) asked for further information on the fees charged and the independence of the inspection bodies. The report states that the fees are determined annually by the General Directorate of Disabled and Elderly Services, depending on the type of institution, the type of room and the personal situations of the elderly persons. Discounts and exemptions may nevertheless be granted to elderly persons on low income.

Public institutions are inspected by inspectors and officials from the Ministry of Family and Social Policy by means of auditing and guidance activities performed independently. The Committee asks for more information on the status of these inspectors and officials. It also asks whether procedures exist for complaining about the standard of care and services or about ill-treatment in this type of institution.

As regards private institutions, the Committee also asked for information on how fees were set, how the facilities were licensed and whether procedures existed for complaining about the standard of care or services or about ill-treatment in this type of institution. The report states that the monthly fees for private care institutions are determined by a commission, in accordance with the regulation on private nursing homes and nursing home elderly care centres. Private institutions are inspected once a year by inspectors from the Ministry of Family and Social Policy and twice a year by officials from the provincial directorate who, on the basis of their inspections and relevant notifications, may order the closure of the institutions if neglect, exploitation, violence or breaches of legislation or moral rules are determined.

Lastly, the Committee asked for information on whether and how the rights of elderly persons living in institutions were safeguarded – in particular, the right to appropriate care

and services, the right to privacy, to personal dignity, to maintain personal contacts, to participate in decisions concerning living conditions in their institution and to complain about ill-treatment. The Committee notes that, apart from the right to maintain personal contacts, the report does not provide any other information, and therefore reiterates its request.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 23 of the charter on the grounds that:

- during the reference period, there was no anti-discrimination legislation;
- it has not been established that there is an assisted decision-making procedure for elderly persons.

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

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

Measuring poverty and social exclusion

The main indicator used by the Committee to measure poverty is the relative poverty rate. This corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income. The Committee takes note of the detailed explanation in the report on the indicators used by the Turkish Statistical Institute (TURKSTAT) to measure poverty and social exclusion (indicators based on the one hand on "income" and on the other hand on "expenditure").

In 2015, according to the report, the at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) stood at 21.9% having decreased slightly from 22.7% in 2012. The trend is confirmed by Eurostat which puts the poverty rate at 22.5% in 2015 down from 23.7% in 2012. Before social transfers the poverty rate was 24.2% having decreased from 25.3% in 2012. It would thus appear that the positive effect of social transfers is quite limited. In addition, the European Semester headline poverty indicator (which includes persons suffering severe material deprivation and people aged 0-59 living in households with very low work intensity) stood at 41.3% in 2015.

The Committee notes from the European Commission Staff Working Document,Turkey 2016 Report (SWD(2016) 366 final) that contrary to recent years, poverty indicators show no improvement in reduction of social inequalities. Severe material deprivation persists, especially for Roma children, and it is higher in the eastern regions. People with disabilities are at high risk of social exclusion and poverty; measures to increase their employment have been ineffective (the public sector's employment rate for people with disabilities is around 2%). According to the European Commission report the severe material deprivation rate, after having fallen significantly from 59.4% in 2010 to 29.4% in 2014 again increased slightly in 2015 to 30.3%.

With regard to the lack of information on the situation of ethnic minorities and single mothers, the report states that the authorities do not collect, maintain or use either qualitative or quantitative data on ethnicity for reasons of privacy and non-profiling.

Finally, the Committee notes that although overall poverty rates have decreased very slightly during the reference period, they remain at a high level and in certain regions and for certain groups (notably persons with disabilities and Roma) the situation is particularly serious.

Approach to combating poverty and social exclusion

The Committee takes note of the information on certain legislative measures taken during the reference period, including an amendment of the Revenue Tax Law, No. 193, which provides for tax reductions for persons with mental disabilities in order to protect the most disadvantaged persons against social exclusion as well as a new regulation (No. 28554/2013) on social service centres. It defines the procedures and principles related to the establishment and operation of the social service centres affiliated to the Ministry of Family and Social Policies and to the assignment of duties, competences and responsibilities of the staff working at these centres. According to the report, the regulation aims at achieving a more holistic and verifiable social service approach.

The reports asserts that Turkey has taken significant steps in combating poverty and inequalities. A more comprehensive social security system and a more efficient and extensive social support system have been installed in the country. The share of the population covered by social security insurance has risen to 85.5% in 2015 from 83% in 2012. As of 1 January 2012, general health insurance became compulsory and all citizens are covered by general health insurance. Social assistance programmes have been increased to promote persons in, or at risk of finding themselves in, a situation of poverty or

social exclusion. In these respects, the Committee refers to its conclusions in particular under Articles 12§1 (social security), Article 13§1 (social assistance) as well as under Article 11 (health).

The report further states that many projects have been developed for people who are at risk of social exclusion. EU funded projects such as “Improving Social Integration and Employability of Disadvantaged Persons”, “Promoting Social Inclusion in Densely Roma Populated Areas” “Coordination and Training for Employment Project 4" have entered the implementation phase.

The National Strategy on Social Inclusion of Roma Citizens for the period 2016-2021 and its Action Plan was adopted on 26 April 2016. The Strategy is composed of 5 main policy areas; education, employment, housing, health, social assistance and social support services, and it will be implemented through three-year action plans. The National Roma Integration Strategy aims *inter alia* at increasing the effectiveness of social inclusion policies, enhancing access to general public services, combating discrimination and preventing hate crimes and ensuring social participation on the basis of a strengthened civil society. Basic implementation principles such as antidiscrimination, equal treatment, participation of civil society and a regional policy approach are also set forth as strategic targets. Funds for the implementation of the projects in the framework of the Strategy and Action Plans will be provided by the respective governmental institutions’ own budgets. A Monitoring and Evaluation Board will be established to monitor the implementation of the policies formulated in the National Strategy Document.

The report also states, regarding institutional arrangements, that the establishment of the Ministry of Family and Social Policy in 2011 created a unified system in which the division of tasks and functions are clearer and the problem of ambiguity that that tended to diffuse responsibilities have been overcome. The Ministry has brought institutions responsible for social assistance and social care services together within the framework of a coordinated and overall approach.

The Committee notes the information on the budgetary resources allocated and the number of beneficiaries in areas such as income support, access to health, access to housing, access to food and access to education. In order to assess the trend in this respect, it asks that the next report provide these data for each year of the reference period. It also notes that in the period under examination (2012-2015) expenditure for social assistance (public) was increased by 40.5% and the share of social assistance in GDP increased from 1.18% to 1.37%.

According to European Commission analysis (see the abovementioned Turkey 2016 Report) the most recent developments have not led to reduction of social inequalities and severe material deprivation persists and from the same source the Committee notes that social protection expenditure represents just over 14% which is well below the European Union average (close to 20%). It also notes that almost half of social protection expenditure is allocated to old age pensions, whereas income support for the working-age population is still comparatively low, despite recent increases in social assistance spending. Finally, it notes the relatively limited positive effect of social transfers.

While noting the information provided and despite the role now played by the Ministry of Family and Social Policy, it appears to the Committee on the basis of the information at its disposal that the measures referred to are not situated in an explicit strategic framework (excepting the Roma strategy) and it does not see clear evidence or indication of how they add up to an overall and coordinated approach to combating poverty and social exclusion. It therefore asks that the next report contain information specifically on the strategic framework as well as information on the existence of coordination mechanisms for the various measures, including at delivery level (that is, how coordination is ensured in relation to the individual beneficiaries of assistance and services). It also asks that the next report contain

detailed data demonstrating that the budgetary resources allocated to combating poverty and social exclusion are sufficient in view of the scale of the problem at hand.

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 12§1 and its conclusion that it has not been established that the existing social security schemes cover a significant percentage of the population (Conclusions 2017);
- Article 13§1 and its conclusion that it has not been established that the level of social assistance paid to a single person without resources is adequate (Conclusions 2017);
- Article 14§1 and its conclusion that it has not been established that the number of social services staff is adequate and has the necessary qualification to match user's needs (Conclusions 2017);
- 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 15§2 and its conclusion that it has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment and that the legal obligation to provide reasonable accommodation is respected (Conclusions 2016);
- Article 16 and its conclusion that there is no general system of family benefits (Conclusions 2015);
- Article 31§2 and its conclusion that there are no effective measures to reduce and prevent homelessness (Conclusions 2015); it has not been established that adequate eviction procedures exist and it has not been established that the right to shelter is guaranteed (Conclusions 2015 and 2017);
- Article 31§3 and its conclusion that it has not been established that there are remedies with respect to excessive waiting periods for the allocation of social housing (Conclusions 2015 and 2017) and that the majority of qualified households receive housing benefits in practice (Conclusions 2015).

Taking into account all of the above, in particular the high poverty rates, the relatively low spending levels and the assessments made under other provisions of the Charter, the Committee considers that the situation is in breach of Article 30 as there is no adequate overall and coordinated approach to combating poverty and social exclusion.

Monitoring and evaluation

The report refers to the Social Assistance and Solidarity Foundations which were established in each province and district. It states that these foundations provides services from the nearest point to the target group so as to identify needy people quickly and understand their needs locally. Thus, these foundations serve as a bridge between the state and poor citizens, in terms of direct and immediate delivery of social benefits to citizens. The foundations are are private law legal entities governed by boards of trustees and chaired by province and sub-province governors and also include elected mayors, village and district headman, NGO representatives, charitable citizens in addition to appointed directors of governmental institutions and ministries. According to the report, this governing structure allows fair and impartial distribution of social assistance in a rapid and flexible manner.

The Committee asks that the next report explain in more detail whether and how the Social Assistance and Solidarity Foundations may contribute to monitoring and evaluation in the meaning of Article 30.

Moreover, as noted above a Monitoring and Evaluation Board will be established to monitor the implementation of policies for the social inclusion of Roma.

The Committee asks that the next report provide information on monitoring and evaluation of the efforts to combat poverty and social exclusion, both with respect to the overall level and in relation to other areas than social assistance. The Committee wishes in particular to be informed about any evaluations of the efforts and about any measures taken to act upon such evaluations. The Committee recalls in this respect 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).

Conclusion

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

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

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

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

Apprentices

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that the allowances paid to apprentices were appropriate.

The Committee recalls that under Article 7§5 of the Charter, apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account. However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers. Accordingly, the terms of apprenticeships should not last too long and, as skills are acquired, the allowance should be gradually increased throughout the contract period (Conclusions II (1971), Statement of Interpretation on Article 7§5), starting from at least one-third of the adult starting wage or minimum wage at the commencement of the apprenticeship, and arriving at least at two-thirds at the end (Conclusions 2006, Portugal).

In its previous conclusion (Conclusions 2015) the Committee noted that no information was provided concerning the wages paid to apprentices in practice. The report did not contain any information evidencing that apprentices receive at least one third of the adult minimum or starting wage at the beginning of apprenticeship. Moreover, no information was provided on the amount of the allowance paid to apprentices at the end of the apprenticeship. Given the lack of information, the Committee concluded that the situation was not in conformity with Article 7§5 of the Charter on the ground that it had not been established that the allowances paid to apprentices were appropriate.

The Committee notes from the current report that according to Article 25 of the Law on Vocational Education No 3308 wages and wage rise that shall be paid to apprentices and trainees shall be set by an agreements between parents of the apprentice, school board for students and the owner of the business. The wage that shall be paid however cannot be less than 30% of the net minimum wage in enterprises with 20 or more employees and not less than 15% in enterprises with less than 20 employees. The wages of the apprentices cannot be less than 30% of the minimum wage. The Committee asks whether the wages are gradually increased to arrive at least at two-thirds of the minimum wage at the end of the apprenticeship. It also asks for information on apprentices wages in practice. It reserves in the meantime its position on this point.

The Committee recalls that the situation concerning other aspects covered by Article 7§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 defers its conclusion.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that the time spent in vocational training by young workers was included in the normal working time and remunerated as such.

The Committee recalls that in application of Article 7§6, time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of Interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter. Given the lack of information, the Committee considered that the situation is not in conformity with Article 7§6 of the Charter on the ground that it has not been established that the time spent in vocational training by young workers was included in the normal working time and remunerated as such.

According to the report, working conditions and the types of jobs where a child and young workers can be employed are governed by the Regulation on the Procedures and Principles of Employment of Children and Young Workers of 06 April 2004. Article 7 (times that count as part of daily work periods) indicates the time that counts as part of daily work period, in addition to the time which counts as part of daily work periods pursuant to Article 66 of the Labour Law No 4857. Namely, periods spent in training which the employer must provide, periods spent in courses and meetings which the employer sends employees to outside the workplace and periods in vocational training programmes arranged by the authorised institutions and establishments, shall count as working periods.

In light of this information, the Committee holds that the situation is in conformity with Article 7§6 of the Charter on this point.

Conclusion

The Committee concludes that the situation in Turkey is in conformity with Article 7§6 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

Protection against sexual exploitation

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that child victims of sexual exploitation could not be prosecuted. The Committee notes that as regards child victims of sexual exploitation, procedures relating to the child assessed as victim are carried out in accordance to the Child Protection Law No 5395 of 2005. Victims who are designated as children are guided to the relevant units of the Ministry of Family and Social Policy. The Child Police who are in charge of all judicial and administrative actions concerning delinquent children or child victims of crime, are involved in trainings in the fields of child abuse and investigation.

The Committee recalls that under Article 7§10 children, victims of sexual exploitation should always be treated as victims rather than criminals by the law enforcement and judicial authorities. There should be a a clear obligation of non-prosecution in the criminal justice system. Child victims of criminal practices, including children involved in prostitution, should be treated exclusively as victims in need of recovery and reintegration and not as offenders. The Committee considers that the information provided by Turkey again fails to clarify the national situation in this respect. Therefore, the Committee reiterates its previous finding of non-conformity on the ground that it has not been established that child victims of sexual exploitation are not treated as offenders.

The Committee recalls that the situation concerning other aspects covered by Article 7§10 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§10 of the Charter on the ground that it has not been established that child victims of sexual exploitation cannot be prosecuted.

Article 8 - Right of employed women to protection of maternity

Paragraph 2 - Illegality of dismissal during maternity leave

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave.

The Committee recalls in this connection that, under Article 8, paragraph 2 of the Charter, the reinstatement of employees unlawfully dismissed during pregnancy or maternity leave should be the rule and that, where this is not possible (e.g. if the enterprise has closed down or the employee concerned does not wish to be reinstated), adequate compensation must be available. Domestic law must not prevent courts from awarding a level of compensation that is sufficient both to deter the employer and fully compensate the victim of dismissal.

In particular, the Committee had repeatedly asked whether the ceilings to compensation provided for in the Labour Act (Sections 17 and 21) covered compensation for both pecuniary and non-pecuniary damage or whether unlimited compensation for non-pecuniary damage could also be sought by the victim through other legal avenues (e.g. anti-discrimination legislation). It also asked whether both types of compensation were awarded by the same courts, and how long it took on average for courts to award compensation.

In response to the Committee's questions, the report recalls that, in case of violation of the right to termination of employment, the Labour Code provides that the employer must pay a compensation amounting to three times the cost corresponding to the term of notice in case (Article 17) and between 4 and 8 months' wages if, despite the employee's request, the employee is not reinstated (Article 21). According to the report, if the termination of employment is found to be discriminatory (Article 5), the employee can claim up to four months' wage compensation plus any other benefits, bonus, wage increases etc. that the employee might have lost because of the abusive termination of employment. However, the report indicates that the doctrine is divided as to whether compensation for discrimination can be claimed together or in addition to compensation for loss of employment, and states that in any case a claim for moral damages could not be made under the provisions of the Labour Code, but rather under the general provisions of the Civil Code and Code of Obligations concerning infringements against the person. In this case, according to the report, the ceilings to compensation provided by Articles 17 and 21 of the Labour Law would not apply.

The Committee asks the next report to provide relevant examples of case-law demonstrating that, under the Civil Code and Code of Obligations, it is effectively possible for an employee illegally and discriminatorily dismissed during pregnancy to obtain compensation for moral damage, without reference to the ceiling provided under the Labour Law. It holds that, should this information not be provided, there will be nothing to establish that the situation is in conformity with the Charter on this point. It reserves in the mean time its position on this issue.

The report also indicates that cases contesting termination of employment are decided by the labour courts, unless the parties agree to refer the case to private arbitration, and this is provided for in the collective agreement. The labour courts must decide within two months and, if their decision is appealed, the Court of Cassation must issue its final judgment within one month.

As regards the information provided in the report, concerning the other grounds of non-conformity found in Conclusions 2015, the Committee will examine such information in the framework of its next regular assessment of compliance with Article 8§2 of the Charter

(Conclusions 2019) and invites the authorities to provide at that occasion all relevant and updated information. The same applies in respect of the information concerning the new legislation which was adopted and entered into force in 2016, out of the reference period, and which extends maternity and parental rights (Law No. 6663) and prohibits discrimination (Law No. 6701).

Conclusion

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

Article 16 - Right of the family to social, legal and economic protection

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that associations representing families were consulted when family policies are drawn up.

The Committee recalls that to ensure that families' views are catered for when family policies are framed, the authorities must consult associations representing families.

In this regard, the report states that Family Councils were established by the Regulation on Family Councils (Official Journal on 31 July 1990) and subsequently amended since then. Family Councils aim to gather and discuss the views of universities, voluntary organisations, other public institutions, and organisations involved in family issues. They also take position on principles and programs that need to be included when the national policy on family affairs are framed. The Committee asks the next report to provide further information on the membership of those Family Councils, the frequency of their meetings as well as the impact of their report on the policies adopted by the competent authorities. In the meantime, it reserves its position on this matter.

The Committee recalls that the situation concerning other aspects covered by Article 16 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 defers its conclusion.

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

Paragraph 1 - Assistance, education and training

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

The Committee takes note of the information submitted by Turkey in response to the conclusions that: it had not been established that the maximum length of a pre-trial detention was not excessive and that minors were always separated from adults in prisons.

Young offenders

As regards pre-trial detention of minors, in its previous conclusion the Committee recalled that the criminal procedure relating to children and young persons must be adapted to their age and proceedings involving minors must be conducted rapidly. Minors should only exceptionally be detained pending trial for serious offences, for short period of time and should in such cases be separated from adults. The Committee asked what was the maximum length of a pre-trial detention and whether young offenders were always separated from adults.

The Committee notes from the report that for a pre-trial detention to take place, there must exist a strong suspicion of a person having committed a crime. According to Article 20 of the Child Protection Act No.5395, in cases where the judicial control decision produces no result or there has been non-compliance with such decisions, a detention decision may be given. In accordance with Article 21 of the same Act, no detention decision may be given for children under the age of 15 for criminal acts requiring prison sentences not exceeding five years at most. The same provision exists in Article 11 of the Regulation on Principles and Procedures Concerning the Implementation of the Child Protection Act. The Committee notes that the information provided in the report does not reply to its question concerning the maximum permissible length of detention of minors who are remanded in custody pending trial. Therefore, the Committee reiterates its previous finding of non-conformity on this ground.

As regards separation of minors from adults, according to the report, Articles 11, 15 and 111(3) of the Act No.5275 on the Execution of Sentences and Security Measures require that children should be separated from adults and the detainees from the convicts. Detained children are kept in the closed penitentiary institutions for children or in the provinces where there is no such institution, in the separate units of the closed penitentiary institutions for adults. When there is no separate unit for detained girls in the closed penitentiary institutions for children, these girls are housed in the separate units reserved for them in the closed penitentiary institutions for women. Convicted children are housed in the child educational facilities. The Committee asks whether minors in pre-trial detention are also separated from adults. It reserves in the meantime its position on this point.

The Committee recalls that the situation concerning other aspects covered by Article 17§1 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 17§1 of the Charter on the ground that it has not been established that the maximum length of pre-trial detention of minors is not excessive.

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

Paragraph 1 - Assistance and information on migration

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that migrant workers were provided with free assistance services and information.

In its previous conclusion (Conclusions 2015), the Committee took note in particular of the fact that information relevant to migrants (on work permits etc.) was provided via a telephone helpline (YİMER ALO 170) and via a website of the Ministry of Labour and Social Security. However, the Committee considered that such services were inadequate, insofar as the information provided on the website was only available in Turkish. It accordingly required a more comprehensive description of the services and information available in all formats to migrant workers.

The report refers again to the Foreigners Communication Centre (YİMER ALO 170) which was established within the Directorate General of Migration Management and became operational on 20 August 2015 to deliver effective, continuous and rapid service to foreigners 7/7 days, 24 hours, and respond to all questions and problems of foreigners in Turkish, Arabic, English, Russian, German and Persian. The report indicates that as of 22 September 2016 (out of the reference period), the helpline had received 839 228 calls, mostly concerning requests for information, and had answered 53% of them. The report also indicates that the hotline which provides assistance to victims of human trafficking YİMER 157), since 20 August 2015 is also providing 7/7 days, 24 hours information in Turkish, English, Arabic, Russian, German and Persian with regard to visa, residence, international and temporary protection.

According to the report, migrant workers can also obtain information, free of charge, from the Centre, hotline and provincial directorates of Migration Management as well as through mechanisms such as BİMER (The Prime Ministry Communications Centre) and CİMER (The Presidency Communications Centre). The report furthermore states that, within the scope of a project carried out with IOM, a web site (workinturkey.gov.tr) was designed to facilitate the provision of information for migrant workers and employers. According to the report, the website is available in 5 languages and a related mobile telephone application has been designed.

The Committee notes that the situation as regards the provision of information to migrant workers has not significantly changed: the provision of telephone helplines is a valuable service, but the information provided does not allow to conclude that it is sufficient to respond to the needs of migrant workers (almost half of the requests, according to the report, are not answered and the report does not provide any information which would prove that migrant workers are well aware of the existence of the helpline). As for the resources and services available online, the Committee notes once more that, contrary to what is stated in the report, the websites mentioned are only available in Turkish and do not appear, therefore, to be adequate to the needs of information of migrant workers.

In the light of the information provided, the Committee considers that the situation remains not in conformity with Article 19§1 of the Charter, as it has not been established that migrant workers are provided with adequate free assistance services and information.

The Committee recalls that the situation concerning other aspects covered by Article 19§1 (including measures taken to combat human trafficking and protect victims, as detailed in the report), will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§1 of the Charter on the ground that it has not been established that migrant workers are provided with adequate free assistance services and information.

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

Paragraph 7 - Equality regarding legal proceedings

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that migrant workers are guaranteed equal treatment with regard to legal proceedings, in particular to legal aid.

In its previous conclusion (Conclusions 2015), the Committee had reiterated its request for information (see Conclusions 2011 and 2015) as to whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter; whether migrant workers may have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated; whether such assistance is also available for obligatory pre-trial hearings.

As regards criminal procedure, the report mentions that legal aid is provided upon request, and in some cases ex officio, in conformity with the Code of Criminal Procedure, but does not provide any clear answer to the question of whether this applies to a foreigner on the same basis as for a national and whether or how the free assistance of an interpreter is guaranteed. In this respect, the report only refers to the provision of translation or interpretation in the framework of the probation system, but does not clarify whether interpretation can be guaranteed to foreigners as from the pre-trial (investigations) stage of the procedure, free of charge.

As regards civil procedure, the report reiterates that, pursuant to Article 334 of the Code of Civil Procedure, free legal aid is provided to foreigners subject to the principle of reciprocity. No mention is made in the report about the possibility for foreigners to have legal aid in administrative proceedings.

The Committee points out that, under Article 19§7 of the Charter, States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals. This obligation applies to all legal proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes). More specifically, any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of his or her own choosing should be advised that he/she may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if he or she does not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter. Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if he or she cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial proceedings. Furthermore, the rights guaranteed in the Charter must be granted to all nationals of states parties lawfully within the territory on an equal footing with nationals, irrespective of reciprocity or bilateral agreements.

In light of the information available, the Committee holds that the situation in Turkey is not in conformity with Article 19§7 on the ground that, in respect of the civil procedure, free legal aid is only provided to foreigners subject to the principle of reciprocity.

The Committee furthermore reiterates its request for information concerning the provision of free legal assistance and interpretation, if need be, in civil, administrative and criminal proceedings (as from the pre-trial stage) to foreign nationals, legally residing in Turkey, whether or not a bilateral agreement has been concluded with their country of origin. The Committee asks in particular that the next report provide not only information about the legal basis pursuant to which a foreigner might claim a right to free legal aid and interpretation, but elements of evidence (relevant case-law, statistical data etc.) concerning the effective implementation of this right in practice.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§7 of the Charter on the ground that, as regards the civil procedure, equal treatment is not guaranteed for the nationals of every State party, in respect of the right to legal aid.

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

Paragraph 8 - Guarantees concerning deportation

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that, during the reference period, lawfully resident migrant workers were entitled to adequate guarantees in case of expulsion.

In its previous conclusion (Conclusions 2015), the Committee noted that new legislation (Law No. 6458) had entered into force after the relevant period, in 2014, which had amended inter alia the rules on deportation. Under Article 54 of Law No. 6458, deportation of aliens is provided in respect of foreigners who, inter alia, are leaders, members or supporters of a terrorist organisation or a benefit oriented criminal organisation; who submit untrue information and false documents during the entry, visa and residence permit actions; who made their living from illegitimate means during their stay in Turkey and who pose a threat to public order, public security or public health. Pursuant to the same provision, a deportation decision may be rendered against international protection applicants or international protection status holders only when there are serious reasons to believe that they pose a threat to national security of Turkey or if they have been convicted upon a final decision for an offence constituting a public order threat. Section 55 of the Law provides for exceptions to deportation to be assessed on a case by case basis, in respect of victims of human trafficking or violence or if the deportation would put at risk the health or life of the person concerned. According to the report, when the deportation is not carried out for one of the reasons listed under Article 46 of the Law (in the best interest of the child, if an appeal is pending, if the person would face risks for his/her life etc.), the person is granted a humanitarian residence permit with a maximum duration of one year, renewable.

The Committee previously noted that this Law provided for the right to appeal and for the right not to be deported pending the finalisation of the appeal proceedings (see Conclusions 2015). However, on a number of other points, the Committee found that clarifications were needed. In particular, the Committee asked:

- whether the individual circumstances of the migrant (such as residence permits, attendance of educational institutions, work permits, family ties and length of presence on the territory) were taken in consideration;
- whether expulsion on ground of public health was carried out only when the person refused to undergo suitable treatment.
- whether migrant workers could be removed on the grounds that they posed a threat to public order only as a penalty imposed by a court in connection with a criminal conviction;

In response to the first question, the report confirms that elements such as the foreigner's family ties in Turkey, duration of residence, situation in the country of origin and best interest of the child are taken into account by governorates – subject to court appeal – when deciding deportation on the basis of refusal of a residence permit, its cancellation or non-renewal. The report does not provide any information, however, on whether these elements are also taken into account when deportation is carried out on other grounds. The Committee considers therefore that, on this point, it has not been established that the situation is in conformity with the Charter. The Committee reiterates its request for information on this issue, and recalls that, pursuant to Article 19§8, deportation orders must be proportionate, taking into account all aspects of the non-nationals' behaviour as well as the circumstances and the length of time of his/her presence in the territory of the State, the individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period.

The report does not provide any relevant information concerning deportation on ground of threat to public health. The Committee reiterates that, under Article 19§8, risks to public health cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment. It recalls that this question has been outstanding since 1995 (Conclusions XIII-3 (1995)) and, in the light of the persistent lack of information, considers that it has not been established that the situation is in conformity with the Charter on this point.

As regards deportation on grounds of threat to public order or security, the report does not clarify whether a deportation order on these grounds can be carried out even if it does not result from a criminal conviction and whether the seriousness of the threat is assessed by a court and on the basis of which criteria. The Committee maintains that, on this point, it has not been established that the situation is in conformity with the Charter and reiterates its request of information. It recalls in this connection that, to be in conformity with the Charter, deportation on these grounds can only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality.

The Committee furthermore notes from the report that, following the amendment in 2011 of Law 5683, "The Ministry of Interior has the power to drive out stateless or foreign subject gypsies and foreign nomads who are not connected to Turkish culture". Pursuant to the Law No. 6458, stateless persons shall however not be deported "unless they pose a serious threat to public order or public security". The Committee had already found that the removal of foreigners on ground that they are not connected to the Turkish culture is not, per se, in conformity with the Charter (Conclusions 2011). It asks the next report to provide any relevant explanation on this provision and its application in practice.

In light of the information available, the Committee maintains that the situation continues to be not in conformity with the Charter. It asks the next report to provide clear, exhaustive and updated information on all the outstanding points, not only as regards the legal provisions but also their application in practice (examples of case law, statistical data etc.).

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§8 of the Charter on the grounds that:

- it has not been established that lawfully resident migrant workers are entitled to adequate guarantees in case of expulsion;
- "foreign gypsies and nomads" can be deported by decision of the Ministry of Internal Affairs on ground that they are not connected to Turkish culture.

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

Paragraph 11 - Teaching language of host state

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that sufficient measures were taken to promote the teaching of the national language to migrant workers and their families.

In its previous conclusions, the Committee had noted that Turkey had ratified the International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families Convention, which imposes on States the obligation to take measures in order to teach the local language first, so as to adapt the children of the migrant workers to the education system and had requested information on how this obligation was applied in practice (Conclusions 2011). It had subsequently noted (Conclusions 2015) the adoption in 2013 of a Law on Foreigners and International Protection, which provides inter alia that foreigners may attend Turkish language courses and that distant learning should be promoted, in cooperation with public institutions and agencies and non-governmental organisations. As a follow-up to this information, the report indicates that a protocol of cooperation was signed on 25 April 2016 (out of the reference period) in cooperation with the Directorate General of Life-long Learning and the Directorate General of Migration Management for the purpose of organising courses and certify those who succeed for Turkish language courses, adaptation courses and for improving vocational and social skills. In addition, the report refers to a Circular on "Education and Training Services for the Foreigners" No. 2014/21 of 23 September 2014, according to which school managements may open refresher courses in order to facilitate the integration of the students coming from abroad.

While taking note of these measures, the Committee does not find in the report any concrete evidence that language courses are effectively organised for foreign workers from States parties to the Charter in order to facilitate their integration. In fact, the report provides extensive information, including statistical data, concerning special courses provided for asylum seekers, persons under international protection and, in particular, Syrian migrants (see details in the report) but it does not provide yet any information concerning other categories of foreigners.

The Committee points out in this connection that Article 19§11 concerns specifically the teaching of the national language, free of charge, not only to refugees (see Statement of Interpretation on the rights of refugees under the Charter, Conclusions 2015) but, more generally, to migrant workers from States Parties to the Charter and the members of their families, whether or not they are of school age, through special assistance at school (in addition to the regular courses available in the school curriculum), in the workplace, in the voluntary sector or in public establishments such as universities.

The Committee accordingly reiterates its request of relevant information on the measures taken to provide additional educational support to children of migrant workers needing to learn Turkish language, as well as on language teaching available to the migrants themselves and the adult members of their families. The information required should include data concerning the number of children and adults benefitting from such teaching, waiting lists for courses and any fees that may be payable. The next report should furthermore clarify whether the language courses referred to in connection with the implementation of the 2013 Law on Foreigners and International Protection, the protocol of cooperation of 2016 and the circular on "Education and Training Services for the Foreigners" of 2014 concern only the teaching of Turkish language to Syrian refugees or also other categories of

foreigners. Should this be the case, the Committee asks the next report to provide all relevant and updated information on the implementation in practice of these measures.

In the meantime, in the light of the information provided, the Committee considers that it has not been established that sufficient steps are taken to promote the teaching of Turkish language to migrant workers and their families, other than those falling under international protection.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§11 of the Charter on the ground that it has not been established that sufficient steps are taken to promote the teaching of Turkish language to migrant workers and their families, other than those falling under international protection.

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

Paragraph 12 - Teaching mother tongue of migrant

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that Turkey effectively promotes and facilitates teaching of the migrants' mother tongue to their children, in particular through the school system or community organisations.

The report provides extensive information on teaching provided in Arabic in Temporary Education Centres to Syrian children (see the report for details). It furthermore refers to certain legislative texts or regulations, such as the Regulation on the Training of Children of Migrant Workers and the Law on Foreigners and International Protection No. 6458, but it does not explain how in practice the relevant legislation is implemented in respect of migrant workers and their families, other than those under international protection.

Under Article 19§12 of the Charter, the States Parties undertake to promote and facilitate the teaching, in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory. In this connection, the Committee asks the next report to indicate which languages, apart from Arabic, are most represented among migrant workers, what services are available to such workers if they wish to ensure the teaching of their mother-tongue to their children, whether within the school system or in other contexts such as voluntary associations or non-governmental organisations. It asks in particular whether the teaching of other languages than Turkish or Arabic takes place within the framework of bilateral/reciprocal agreements, how many foreign children – other than Syrians – receive education in their language and how this is organised in practice, i.e. whether this is done at school or through other bodies (voluntary associations or non governmental organisations) and to what extent such activities are funded by the State.

In the meantime, in the light of the information available and the questions outstanding, the Committee considers that it has not been established that Turkey effectively promotes and facilitates teaching of the migrants' mother tongue to their children, other than those under international protection.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§12 of the Charter on the ground that it has not been established that Turkey effectively promotes and facilitates teaching of the migrants' mother tongue to their children, other than those under international protection.

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

Paragraph 1 - Participation in working life

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

Conditions of employment, social security

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that workers on parental leave are entitled to social security benefits (Conclusions 2015, Turkey).

According to the information provided by Turkey, there are no specific provisions indicating that periods of parental leave due to family responsibilities affect the pension entitlement conditions and the monthly amount of the pension, in the legislation about pensions. As regards entitlement to other social security benefits, the Committee asks the next report to confirm that mothers on unpaid parental leave, both public and private sector employees, and fathers on unpaid parental leave in the public sector, continue to enjoy the right to all branches of social security, including health.

The Committee recalls that the situation concerning other aspects covered by Article 27§1 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 defers its conclusion.

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

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that adequate compensation is provided for in cases of unlawful dismissal due to family responsibilities. The Committee previously asked whether the upper limit to compensation under Articles 17 and 21 of the Labour Law would cover both pecuniary and non-pecuniary damage or whether compensation could also be sought through other legal avenues.

The Committee notes that pursuant to Article 17, the employer abusing the right to termination should pay compensation in the amount of three times the cost corresponding to the term of notice. Pursuant to Article 21 of the Law, if the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him/her in work, compensation not less than four months' wages of the employee and not more than eight months' wages shall be paid to him/her by the employer.

The report states that termination on the basis of discrimination is not a termination on a valid ground. In this respect, the provisions in the Civil Code and Code of Obligations which should be applied in case of attacks on personality should also be taken into account also in employment relations. In this regard, the ceiling calculations stipulated in Articles 17 and 21 of the Labour Law are not valid for material and moral damages.

The employee who has suffered discrimination can demand compensation according to the general provisions. The compensation for discrimination is not compensation in technical terms, but since it is a legal sanction for the violation of equal treatment. In order for the employee to demand compensation it is enough for him/her to be exposed to a behaviour constituting an absolute discrimination. Moreover, it is not necessary for harm to have occurred. Within this scope, it is considered possible for the employee to demand moral indemnity due to attacks on his/her personality within the framework of general provisions of the Code of Obligations.

The Committee refers to its conclusion under Article 8§2 and asks the next report to provide relevant examples of case-law demonstrating that, under the Civil Code and Code of Obligations, it is effectively possible for an employee illegally and discriminatorily dismissed on the ground of family responsibilities to obtain compensation for moral damage, without reference to the ceiling provided under the Labour Law. It holds that, should this information not be provided, there will be nothing to establish that the situation is in conformity with the Charter on this point. In the meantime it reserves its position on this issue.

The Committee recalls that the situation concerning other aspects covered by Article 27§3 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 defers its conclusion.

Article 31 - Right to housing

Paragraph 1 - Adequate housing

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

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

- adequate housing is defined in law,
- there are rules imposing obligations on landlords to ensure that dwellings they let are of an adequate standard and that
- the legal protection of the right to adequate housing is guaranteed.

Criteria for adequate housing

According to the report, requirements to be respected for new constructions, including *inter alia* the procedures and principles, are laid down in the Housing Law No. 2985 as well as the Construction Zoning Law No. 3194 and its implementing regulations. The report also refers to Law No. 6306 on the Transformation of Areas under Disaster Risk which determine the principles and procedures concerning improvement, demolition and renewal at areas under disaster risk, as well as any other lands and plots which accommodate risk-bearing buildings, in order to establish suitable, healthy and safe living environments compatible with science and craft norms and standards.

The Committee notes that no detailed information is provided in the report on the abovementioned laws and, therefore, it is still not clear whether the notion of adequate housing is defined in law. The report does not provide any details with respect to health and sanitation requirement; nor does it indicates whether the rules apply to the entire housing stock, including the renovation of existing property. Likewise, it does not provide details concerning the standards on surface area for dwellings.

Consequently, the Committee considers that the information provided is not sufficient for it to assess the situation in the light of the principles it has laid down. It asks whether "adequate housing" in Turkish law means a dwelling which is structurally secure, safe from a sanitary and health point of view i.e. it must possess all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity and must also be structurally secure, not overcrowded and with secure tenure supported by the law (see Conclusion 2003, France and Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 43) and, if so, whether those standards apply to new buildings, but also gradually to the existing housing stock. The Committee asks whether there is a general scheme for the renovation of existing property and whether it imposes similar criteria as for the construction.

For these reasons, the Committee considers that considers that the situation is not in conformity with the Charter on the ground that it has not been established that adequate housing is defined in law.

Responsibility for adequate housing

The Committee recalls that it is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard urban development rules and maintenance obligations for landlords. Public authorities must also guard against the interruption of essential services such as water, electricity and telephone (Conclusions 2003, France).

The Committee takes note of the information provided in the report concerning the building permission and the occupancy permit documents but find no information on the maintenance

obligations for landlords. It considers, therefore, the situation to be not in conformity with the Charter on the ground that it has not been established that there are rules imposing obligations on landlords to ensure that dwellings they let are of an adequate standard.

Legal protection

The Committee recalls that the effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies (administrative review, etc.) (Conclusions 2003, France). Any appeal procedure must be effective (European Federation of National Organisations Working with the Homeless (FEANTSA) c. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 80-81).

The report states that companies that perform construction and supervise construction are legally liable for 15 years for defective manufacture and even longer for hidden defects.

The Committee notes that the report does not provide the required information and, therefore, considers that the situation is not in conformity with the Charter on the ground that it has not been established that the legal protection of the right to adequate housing is guaranteed.

The Committee recalls that the situation concerning other aspects covered by Article 31§1 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 31§1 of the Charter on the grounds that:

- it has not been established that adequate housing is defined in law;
- it has not been established that there are rules imposing obligations on landlords to ensure that dwellings they let are of an adequate standard;
- it has not been established that the legal protection of the right to adequate housing is guaranteed.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that adequate eviction procedures exist and that the right to shelter is guaranteed.

Forced eviction

The Committee asked in its previous conclusion (Conclusions 2015) to be provided with information on the legal framework applicable to evictions in Turkey and related figures.

The Committee recalls that in order to comply with Article 31§2 of the Charter, legal protection for persons threatened by eviction must include:

- obligation to consult the parties affected in order to find alternative solutions to eviction;
- an obligation to fix a reasonable notice period before eviction;
- a prohibition to carry out evictions at night or during winter;
- accessibility to legal remedies;
- accessibility to legal aid;
- compensation in case of illegal eviction;
- obligation to carry out evictions under conditions which respect the dignity of the persons concerned and with rules of procedure sufficiently protective of the rights of the persons;
- obligation to adopt measures to re-house or financially assist the persons concerned by evictions carried out in the public interest.

As regards the obligation to consult the parties affected with evictions, the report states that urban transformation projects carried out within the framework of Law No. 6306 are being developed with the participation of citizens. Priority is given to the citizen's consent and, therefore, a person who does not intend to leave his or her dwelling voluntarily is not forced to eviction. When the owner of the property cannot be reached, eviction is decided by a court decision. Provisions on the eviction procedures and notice periods are stated in detail in Law No. 6306 and its implementing regulation. The Committee wishes to receive further information on this matter in the next report. In this regard, it recalls that a notice period is considered to be reasonable as from two months before eviction (European Federation of National Organisations Working with the Homeless [FEANTSA] v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 86-87; International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 78-79).

As regards accessibility to legal remedies and legal aid, the report states that owners of immovable properties located in the implementation areas of urban regeneration and development projects may bring cases before courts against the municipality (Article 18 of the Law No. 3194). The report adds that those immovable properties for which no owner have been identified in the land registry or on which there are pending legal disputes in regard to property rights shall be directly expropriated and their prices shall be blocked in a bank designated by the court for the right holders to be identified. Ongoing constructions shall be suspended for five years, except in certain circumstances. The duration of suspension may not exceed ten years. The Committee notes however from the report that municipalities enjoys a large margin of manoeuvre, and, consequently, they are entitled to cease suspension after only five years. The Committee asks whether such decisions rely on

a court decision and, if not, under what conditions the municipalities are entitled to do so. It also asks whether claimants/applicants are provided with legal aid.

As regards compensation in case of illegal eviction, the report distinguishes between two categories: those who are covered by Law No. 2981 and those who are not. The Committee understands that those who are covered enjoy more rights than those who are not. The latter shall be compensated for the value of their property or be directed to another property to buy. The Committee wishes to receive more information in the next report, in particular the rights granted to persons covered by the said law in comparison with those who are not, whether financial compensation is systematic and, with regard to people who refuse, whether they will be relocated in the new housing built.

With regard to obligation to adopt measures to re-house or financially assist the persons concerned by evictions carried out in the public interest, the report states that, in accordance with Article 5 of the Law No. 6306, temporary residence or rent allowance can be granted to owners and residents evicted from the urban regeneration and development areas or dangerous/risky buildings. The report provides no figures concerning evictions in Turkey, rehousing or financial assistance provided following eviction.

The Committee also notes that the report provides no information whatsoever on the obligation to carry out evictions under conditions which respect the dignity of the persons concerned or the prohibition to carry out evictions at night or during winter. Consequently, the Committee considers that it has not been established that evictions are carried out under conditions which respect the dignity of the persons concerned.

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution. Moreover, to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating and sufficient lighting. Another basic requirement is the security of the immediate surroundings (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 62).

Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31§2 of the Charter, States Parties are required to provide adequate shelter also to children unlawfully present in their territory for as long as they are in their jurisdiction (DCI v. the Netherlands, §§ 47 and 64).

The temporary provision of shelter, however adequate, cannot however be considered a lasting solution.

- As regards, persons lawfully resident or regularly working within the territory of the Party concerned accommodated in emergency shelters, they must, within a reasonable time, be offered either long-term accommodation suited to their circumstances or housing of an adequate standard as provided by Article 31§1.
- As regards persons unlawfully present within the territory, since no alternative accommodation may be required by States for them, eviction from shelter should be banned as it would place the persons concerned, particularly children, in a situation of extreme helplessness which is contrary to the respect for their human dignity (DCI v. the Netherlands, § 63).

Furthermore, the Committee refers to its Statement of Interpretation on Article 31§2 (Conclusions 2015) and recalls that eviction from shelters without the provision of alternative accommodation is prohibited.

The Committee asked in its previous conclusion (conclusion 2015) whether:

- shelters/emergency accommodations satisfy security requirements (including in the immediate surroundings) and health and hygiene standards (in particular

whether they are equipped with basic amenities such as access to water and heating and sufficient lighting);
- shelter/emergency accommodation is provided regardless of residence status; and
- the law prohibits eviction from shelters or emergency accommodation.

The report states that Temporary Protection Centres have been established in order to accommodate displaced people from Syria. Turkey is currently hosting about 253 045 Syrian immigrants in 26 Temporary Protection Centers. The report points out that those centers and their surroundings are subject to security measures. They are also provided with cleaning services, water, heating and lighting. Residents cannot be evicted from the centres they are living in against their will. The Committee takes note of the effort made by Turkey to manage this major migration flow but observes, nevertheless, that those centres are only used for accommodating persons under temporary protection status. The report provides no information on homeless persons who are not entitled to such a status. The Committee asks, therefore, whether those persons are also entitled to and, if not, whether other centres or shelter/emergency accommodation dedicated to homeless persons exist in Turkey. In this regard, it asks whether those shelters/emergency accommodations satisfy security requirements (including in the immediate surroundings) and health and hygiene standards (in particular whether they are equipped with basic amenities such as access to water and heating and sufficient lighting) and whether the law prohibits eviction from shelters or emergency accommodation.

The Committee considers that it has not been established that the right to shelter is guaranteed.

The Committee recalls that the situation concerning other aspects covered by Article 31§2 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 31§2 of the Charter on the grounds that:
- it has not been established that adequate eviction procedures exist;
- it has not been established that the right to shelter is guaranteed.

Article 31 - Right to housing

Paragraph 3 - Affordable housing

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

The Committee takes note of the information submitted by Turkey in response to the conclusion that it had not been established that there were remedies with respect to excessive waiting periods for the allocation of social housing and that the majority of qualified households received housing benefits in practice.

Social housing

The Committee recalls that States Parties must adopt measures to ensure that waiting periods for the allocation of housing are not excessive and judicial and non-judicial remedies must be available when waiting periods are excessive (International Movement ATD Fourth World v. France, Complaint No 33/2006, decision on the merits of 5 December 2007, § 131) .

In reply to the Committee's question, the report merely states that the existing demand for TOKI properties far exceeds supply. Due to the very high demand, houses are sold to applicants through a lottery supervised by a public notary. While taking note of this information, the Committee notes that it does not answer yet the question concerning the remedies with respect to excessive waiting periods for the allocation of social housing. The Committee accordingly reiterates it and considers the situation not to be in conformity with the Charter on this point.

Housing benefits

The Committee recalls that States Parties must introduce housing benefits at least for low-income and disadvantaged sections of the population. Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal (Conclusions 2003, Sweden).

In its previous conclusion (Conclusions 2015), the Committee asked whether the Council Housing Programme implemented for low-income persons covered financial aid. The report indicates in this respect that house construction/repair aids are provided to households on low income: a maximum of 25 000 TRY is paid to persons having their own land to help them constructing their own house or buying a new one. An aid of maximum 15 000 TRY may also be granted to persons living in unfavorable and unhealthy conditions for repair of the houses. 336 million TRY was allocated for this purpose between the years 2010-2016 which benefited to 28 000 families.

As regards the number of persons qualified for the TOKI's social housing project (Conclusions 2015), the report indicates that as of October 2016 (out of the reference period), the construction of 29 268 social housing was completed and delivered to the right-holders, construction proceedings for 4 261 dwellings were under way and a total of about 33 529 dwellings were planned.

Social housing program is also implemented in the provinces where there is a high rate of Roma population. As of November 2013, a total of 1 856 houses were completed in these areas and 2 088 houses are under construction in these areas.

The report adds that, within the scope of the "Planned Urbanization and Housing Production Mobilization", 753 946 housing units have been produced in 81 provinces by the end of 2016 (out of the reference period); 644 617 (85.50%) of these houses fall under the scope of Social Housing and 331 493 of them (43.97%) have been distributed to low and middle

Income group; 149 462 (19.82%) have been provided to the Lower Income group and 120 181 (15.94%) to the slum (Gecekondu) Transformation.

The Committee also asked whether remedies were available for those who are refused support by social housing projects. The report provides no information on this point. The Committee accordingly reiterates its question and reserves its position on this issue in the meantime.

The Committee recalls that the situation concerning other aspects covered by Article 31§3 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 31§3 of the Charter on the ground that it has not been established that there are remedies with respect to excessive waiting periods for the allocation of social housing.