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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

ARMENIA

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts "decisions".

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.¹

The European Social Charter (revised) was ratified by Armenia on 21 January 2004. The time limit for submitting the 13th report on the application of this treaty to the Council of Europe was 31 October 2018 and Armenia submitted it on 27 March 2019.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Children, families and migrants":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

Armenia has accepted all provisions from the above-mentioned group except Articles 16 and 31.

The reference period was 1 January 2014 to 31 December 2017.

The present chapter on Armenia concerns 32 situations and contains:

– 12 conclusions of conformity: Articles 8§2, 8§3, 8§4, 8§5, 19§1, 19§3, 19§5, 19§7, 19§9, 19§12, 27§1 and 27§3;

– 11 conclusions of non-conformity: Articles 7§1, 7§3, 7§5, 7§10, 17§1, 17§2n 19§2, 19§4, 19§6, 19§10 and 27§2.

In respect of the other 9 situations concerning Articles 7§2, 7§4, 7§6, 7§7, 7§8, 7§9, 8§1, 19§8 et 19§11, the Committee needs further information in order to assess the situation.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Armenia under the Revised Charter. The Government consequently has an obligation to provide this information in the next report from Armenia on the articles in question.

The next report from Armenia deals with the accepted provisions of the following articles belonging to the thematic group "Employment, training and equal opportunities":

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

The deadline for the report was 31 December 2019.

¹ The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).

Article 7 - Right of children and young persons to protection
Paragraph 1 - Prohibition of employment under the age of 15

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

In its previous conclusion (Conclusions 2015), the Committee noted that under Article 140 (1) of the Labour Code, children of 14 years of age are allowed to work up to 24 hours per week and considered that the situation was not in conformity with Article 7§1 on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

The current report indicates that according to Article 140 of the Labour Code as amended in 2015 the shorter working time for children is regulated as follows: (I) Children under the age of 7 – up to two hours a day, but not more than four hours a week; (II) Children aged 7 to 12 years – up to three hours a day, but not more than six hours a week; (III) Children aged 12 to 14 years – up to four hours a day, but not more than 12 hours a week; (IV) Children between the aged 14 to 16 years– up to 24 hours a week.

The Committee refers to its Statement of Interpretation on Articles 7§1 and 7§3 (Conclusions 2015) and it points out that children under the age of 15 and those who are subject to compulsory schooling may perform only “light” work. Work considered to be “light” ceases to be so if it is performed for an excessive duration. States are therefore required to set out the conditions for the performance of “light work”, particularly the maximum permitted duration.

The Committee considers that a situation in which children who were still subject to compulsory schooling carried out light work for two hours on a school day and 12 hours a week in term time outside the hours fixed for school attendance was in conformity with the requirements of Article 7§3 of the Charter (Conclusions 2011, Portugal). The Committee further recalls that a situation in which a child under the age of 15 works for between 20 and 25 hours per week during school term (Conclusions II, p. 32), or three hours per school day and six to eight hours on week days when there is no school is contrary to the Charter (Conclusions IV, p. 54) (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §31).

Given the daily duration of light work for children between the ages of 12 and 14 and the weekly duration of work for children between the ages of 14 and 16, the Committee maintains its conclusion of non-conformity on this point.

The Committee previously noted (Conclusions 2015) that Article 17 (2) of the Labour Code permits children aged 14 to 16 to be involved only in temporary works, with the consent of their parent or guardian, not causing damage to health, safety, education or morality. The Committee considered that the situation in Armenia was not in conformity with Article 7§1 of the Charter since the definition of light work is not sufficiently precise as there is no description of the types of work permitted for persons between the ages of 14 and 16 which may be considered light or a list of those who are not.

The Committee notes from the current report that the Labour Code has been amended in 2015 and Article 17 (2) has been supplemented by part 2.2, which prescribes that children under the age of 14 may be involved in creative work and/or performance within organisations for cinematography, sports, arts and concerts, circus, television and radio, which must not cause harm to their health and morality and must not impede their education and safety, with the consent of one of the parents or guardian. The Committee asks the next report to indicate what are the types of work children of 14 years of age allowed to perform within the framework of temporary works.

As regards monitoring child labour, in its previous conclusion (Conclusions 2015) the Committee noted that the report did not provide any information concerning findings of inspections in respect of child labour and asked the next report to provide information on the

number and nature of violations detected as well as on sanctions imposed on employers for breach of the regulations regarding prohibition of employment under the age of 16.

In this respect, the current report indicates that in 2014-2015 the State Health Inspectorate of the Staff of the Ministry of Health of the Republic of Armenia conducted inspections related to the application of the labour legislation to employees, as a result of which four cases of breach of guarantees prescribed by the labour legislation for persons under the age of 18 were registered, into two cases out of which the employees under the age of 18 were engaged in harmful works and other two cases the requirement for observing the prescribed working time was violated. An administrative penalty was imposed on the employers for the recorded violations, by applying a warning. According to another source (Observation (CEACR) – adopted 2018, published 108th ILC session (2019), Minimum Age Convention, 1973 (No. 138), Armenia) such violations, if committed for up to one year after the application of the warning, result in a fine equivalent to 50 times the minimum wage.

The Committee notes that the report contains information only with regard to the years 2014 and 2015 and does not provide information on activities, findings and sanctions imposed by the labour inspectorate in practice with specific regard to the prohibition of employment of children under the age of 15. It asks the next report to provide disaggregated data with regard to activities conducted, violations found and sanctions imposed by the competent labour inspectorate with specific regard to the prohibition of employment of children under the age of 15.

In its previous conclusion (Conclusions 2015), the Committee noted that the Labour Code and its provisions relating to the minimum age of admission to employment or work do not apply to work performed outside the framework of a formal labour relationship, such as self-employment or non-remunerated work. It therefore asked the next report to provide information on the measures taken to ensure that children who are not bound by an employment relationship (e.g. children performing unpaid work, work in the informal sector or work on self-employed basis) benefit from the protection provided by Article 7§1. It also asked the next report to indicate what are the measures taken by the authorities to detect cases of children under the age of 15 working on their own account or in the informal economy, outside the scope of an employment contract. The Committee further asked whether the State authorities monitor work done at home by children under 15 years old and pointed out that should the next report not provide the information requested, there would be nothing to establish that the situation is in conformity with Article 7§1 of the Charter.

The Committee notes that the report does not provide any information in this respect. It notes from another source (Observation (CEACR) – adopted 2018, published 108th ILC session (2019), Minimum Age Convention, 1973 (No. 138), Armenia) that with the assistance of the ILO, the Armenian National Statistical Service carried out a national survey on child labour and published in 2016 the “Armenia National Child Labour Survey 2015: Analytical Report”. According to the report, 39.300 children (8.7% of children aged 5-17) are involved in child labour, of which a vast majority (90.1%) work in agriculture. Moreover, among them, only 5% are employees with a verbal agreement, 25% work on their own account, and 70% are unpaid family workers.

The Committee recalls that the prohibition of the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households (Conclusions I (1969), Statement of Interpretation on Article 7§1). It further recalls that the prohibition also extends to all forms of economic activity, irrespective of the status of the worker (employee, self-employed, unpaid family helper or other).

The Committee notes that a large number of children aged 5 to 17 years are working in Armenia, in particular in activities outside the framework of a formal labour relationship and therefore without the protection provided by the national legislation. It further notes that while a large number of children were found engaged in child labour by the national survey,

especially children working in the informal economy, the National Labour Inspectorate found very few cases of violations of the relevant legislation. Thus, the Committee concludes that the situation in Armenia is not in conformity with Article 7§1 of the Charter, on the ground that the prohibition of employment of children under the age of 15 is not guaranteed in practice.

The Committee refers to its General question on Article 7§1 in the General Introduction.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 7§1 of the Charter on the grounds that:

- the duration of work permitted to children under the age of 15 is excessive and therefore the work cannot be qualified as light;
- the prohibition of employment of children under the age of 15 is not guaranteed in practice.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

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

The Committee noted previously that Article 257 of the Labour Code prohibits employing persons under 18 years of age in hard works, work involving possible exposure to agents which are toxic, carcinogenic or dangerous to health, work involving the possible exposure to ionising radiation or other hazardous and harmful agents, work involving higher risk of accidents or occupational diseases, as well work which a young person might not be able to perform safely due to a lack of experience or attention to safety (Conclusions 2011). It further noted that pursuant to Section 257 of the Labour Code the Governmental Decision No. 2308-N establishes a list of types of hazardous works prohibited to persons under 18 and concluded that the situation in Armenia was in conformity with Article 7§2 of the Charter (Conclusions 2015).

In its previous conclusion (Conclusions 2015), the Committee noted that the report did not provide any information with regard to the findings of the inspections conducted by the State Health Inspectorate and asked the next report to provide information on the number of violations detected as well as on sanctions imposed on employers for breach of the regulations regarding the prohibition of employment under the age of 18 for dangerous or unhealthy activities.

In this respect, the current report indicates that in the years 2014-2015 the State Health Inspectorate of the Staff of the Ministry of Health of the Republic of Armenia conducted inspections related to the application of the labour legislation to employees, as a result of which 4 cases of breach of guarantees prescribed by the labour legislation for persons under the age of 18 were registered, out of which in 2 cases the employees under the age of 18 were engaged in harmful works and in other 2 cases the requirement for observing the prescribed working time was violated. An administrative penalty was imposed on the employers for the recorded violations, by applying a warning. According to another source (Observation (CEACR) – adopted 2018, published 108th ILC session (2019), Minimum Age Convention, 1973 (No. 138), Armenia) such violations, if committed for up to one year after the application of the warning, result in a fine equivalent to 50 times the minimum wage.

The Committee notes that the national labour inspectorate found very few cases of violations of the legislation concerning the employment of young persons under the age of 18 and the information provided on its activities do not cover the entire reference period. It further notes that the report does not provide specific information on activities and findings of the authorities in relation to the prohibition of employment under the age of 18 for dangerous or unhealthy activities. It recalls that the situation in practice should be regularly monitored and asks the next report to provide up-to-date information on the monitoring activities of the labour inspectorate with specific regard to the prohibition of employment of children and young persons under the age of 18 for dangerous or unhealthy activities, including the number of violations detected and the sanctions imposed in practice to the employers in cases of violations.

Conclusion

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

Article 7 - Right of children and young persons to protection

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

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

As regards the age of completion of compulsory education, the Committee previously asked the next report to clearly indicate which is the age of completion of compulsory education and the relevant legislation. In particular it asked whether the age limit for compulsory education coincides with the age of admission to employment which is 16, or otherwise whether compulsory schooling comes to an end at the age of 15, before young persons are entitled to work.

In this respect, the current report indicates that as from 1st June 2017, the relevant provision of Article 18 part 7 of the Law of the Republic of Armenia “On education” entered into force, pursuant to which “in the Republic of Armenia twelve-year education or primary vocational (handicraft) or secondary vocational education shall be mandatory until the learner attains the age of 19, where that right has not been exercised earlier”.

In its previous conclusion (Conclusions 2015), the Committee found the situation to be not in conformity with Article 7§3 of the charter on the ground that the daily and weekly working time for children subject to compulsory education is excessive.

The Committee refers to its conclusion on Article 7§1 where it noted that according to Article 140 of the Labour Code as amended in 2015 the shorter working time for children is regulated as follows: (I) Children under the age of 7 – up to two hours a day, but not more than four hours a week; (II) Children between the ages of 7 and 12 – up to three hours a day, but not more than six hours a week; (III) Children between the ages of 12 and 14 – up to four hours a day, but not more than 12 hours a week; (IV) Children between the ages of 14 and 16 – up to 24 hours a week. The Committee refers to its statement of interpretation mentioned on Article 7§1 and, given the daily duration of light work for children between the ages of 12 and 14 and the weekly duration of work for children between the ages of 14 and 16, it maintains its conclusion of non-conformity on this point.

In its previous conclusion, the Committee concluded that the situation in Armenia was not in conformity with Article 7§3 of the Charter since the definition of light work is not sufficiently precise, as there is no description of the types of work which may be considered light and a list of those who are not. The Committee refers to its conclusion on Article 7§1 where it noted that the legislation prescribes the lists of heavy and harmful productions, works, occupations and positions for all employees (Decision of the Government of the Republic of Armenia No 1698-N of 2 December 2010) and a list of occupations deemed heavy and harmful for persons under the age of 18, pregnant women and women taking care of a child under the age of one year (Decision of the Government of the Republic of Armenia No 2308-N of 29 December 2005) and asked the next report to specify what are the types of works listed in the relevant Decisions when the employment of persons under the age of 18 is prohibited.

In its previous conclusion (Conclusions 2015), the Committee noted that according to Article 17 (3) of the Labour Code, persons at the age of 14 to 16 may not be involved in work on days off, non-working days – holidays and commemoration days – except for the cases of participation in sport and cultural events. It asked the next report to indicate in which conditions children subject to compulsory education participate in sport or artistic performances (for example whether the consent of the parents and the curator is required). The current report indicates that the participation of a child in sporting, cultural or other events is ensured under the written consent of one of the parents or an adopter or a curator.

As regards working during school holidays, the Committee previously asked whether the rest period free of work has a duration of at least two consecutive weeks during the summer holiday (Conclusions 2011). In its previous conclusion (Conclusions 2015), it noted that the report did not contain any information in this respect and pointed out that should the next report not

provide the information requested, there would be nothing to establish that the situation is in conformity with Article 7§3 of the Charter.

In this respect, the current report indicates that during the three-months summer vacations an employment contract for a period of maximum two months shall be concluded based on the requirements of part 4 of Article 17 and part 1 of Article 101 of the Code, in which case the duration of the leave of the employee may constitute 3 working days in case of a five-day working week and 4 working days in case of a six-day working week (the duration of the minimum annual leave in the case of the five-day working week is 20 working days and in the case of the six-day working week is 24 working days). The Committee understands that the summer vacation lasts three months and children are allowed to perform work up to a maximum of two months, in order to ensure that the minors benefit of at least two consecutive weeks of rest during the summer holidays. It asks the next report to confirm its understanding.

As regards monitoring, in its previous conclusion (Conclusions 2015) the Committee recalled that the situation in practice should be regularly monitored and asked the next report to provide information on the number and nature of violations detected as well as on measures taken/sanctions imposed on employers for breach of the regulations regarding the prohibition of employment of children subject to compulsory education.

The Committee refers to its conclusion on Article 7§1 concerning the information provided by the national report. It notes that the national labour inspectorate found very few cases of violations of the legislation concerning the employment of young persons under the age of 18 and the information provided on its activities do not cover the entire reference period. It further notes that the report does not provide specific information on activities and findings of the authorities with specific regard to the prohibition of employment of children still subject to compulsory school attendance.

The Committee refers to its conclusion on Article 7§1 where it noted from another source (Observation (CEACR) – adopted 2018, published 108th ILC session (2019), Minimum Age Convention, 1973 (No. 138), Armenia) that with the assistance of the ILO, the Armenian National Statistical Service carried out a national survey on child labour and published in 2016 the “Armenia National Child Labour Survey 2015: Analytical Report”. According to the report, 39,300 children (8.7% of children aged 5-17) are involved in child labour, of which a large majority (90.1%) work in agriculture. Moreover, among them, only 5% are employees with a verbal agreement, 25% work on their own account, and 70% are unpaid family workers.

The Committee notes that a large number of children aged 5 to 17 years are working in Armenia, in particular in activities outside the framework of a formal labour relationship and therefore without the protection provided by the national legislation. It further notes that while a large number of children were found engaged in child labour by the national survey, especially children working in the informal economy, the national labour inspectorate found very few cases of violations of the relevant legislation. The Committee therefore concludes that the situation in Armenia is not in conformity with Article 7§3 of the Charter, on the ground that the legislation on prohibition of employment of children subject to compulsory education is not effectively enforced in practice.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 7§3 of the Charter on the grounds that:

- the duration of work permitted to children who are subject to compulsory education is excessive and therefore the work cannot be qualified as light;
- the legislation on prohibition of employment of children subject to compulsory education is not effectively enforced.

Article 7 - Right of children and young persons to protection
Paragraph 4 - Working time

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

The Committee notes from the information provided in the report submitted by Armenia that there have been no changes to the legal situation which it has previously found to be in conformity with Article 7§4 of the Charter (Conclusions 2015).

As regards monitoring activities, in its previous conclusion (Conclusions 2015) the Committee noted that the report did not contain information with regard to findings of inspections in respect of working time and rest periods for young workers under the age of 18. It therefore asked the next report to provide information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding working time for young workers under the age of 18. The Committee pointed out that should the next report not provide the information requested, there would be nothing to establish that the situation is in conformity with Article 7§3 of the Charter.

The Committee refers to its conclusion on Article 7§1 where it noted that the current report indicates that in the years 2014-2015 the State Health Inspectorate of the Staff of the Ministry of Health of the Republic of Armenia conducted inspections related to the application of the labour legislation to employees, as a result of which 4 cases of breach of guarantees prescribed by the labour legislation for persons under the age of 18 were registered, out of which in 2 cases the employees under the age of 18 were engaged in harmful works and in other 2 cases the requirement for observing the prescribed working time was violated. An administrative penalty was imposed on the employers for the recorded violations, by applying a warning. According to another source (Observation (CEACR) – adopted 2018, published 108th ILC session (2019), Minimum Age Convention, 1973 (No. 138), Armenia) such violations, if committed for up to one year after the application of the warning, result in a fine equivalent to 50 times the minimum wage.

The Committee notes that the national labour inspectorate found very few cases of violations of the legislation concerning the employment of young persons under the age of 18 and the information provided on its activities cover only the years 2014 and 2015. It further notes that the report does not provide specific information on activities and findings of the authorities in relation to working time of young workers under the age of 18 who are no longer subject to compulsory schooling. It recalls that the situation in practice should be regularly monitored and asks the next report to provide up-to-date information on the monitoring activities of the labour inspectorate with specific regard to young workers under the age of 18 who are no longer subject to compulsory schooling, including the number of violations detected and the sanctions imposed in practice to the employers in cases of violations.

Conclusion

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

Article 7 - Right of children and young persons to protection
Paragraph 5 - Fair pay

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

Young workers

The report states that the minimum hourly wage for a 40-hour week (an adult worker) is AMD 300 (€ 0.57), while for the 36-hours week (16-18 years olds) is AMD 334 (€ 0.63) and for the 24-hour week (young workers below 16 years of age) is AMD 500 (€ 0.94). The report does not specify whether this is the net hourly wage.

The Committee recalls that young worker's wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly. For 15/16 year-olds, a wage of 30% lower than the adult starting wage is acceptable. For 16/18 year-olds, the difference may not exceed 20%. The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.

Since Armenia has not accepted Article 4§1 of the Charter, the Committee makes its own assessment on the adequacy of young workers wage under Article 7§5. For this purpose, the ratio between net minimum wage and net average wage is taken into account.

The Committee takes note of the data provided by the report according to which the average monthly net salary amounted to AMD 118.951 (€ 224,75) in 2014, AMD 128951 (€ 243.64) in 2015, AMD 131009 (€ 247.53) in 2016, AMD 146274 (€ 276.37) in 2017. From the data provided in the report, it results that the minimum monthly wage of an adult worker stood at AMD 50 000 (€ 94,47) as of 1 July 2014 and had been increased to 55 000 (€ 103,92) AMD in 2015 and maintained at the same level in 2016 and 2017. The Committee notes that the monthly minimum wage corresponds to approximately 42% of the average wage, which is not considered acceptable. Therefore the Committee considers that the situation it is not in conformity with the Charter.

Apprentices

In its previous conclusions (2015) the Committee reiterated its request that the next report provide information and examples on the levels of allowances paid to apprentices at the beginning of apprenticeship and at the end. It pointed out that if the next report does not provide the requested information there will be nothing to establish that the situation in Armenia is in conformity with the Charter on this point. The report indicates that the remuneration of students is regulated by Article 201.1 of the Labour Code, pursuant to which, the employer shall be entitled to organise, at his or her expense, the professional training of students or persons being accepted for employment within the organisation or another place on contractual basis for up to six months, by paying the students a scholarship in the amount of at least the minimum monthly salary established by law throughout the training. Therefore the amount of remuneration thereof may not be lower than the amount of the minimum salary established by law for the given group.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 7§5 of the Charter on the ground that the young workers wages are not fair.

Article 7 - Right of children and young persons to protection

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

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

The Committee noted previously that under the Labour Code, the period necessary for the improvement of qualification at workplace or educational institutions was included in the working time (Section 138 of the Labour Code), and considered the situation to be in conformity with the Charter (Conclusions 2011).

The Committee in its previous Conclusions (2015) recalled that the satisfactory application of Article 7 cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised. It therefore asked that the next report provides information on the monitoring activity of the authorities, on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding the inclusion of time spent on vocational training by young workers in the normal working time.

The report in reply to the question posed by the Committee refers to the information provided under article 7.1. In this respect an Health Inspection Body was created in April 2017 which is tasked with monitoring occupational safety and health standards for employees, along with monitoring a variety of public health standards. The Health Inspection Body also has the ability to monitor compliance with legislation protecting workers under the age of 18. Since the information provided doesn't answer the question posed, the Committee reiterates its request that the next report provide information on the monitoring activity of the authorities, on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding the inclusion of time spent on vocational training by young workers in the normal working time. Therefore it defers its conclusion on this point. It points out that if the next report does not provide the requested information there will be nothing to establish that the situation in Armenia is in conformity with the Charter.

Conclusion

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

Article 7 - Right of children and young persons to protection
Paragraph 7 - Paid annual holidays

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

In its previous Conclusions (2015) the Committee deferred its conclusion.

In its previous Conclusions (2015) the Committee recalled that the satisfactory application of Article 7 cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised. It therefore asked that the next report provide information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under the age of 18. It also asked whether the new created State Health Inspectorate of the Staff of the Ministry of Health monitors effectively the employers comply with the legislation/rules concerning paid annual holidays of young workers under 18. The report does not provide this information. The Committee therefore defers its conclusion on this point and underlines that if this information is not provided in the next report there will be nothing to establish that the situation in Armenia is in conformity with the Charter.

Conclusion

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

Article 7 - Right of children and young persons to protection
Paragraph 8 - Prohibition of night work

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

In its previous Conclusions (2015) the Committee recalled that the satisfactory application of Article 7 cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised. It therefore asked that the next report provide information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding prohibition of night work for young workers under the age of 18. The report does not provide this information. The Committee therefore defers its conclusion on this point. It points out that if the next report does not provide the information requested, there will be nothing to establish that the situation is in conformity with Article 7§8 of the Charter.

Conclusion

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

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

The Committee previously (Conclusions 2011 and Conclusions 2015) requested information on the monitoring activity of the Labour Inspectorate. The report does not provide the requested information. The Committee recalls that the situation in practice should be regularly monitored. Since the report is silent on the number and nature of violations detected as well as on sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young workers the Committee defers its conclusion on this point. The Committee points out that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 7§9 of the Charter.

Conclusion

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

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

Protection against sexual exploitation

In its previous conclusion (Conclusions 2017), the Committee noted that Article 289 of the new draft Criminal Code provides for the prohibition of the dissemination of pornographic materials or objects. Part 2 of the mentioned Article concerns the punishment prescribed for the production, dissemination of child pornography or storage of child pornography on the computer system or computer data storage system or through other means. The Committee asked the next report to inform about the entry into force of the draft law. It also asks how the draft law regulates protection of children against sexual exploitation -i.e. child prostitution and child pornography.

The Committee notes from the report that, although the Criminal Code does not define the concepts of "child" and "minor", according to other laws, namely the Law on Identification and Assistance to Victims of Human Trafficking and Exploitation (Art. 4§1/6), the Family Code (Art. 41§1) and the Law on the Rights of the Child (Art. 1), a child is any person under the age of 18.

It also observes that the Criminal Code has established specific age groups for each type of sexual assault, classifying them into groups under 18, 16, 14 and 12 years of age, and sentences are calculated based on this classification: the younger is the child, the more severe is the sentence.

The report indicates that the Criminal Code provides for criminal liability inter alia, inter alia for compelling a child under the age of 16 to engage in sexual intercourse or sexual acts by blackmail, threatening to destroy, damage or seize property or by using the victim's financial or other dependence (Art. 140.2), engaging in sexual intercourse or other sexual acts with a child under 16 years of age (Art. 141), involving a child in prostitution or the preparation of pornographic materials (Art. 166), facilitating the prostitution of a minor (Art. 262.2/6) and the introduction (downloading, posting, distributing) of child pornography through a computer system, as well as storing child pornography in a computer system or data storage system (Art. 263.2).

Victims of the above-mentioned criminal offences are exempt from criminal liability for minor or medium-serious offences in which they have been involved in the context of trafficking or exploitation of which they are victims and have committed such acts under pressure (Art 132.5 of the Criminal Code).

In addition, the Law "On Identification and Assistance to Victims of Human Trafficking and Exploitation", in force since 30 June 2015, uses the concept « victim of a special category » which refers to children and persons with mental health problems. A series of enforcement laws ensure the implementation of the law, regulate the activities of the Commission for the Identification of Victims of Human Trafficking and Exploitation, establish the basis for cooperation between public bodies and non-governmental organisations, ensure the procedure for the identification and assistance of victims of trafficking, and also set up mechanisms to collect statistical data.

A referral mechanism for children victims of human trafficking and exploitation is under finalisation.

The Committee refers to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography in Armenia, submitted to the UN Human Rights Council at its thirty-first session on 1 February 2016 (A/HRC/31/58/Add.2). According to this report the current child protection system in Armenia is not effective in preventing different forms of exploitation of children.

The Committee requests that the next report provide information on the functioning of the referral mechanism for children victims of human trafficking and exploitation, the mechanisms for collecting statistical data on the sexual exploitation of children and on the existence of a national action plan to combat the sexual exploitation of children.

Protection against the misuse of information technologies

In its previous conclusion (Conclusions 2015) the Committee requested full information on supervisory mechanisms and sanctions for sexual exploitation of children through the information technologies. It further asked whether legislation or codes of conduct for Internet service providers were foreseen in order to protect children.

The report does not provide information on these points. It indicates only that in 2018, Armenia became a member of the international network "We Protect Global Alliance", which aims to plan and implement comprehensive legislative and procedural measures to end online sexual exploitation.

The Committee notes from the report of the UN Special Rapporteur on the sale of children, child prostitution and child pornography mentioned above, that the rapid growth rate of the Internet in Armenia coupled with the absence of regulation of Internet service providers and telecommunications companies, and the absence of coordinated measures to ensure child safety online, children are at risk of child sexual abuse and exploitation online.

The Committee recalls that Article 7§10 guarantees the right of children to be protected against physical and moral dangers within and outside the working environment. This covers, in particular, the protection of children against all forms of exploitation and against the misuse of information technologies.

With a view to combating sexual exploitation of children through the use of internet technologies States Parties must adopt measures in law and in practice, such as by providing that Internet service providers be responsible for controlling the material they host, encouraging the development and use of the best monitoring system for activities on the net (safety messages, alert buttons, etc) and logging procedures (filtering and rating systems, etc.). Internet services providers should be under an obligation to remove or prevent accessibility to illegal material to which they have knowledge and internet safety hotlines should be set up through which illegal material could be reported.

In the light of the information provided, the Committee considers that it has not been established that adequate measures are taken to protect children against the misuse of information technologies.

Protection from other forms of exploitation

In its previous conclusion (Conclusions 2015) the Committee requested information on the implementation of the Law on Identification and Assistance to Victims of Human Trafficking and Exploitation. It takes note of the information provided and notes in particular that in 2016-2017, 511 police officers attended training programmes on anti-trafficking measures.

The Committee also notes that in order to detect children in street situations and assist them, an inter-agency working group has been established, composed of representatives of the relevant ministries, the United Nations and the Armenian Relief Fund (FAR), as well as relevant officials at the level of the municipality of Yerevan and in the provinces. The Committee asks to be kept informed on the results of the activities of this working group.

The Committee recalls that Parties must prohibit the use of children in other forms of exploitation such as domestic/labour exploitation, including trafficking for the purposes of labour exploitation, and begging.

In this context, it noted from the report of the UN Special Rapporteur mentioned above that, in respect of child labour, there is no official data on the scope of the phenomena, which

hampers the Government's ability to adopt and implement effective policies. Refugee children are also victims of different forms of child labour, such as domestic or agricultural work. Children in Armenia are also at risk of forced begging.

According to a report of the Group of Experts on Action against Trafficking in Human Beings (GRETA) on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings report of 2 December 2016, while trafficking in adults for the purpose of labour exploitation is infrequent in Armenia, exploitation of children through the worst forms of child labour and forced labour is a more serious problem. GRETA refers to the Pilot Study completed by the OSCE in 2015 which concluded that exploitation of children through the worst forms of child labour and in some cases through forced labour is a serious problem, affecting mostly children in rural areas where child labour is considered a common phenomenon. Cases of child labour reported in the Pilot Study concern children between 9 and 17 years of age engaged in activities like shepherding, harvesting, trading and construction work.

In this context, the Committee requests that the next report provide information on the measures taken to prohibit the use of children in other form of exploitation, in particular trafficking for the purposes of labour exploitation and begging.

The Committee refers to the General Comment No. 21 of the UN Committee on the Rights of the Child which provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child, which has been ratified by Armenia.

In the light of the information available, the Committee considers that it has not been established that measures taken to protect children against economic exploitation are adequate.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 7§10 of the Charter on the grounds that:

- it has not been established that the adequate measures are taken to protect children against the misuse of information technologies;
- it has not been established that adequate measures are taken to protect children against other forms of exploitation such as trafficking for the purposes of labour exploitation.

Article 8 - Right of employed women to protection of maternity
Paragraph 1 - Maternity leave

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

Right to maternity leave

There have been no changes in the situation which was previously found to be in conformity with the Charter (Conclusions 2015). Article 172 of the Labour Code provides for a compulsory period of 140 days of pregnancy and maternity leave, namely 70 days to be taken before birth and 70 days after birth, which may be extended in the case of complications or multiple births (up to a total of 180 days). This scheme applies to all women in both the public and the private sectors. The Committee reiterates its findings of conformity on this point.

Right to maternity benefits

The Committee previously noted that Article 172 of the Labour Code provides that all working women (in the private and public sectors) are entitled to pregnancy and maternity leave, their full wage being paid during the whole length of the leave. The average monthly salary is calculated by dividing by 12 the income paid by the employer to the employee over 12 consecutive calendar months preceding the month of the temporary incapacity for work ("calculation period"). If the employee had worked for the employer for less than 12 months as of the date of the temporary incapacity for work, the salary paid by another employer during the calculation period is taken into account when calculating the average monthly salary of the employee.

In its previous conclusion (Conclusions 2015), the Committee asked how the benefits were calculated in the case of an employee who had been working for less than 12 months during the calculation period, i.e. whether interruptions in the employment record were taken into account in the determination of maternity benefits.

In reply, the report indicates that Law No. HO-160-N of 27 October 2010 was amended by Law No. HO-206-N of 1 December 2014 in order to replace "temporary incapacity benefits" for pregnant women or those on maternity leave by "maternity benefits". The procedure for granting maternity benefits has also been clarified. If the average monthly salary or income is less than 50% of the amount laid down in Article 1 of the Law on Minimum Monthly Wages, the benefit is equal to 50% of that amount. The Committee asks whether this includes part-time workers. It points out that, under Article 8§1 of the Charter, maternity benefits must be equal to at least 70% of the previous wage. It again asks if interruptions in the employment record are taken into account when determining maternity benefits. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Armenia is in conformity with Article 8§1 of the Charter in this respect. In the meantime, it reserves its position on this issue.

The Committee requires that the next report should provide information regarding the right to any kind of benefits for the employed women who do not qualify for maternity benefit during maternity leave.

In its previous conclusion, the Committee also asked whether the minimum amount of maternity benefit corresponded to at least 50% of the median equivalised income (in the absence of this indicator, the Committee takes the national poverty threshold into account, i.e. the monetary cost of the household consumption basket containing the minimum quantity of food and non-food items and services which is necessary for an individual to maintain a decent living standard and be in good health, see Conclusions 2013 on Article 13§1, Armenia).

The Committee recalls that, under Article 8§1, the level of income-replacement benefits should be fixed so as to stand in reasonable proportion to the previous salary (these shall be equal to the previous salary or close to its value, and not be less than 70% of the previous wage) and it should never fall below 50% of the median equivalised income (Statement of

Interpretation on Article 8§1, Conclusions 2015). If the benefit in question stands between 40% and 50% of the median equivalised income, other benefits, including social assistance and housing, will be taken into account. On the other hand, if the level of the benefit is below 40% of the median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into conformity with Article 8§1.

In the absence of this Eurostat indicator, the Committee notes from official statistics that the median equivalised income was AMD 68,888 per month in 2017 (€113.80 at the exchange rate of 31 December 2017). In other words, 50% of the median equivalised income was AMD 33,555 (€56.90). The Committee will refer to these thresholds when assessing the adequacy of maternity benefits. According to official figures for 2017, the minimum statutory wage in Armenia amounted to AMD 55,000 (€93.59). In the light of the foregoing, the Committee finds that the situation is in conformity with Article 8§1 on this point.

Conclusion

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

Article 8 - Right of employed women to protection of maternity
Paragraph 2 - Illegality of dismissal during maternity leave

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

Prohibition of dismissal

Article 114 of the Labour Code prohibits employers from dismissing employees between the date of notification of pregnancy and up to one month after the end of maternity leave, except for two cases – liquidation of the employer and expiry of the employment contract (Article 111§1). The Committee considers these exceptions to be in conformity with Article 8§2 of the Charter.

Redress in case of unlawful dismissal

In its previous conclusion (Conclusions 2015), the Committee found the situation to be in conformity with Article 8§2 of the Charter. It asked whether compensation covered both pecuniary and non-pecuniary damage and 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 on average it took courts to make their ruling.

In response, the report indicates that under Article 241§§1 and 2 of the Labour Code, the damage subject to compensation must include actual (pecuniary) damage and lost benefits. Non-pecuniary damage is regulated by Chapter 9 of the Civil Code. The cases concerning compensation for non-pecuniary damage and labour disputes are not the same and may be examined under distinct procedure. Labour disputes are examined in judicial proceedings before ordinary law courts, in accordance with the Code of Civil Procedure. The Committee understands from the report that there is no ceiling on the compensation for the non-pecuniary damage in case of unlawful dismissal, and asks for confirmation on this in the next report.

The report also states that the Ministry of Justice has drawn up a bill on legal equality, which contains provisions prohibiting discrimination in employment relationships. Anyone who has reason to believe is the victim of discrimination is entitled to file a complaint with a court, a Human Rights Defender or a relevant administrative body for his/her rights to be restored and to claim compensation for pecuniary and non-pecuniary damage. The Committee asks that the next report contain information concerning the entry into force of this law.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Armenia is in conformity with Article 8§2 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§3 of the Charter. Since the situation remains unchanged, it confirms its previous finding of conformity.

The Committee asks that the next report indicate the situation of part-time employees regarding paid breastfeeding breaks.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 8§3 of the Charter.

Article 8 - Right of employed women to protection of maternity
Paragraph 4 - Regulation of night work

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

In its previous conclusion (Conclusions 2017), the Committee found that the situation was in conformity with Article 8§4 of the Charter. Since the situation remains unchanged, it confirms its previous finding of conformity.

The Committee refers to its Statement of Interpretation on Articles 8§4 and 8§5 (Conclusions 2019) and asks the next report to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave; it furthermore asks the next report to confirm that the women concerned retain the right to return to their previous employment at the end of their protected period.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 8§4 of the Charter.

Article 8 - Right of employed women to protection of maternity
Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

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

In its previous conclusion (Conclusions 2015), the Committee concluded that the situation was in conformity with Article 8§5 of the Charter and asked the next report to provide comprehensive and updated information as regards the list of activities and factors which were prohibited and/or restricted for the categories of women covered by Article 8§5 of the Charter. It also asked to confirm that the employment of pregnant women, women who had recently given birth and women nursing their infants was still prohibited in underground work in mines and that other dangerous activities, such as those involving exposure to lead, benzene, ionising radiation, high temperatures, vibrations or viral agents were prohibited or strictly regulated.

The report recalls that, under Article 258 of the Labour Code (amended in 2010), it is prohibited to engage pregnant women or women taking care of a child under the age of one in heavy, harmful, especially heavy and especially harmful work, as defined by national legislation. According to the report, the annex to Government Decision No. 2308-N of 29 December 2005 lists the activities which are considered harmful for pregnant women and women taking care of a child under the age of one, namely underground work in mines and activities involving exposure to lead, benzene, ionising radiation, high temperatures, vibration or viral agents.

Moreover, under Annex 3 to Government Decision No. 1089-N of 15 July 2004 (on approval of the procedure for compulsory prior (upon admission to employment) and periodic medical examination of the health condition of persons subject to the influence of harmful and hazardous factors in the industrial environment and in the work process; the lists of factors, the nature of the work performed and medical contraindications), the employment of pregnant or breastfeeding women in work involving harmful and hazardous factors in the industrial environment is prohibited.

In its previous conclusion, the Committee asked whether in case of temporary transfer to another post the woman concerned was entitled to maintain her regular level of salary and whether she retained the right to return to her previous employment at the end of the protected period. In response, the report indicates that the restrictions imposed on women are temporary and the women concerned are entitled to return to their previous posts at the end of the protected period. In the event of transfer to another post, the woman concerned is entitled to maintain her regular level of salary.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 8§5 of the Charter.

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

Paragraph 1 - Assistance, education and training

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

The legal status of the child

In its previous conclusion the Committee noted from the report that the confidentiality of adoption is provided for by Article 128 of the Family Code. The Committee recalled in this respect that Article 17 guarantees the right of a child to know, in principle, their origins. The Committee asked whether the Family Code places any restrictions to this right. According to the report a person having reached the age of 18 shall have the right to receive information on their adoption, place and date of birth, as well as the personal data of their biological parents, including nationality, blood type and diseases. State and local self-government bodies may provide such information only in case of written consent previously provided by the biological parents. In the absence of such consent, information may be provided in a non-identifying manner.

The Committee previously noted that legislation makes no distinction between children born to married parents and children born to unmarried parents. All children are equal before the law. The Committee requested the next report to provide the relevant legislative basis guaranteeing this equality (Conclusions 2017). The report states that the Constitution, and the Family Code prohibit discrimination on grounds of birth. Further it states that a draft law on discrimination is currently being considered which will strengthen the protection against all forms of discrimination.

The Committee has noted with concern the increasing number of children in Europe registered as stateless, as this will have a serious impact on those children's access to basic rights and services such as education and healthcare. In 2015, UNHCR estimated the total number of stateless persons in Europe at 592,151 individuals.

The Committee asks what measures have been taken by the State to reduce statelessness (such as ensuring that every stateless migrant child is identified, simplifying procedures for obtaining nationality, and taking measures to identify children unregistered at birth).

The Committee further asks what measures have been taken to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation.

Protection from ill-treatment and abuse

In its previous conclusion the Committee held that the situation during the reference period was not in conformity with the Charter as corporal punishment was not explicitly prohibited in the home (Conclusions 2015).

The Committee notes that the report provides details of the various legal provisions prohibiting violence and abuse against children. Under the amendments to Article 8 of the Law of the Republic of Armenia of 21 December 2017 Article 53 of the Family Code has been amended to read as follows: "Parental rights cannot run counter to children's interests which should be of primary concern for parents. When exercising their rights, parents shall not have the right to harm the physical and psychological health of the children and nor their moral development. The upbringing of children must exclude any use of physical or psychological violence as a disciplinary measure, as well as ignorant, cruel, violent, degrading treatment."

However the Committee notes from the Global Initiative to End All Corporal Punishment of Children (Country report for Armenia 2019) that "Prohibition is still to be achieved in the home, some alternative care settings and day care.....There is no defence for the use of corporal punishment enshrined in legislation but there is no explicit prohibition. In theory, the prohibition of physical or psychological violence, cruelty and humiliation in childrearing in article 53 of the

Family Code would prohibit corporal punishment by parents, but the potential for such an interpretation is undermined by the near universal social acceptance and use of corporal punishment in childrearing.....”

The Committee asks for the Government's comments on this. In the meantime, the Committee finds that the situation is still not in conformity in this respect.

Rights of children in public care

The Committee previously requested details regarding the development of foster care, including the number of children placed in foster families as well as the trend in de-institutionalisation of children (Conclusions 2015).

The report states that the "Strategic Programme for the Protection of the Rights of the Child in the Republic of Armenia for 2017-2021" aims, inter alia, at ensuring the right of children to remain within their families and the integration of children with disabilities into society,

During 2016 and 2017, two Child and Family Support Centres were established in the city of Yerevan and in Syunik Marz .

During the reference period, 27 children were in the care of foster families, and it was planned to place another 67 children in foster families by the end of 2018.

The Committee notes that the number of children in foster care seems low. It requests that the next report provide updated information on the number of children in institutions, on the number of children in foster care, as well as on trends in this area.

The Committee notes from the report of the Commissioner for Human Rights of the Council of Europe following her visit to Armenia in September 2018 [CommDH 2019 1] that according to UNICEF data, in 2016 there were about 3,500 children living in state residential care institutions in Armenia. Despite the efforts of the Government the Commissioner was concerned that a high number of children with living parents are placed in state residential institutions. The Commissioner also noted that the ratio of children with disabilities placed in care homes appears to be on the rise.

A Human Rights Watch study [When will I get to go home? Abuses and Discrimination against Children in Institutions and Lack of Access to Quality Inclusive Education in Armenia”, report, Human Rights Watch, 2017] estimated that 90% of children in residential care in Armenia have at least one living parent. The same study claimed that most children in Armenian orphanages and other residential institutions were placed there either because of their disability or on account of poverty, or other family hardship.

The Committee concludes that the situation is not in conformity with the Charter on the grounds that the ratio of children placed institutions compared to those in foster care is too high.

As regards the restriction of parental rights, the Committee previously asked whether the financial situation of the family could be the sole ground for the placement of children outside their home (Conclusions 2015). According to the report, one of the priorities of the Strategic Programme is to ensure that the social status of the family does not become a reason for removing the child from their family. Family support centres have been established for this purpose. However the Committee asks whether the social status includes financial status and asks whether there is any legislation or case law on the issue. In the meantime, the Committee reserves its position on this point.

Right to education

As regards education, the Committee refers to its conclusion under Article 17§2.

Children in conflict with the law

The Committee previously found that the situation was not in conformity due to the length of pre trial detention that could be imposed on children (8 months) (Conclusions 2015). The

Committee notes that there has been no change to the situation and reiterates its previous conclusion of non-conformity.

The Committee recalls that, according to Article 89 of the Criminal Code, the maximum sentence that can be imposed on a child is 10 years (where the offence is committed between 16 and 18 years of age) and 7 years (where the offence is committed by a child under 16 years of age).

The Committee recalls that a period of detention should only be imposed on a child in exceptional circumstances as a measure of last resort and for the shortest period of time. It should also be subject to review the Committee asks whether periods of detention are reviewed on a regular basis.

The Committee asked previously whether children in pre-trial detention and of those serving a prison sentence are always separated from adults (Conclusions 2015). The report states that children in detention are separated from adults.

The Committee asks whether children may be subject to solitary confinement, and if so, under what circumstances and for how long.

Right to assistance

Article 17 guarantees the right of children, including children in an irregular situation and non-accompanied minors to care and assistance, including medical assistance and appropriate accommodation [International Federation of Human Rights Leagues (FIDH) v. France, Complaint No 14/2003, Decision on the merits of September 2004, § 36, *Defence for Children International (DCI) v. the Netherlands*, Complaint No. 47/2008, decision on the merits of 20 October 2009, §§70-71, European Federation of National Organisations working with the Homeless (FEANSA) v, Netherlands, Complaint No.86/2012, Decision on the merits of 2 July 2014, §50].

The Committee considers that that the detention of children on the basis of their immigration status or that of or their parents is contrary to the best interests of the child. Likewise unaccompanied minors should not be deprived of their liberty, and detention cannot be justified solely on the grounds they are unaccompanied or separated, or on their migratory or residence status or lack thereof.

It requests information on whether children who are irregularly present in the State accompanied by their parents or not, may be detained and if so under what circumstances. The Committee also requests further information on the measures taken to ensure that accommodation facilities for migrant children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored.

The Committee previously asked what assistance is given to children in an irregular situation to protect that from negligence, violence and abuse (Conclusions 2015). The report does not provide this information, the Committee therefore repeats its request. Should this information not be provided in the next report there will be nothing to demonstrate that the situation is in conformity with the Charter.

The Committee asks whether children in an irregular situation have access to healthcare.

As regards age assessments, the Committee recalls that, in line with other human rights bodies, it has found that the use of bone testing in order to assess the age of unaccompanied children is inappropriate and unreliable [European Committee for Home Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, Decision on the merits of 24 January 2018, §113]. The Committee asks whether Armenia uses bone testing to assess age and, if so, in what situations the State does so. The Committee asks what potential consequences such testing may have (e.g., can a child be excluded from the child protection system on the sole basis of the outcome of such a test?).

Child poverty

The prevalence of child poverty in a state party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection. The obligation of states to take all appropriate and necessary measures to ensure that children and young persons have the assistance they need is strongly linked to measures directed towards the improvement and eradication of child poverty and social exclusion. Therefore, the Committee will take child poverty levels into account when considering the state's obligations under the terms of Article 17 of the Charter.

According to the above cited report of the Commissioner for Human Rights of the Council of Europe following her visit to Armenia in September 2018, in 2016, the poverty and extreme poverty rates in Armenia, calculated according to national criteria, were 29.4% and 1.8%, respectively. However, these rates stood at 34.2% and 2%, respectively for children, according to the report "Social Snapshot and Poverty in Armenia", published by Armenia's statistical service. In addition, according to UNICEF [Child poverty in Armenia: National Multiple Overlapping Deprivation Analysis, report, UNICEF Armenia, 2016], although children represent 22% of the overall Armenian population, they account for 26% of the "poor population" and 30% of the "extremely poor" population. Moreover, youth poverty in Armenia appears to be a growing phenomenon – in 2008, the ratio of children living in poverty amounted to 29.8% but grew to 34.2% in 2016.

The Committee asks the next report to provide information on rates of child poverty as well as on measures adopted to reduce child poverty, including non- monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc. Information should also be provided on measures focused on combatting discrimination against and promoting equal opportunities for, children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.

States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 17§1 of the Charter on the grounds that:

- not all forms of corporal punishment of children are prohibited in all settings;
- the ratio of children in institutions to the number of children in foster-care or other forms of family-based care is too high;
- the maximum length of pre-trial detention is excessive.

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

Paragraph 2 - Free primary and secondary education - regular attendance at school

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

A 12-year compulsory education system was introduced in the Republic of Armenia in September 2017.

Enrolment rates absenteeism and drop out rates

The Committee previously concluded that the situation in Armenia was not in conformity with Article 17§2 of the Charter on the ground that the net enrolment and attendance rates in the secondary education were low (Conclusions 2015).

According to the report in 2016/2017 the gross enrolment ratio of schoolchildren in primary school (1st-9th grades) was 90.7%. In high school (grades 9-12) it was 65.1%. The gross enrolment ratio of schoolchildren in high school is low, as 14.5% of the population of a relevant age continued education at primary vocational (handicraft) and secondary vocational education institutions upon graduation from primary school. Overall, in the secondary education cycle, the gross enrolment ratio was 86.0%. The net enrolment ratio of schoolchildren in primary school was 89.6%.

According to UNESCO in 2017 the net enrolment rate for primary education for both sexes was 91.95%, the corresponding rate for secondary education was 89.56%. The Committee considers that the enrolment rate for secondary education still appears low and asks for further information in this respect. Meanwhile it reiterates its previous finding of non conformity.

The report states that in 2014-2015 in order to identify children leaving compulsory education, the United Nations Children's Fund (UNICEF) and the Ministry of Education and Science of the Republic of Armenia carried out a programme for identifying children leaving compulsory education in the Lori Region of the Republic of Armenia. Based on this in 2017 a draft Procedure for identifying and guiding children leaving compulsory education has been developed. The state has begun to collect data on children enrolled and leaving compulsory education. A system has been introduced which tracks the educational progress of a child during the entire learning process

The Committee wishes the next report to provide updated information on enrolment rates, absenteeism and drop out rates as well as information on measures taken to address issues related to these rates, including information on the implementation of the above mentioned procedure.

Costs associated with education

According to the report funds are allocated from the state budget to provide primary level school children with free textbooks. Funds are also available for reimbursing the cost of textbooks for children from socially disadvantaged families beyond primary level.

In 2017 all pupils from 1st to 12th grade in 39 communities receiving social support were provided with free textbooks. The Committee asks whether all children attending primary school do in fact receive free text books.

The "Sustainable School Food" national programme has been introduced, and through this programme, 1st-4th grade pupils in general education schools in 5 regions and pupils in inclusive education receive free food. Schools in other regions not included in the national programme, receive school food through the United Nations World Food Programme.

The Committee asks the next report to provide information on any other measures taken to mitigate the costs of education, such as, transport, uniforms and stationary.

Vulnerable groups

Since Armenia has not accepted Article 15§1 of the Charter, the education of children with disabilities is examined under this provision.

The Committee previously noted that despite the increasing trend in inclusive education, a large number of children with disabilities who live in institutions and rural areas, do not receive formal education, it asked the next report to provide up-to-date information in this respect. It further requested information on, whether the legislation explicitly protected persons with disabilities from discrimination in education. It also asked to receive statistics regarding children with disabilities in mainstream schools (Conclusions 2015).

The report states that in 2014, the law on education was amended, laying down the principle of inclusive education and stipulating that every school must provide inclusive education regardless of any considerations and specifically include children with disabilities by August 2025. To ensure enforcement of the Law, the Government approved by Protocol Decision No 6 of 18 February 2016 "The Action Plan and timetable for implementation of the system of universal inclusive education".

The Ministry of Education and Science has prepared a timetable to that end for all regions. The process of ensuring inclusive education is supported by several non-governmental and international organisations.

According to the report, the system is currently at a transitional stage, and during such period, certain inclusive schools and the former system of special schools will operate in parallel to each other. Pedagogical-psychological support services are being established in the regions to support schools in providing educational services in line with the needs of a child. Pursuant to the timetable, a universal inclusive education system has already been introduced in *Syunik*, *Tavush* and *Lori* regions. New standards of assessment of the educational needs of children have been approved and tested in the Syunik, Lori, Tavush and Armavir regions since 2016.

The report states that as a result of the changes 17 special general education schools out of former 23 special general education schools in total, continue to operate and a total of 6 territorial pedagogical-psychological support centres and the Republican Pedagogical-Psychological Support Centre have been established. Based on the data for the 2017-2018 school year, overall, nearly 9,400 children with special educational needs were enrolled in general education. This group of children includes children enrolled in universal inclusive education in 3 regions, as well as nearly 1900 children learning in 19 special general education schools and nearly 6225 children with special educational needs learning in 201 general education schools providing inclusive education. The Committee finds the data difficult to comprehend and refers to its question below.

The report states that in 2018 (outside the reference period), the National Assembly adopted the first reading of the draft law on the "Protection of rights and social integration of persons with disabilities. The draft law lays down the principle of inclusive education. The report states that Article 22 of the draft law guarantees the creation of the necessary conditions and equal opportunities for persons with disabilities to receive equality education equally with other persons. The draft law prohibits discrimination on grounds of disability and provides for reasonable accommodation.

The Committee asks the next report to provide information on the progress of the draft legislation and its implementation.

The Committee notes from the Concluding Observations of the UN Committee on the Rights of Persons with disabilities on the initial report of Armenia [CRPD/C/ARM/CO/1, 2017] that the UN Committee expressed concern that, despite an increasing trend towards inclusive education, many children with disabilities remain in segregated educational settings and do not receive the support they need to access inclusive education. It was also concerned about the lack of accessibility and reasonable accommodation for children with disabilities in

mainstream schools, and the lack of sufficient support and training for administrative and teaching staff with regard to inclusive education.

The Commissioner of Human Rights of the Council of Europe in her report [CommDH(2019)1] following her visit, noted that according to the Ministry of Education and Science, in the school year 2016/2017 there were 6,700 children with “special educational needs” enrolled in ordinary (mainstream) schools providing inclusive education, while 2,134 children remained enrolled in special schools. According to the figures for 2017/2018, 201 public schools provided education deemed “inclusive” – 81 more than in the previous year. However, the Commissioner also noted that there were concerns regarding the need to improve the inclusion of children with disabilities in mainstream education.

The Committee asks the next report to provide updated information on the progress made in ensuring inclusive education for children with disabilities, including data on the number of children with disabilities in education, the percentage of the total number of children with disabilities in education, the percentage of children with disabilities in education in mainstream education and the percentage of children with disabilities in education in separate special education.

The Committee asks for information on the situation of children from ethnic minorities and children living in rural areas.

The Committee asks whether irregularly present children, as well as asylum-seeking and unaccompanied children have an effective right to education.

Anti-bullying measures

The Committee asks what measures have been taken to introduce anti bullying policies in schools, i.e., measures relating to awareness raising, prevention and intervention.

The voice of the child in education

Securing the right of the child to be heard within education is crucial for the realisation of the right to education in terms of Article 17.2 This requires states to ensure child participation across a broad range of decision-making and activities related to education, including in the context of children’s specific learning environments. The Committee asks what measures have been taken by the State to facilitate child participation in this regard.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in secondary education is too low.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 1 - Assistance and information on migration

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

Migration trends

In the past few decades, Armenia has had to constantly deal with large numbers of immigrants, mainly composed of ethnic Armenians, as a result of the Nagorno-Karabach conflict, the situation in Iraq and, more recently, in Syria.

According to the 2016 IOM report on “Managing the pre-departure orientation process for Armenian labour migrants” Armenia is a country of origin, providing a labour force within the Eurasian migration system, with the Russian Federation as the main destination country. Labour emigration constitutes 70—75% of the total amount of emigration flows from Armenia, sometimes even reaching 94%. Unemployment is cited as the largest problem; it was estimated at around 17.2% in 2014, with youth unemployment at 24%. The other cited problem, poverty, affects more than 30% of the population. In addition to the Russian Federation (90.6%), other frequently named destination countries include Ukraine (0.6%), the United States (0.8%), other Commonwealth of Independent States (CIS) countries and EU Member States.

In most cases, labour migration from Armenia is temporary—migrant workers stay abroad for less than a year. This scheme (circular migration pattern, where the migration experience is repeated) is relevant for 94% of all migrants. Only 3 per cent leave the country with the purpose to permanently settle abroad; 2 per cent leave to study abroad. In most cases, migrant workers are hired for seasonal or otherwise fixed-duration assignments in the construction sector.

Change in policy and the legal framework

The Committee notes that the legal framework has been further developed in the area of migration. The Law on “Employment” adopted on 11 December 2013, envisages measures supporting integration of returning labour migrants into the labour market.

In addition to enacting legislation, the authorities have adopted various programmes, such as a “2017-2021 Migration Strategy Action Plan”, an “Action programme for implementation of the Policy concept for the state regulation of migration in the Republic of Armenia for 2012-2016”, a “National strategy on human rights protection” (adopted in 2012) and an “Action plan for the national strategy on human rights protection” (adopted in 2014), which contains measures for the integration of refugees and long-term migrants. Its paragraph 83 refers to draft legislation creating preconditions for the development of a policy on the integration of refugees and long-term migrants. In 2016 the Government of Armenia adopted “integration policy concept for persons recognised as refugees and who received asylum, as well as long-term migrants in the Republic of Armenia”, which was followed by the adoption of its Action Plan in 2017. It includes number of targeted measures, such as awareness raising and information campaigns, Armenian language and civic orientation trainings, and temporary housing solutions. The concept also includes measures ensuring, that existing services are more accessible for these people.

The Committee notes that the International Organisation for Migration (IOM) runs several programmes to regulate migration, combat trafficking, and improve integration through advice and education.

Free services and information for migrant workers

The Committee recalls that this provision guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate (Conclusions I (1969), Statement of Interpretation of Article 19§1). Information should be reliable and objective and cover issues such as formalities to be completed and the

living and working conditions they may expect in the country of destination (such as vocational guidance and training, social security, trade union membership, housing, social services, education and health) (Conclusions III (1973), Cyprus).

In response to its question, the Committee notes, that considerable work has been done with regard to providing information to migrant workers. Currently there are 7 Migration Resource Centres and 1 Mobile Migration Recourse Centre operating under the State Employment Agency of the Ministry of Labour and Social Affairs of Armenia. The aim of the Migration Resource Centres is to raise awareness on the employment and migration programmes, to assess the needs of the migrants, to assist them and provide information. In addition, the State Employment Agency of the Ministry of Labour and Social Affairs of Armenia has a hotline, via which the persons leaving for migrant work are provided with consultancy on the labour migration legislation of the relevant country. In 2017, the State Employment Agency of the Ministry of Labour and Social Affairs of Armenia jointly with the International Organisation for Migration and the "Armenian Caritas" Benevolent Non-Governmental Organisation developed the "iMigrant" mobile application, which is under final testing stage.

Through the Mobile Migration Resource Centre and the hotline there is an opportunity to provide with consultancy in three languages (Armenian, Russian and English), and via "iMigrant" mobile application information in Russian and Armenian will be provided, it is envisaged in the future to present information also in English.

The Committee considers that, taking into account the wide provision of off-line and on-line information, and the targeted face to face counselling services provided by national and local bodies, the situation in this regard is in conformity with the Charter.

Measures against misleading propaganda relating to emigration and immigration

The Committee recalls that measures taken by the government should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter (Conclusions XIV-1 (1998), Greece).

The Committee considers that in order to be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia, as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary inter alia to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease (Conclusion XV-1 (2000), Austria).

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

The Committee further recalls that in order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere. It underlines that the authorities should take action against misleading propaganda as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia).

Finally, the Committee recalls that States must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.

The Committee notes from the report that, though prohibition of discrimination is stipulated under the legislation, there are no clearly set legal protection mechanisms against discrimination.

According to the 2016 report of the European Commission against Racism and Intolerance (ECRI) on Armenia, the authorities have embarked upon significant legislative initiatives. However, the criminal, civil and administrative legislation suffers from numerous shortcomings with the result that it is not possible to combat racism or racial discrimination comprehensively. The courts lack expertise in the application of the international standards which plaintiffs could rely on to rectify the existing legal shortcomings. In cases of racial discrimination, the lack of any mechanism for sharing the burden of proof makes it difficult to establish evidence. This undermines the Human Rights Defender's ability to gather information on cases of racial discrimination submitted to him.

With regard to Committee's question raised in its previous conclusion (Conclusions 2015), the report provides information related to the activities of the Human Rights Defender directed at the protection of the rights of migrants, refugees and asylum seekers. Particularly, an ad-hoc report on "Securing the rights of refugees and asylum seekers in the Republic of Armenia" was published, informative posters and leaflets presenting relevant fundamental provisions of the Armenian Constitution and legislation, rights and obligations of refugees, contact details of competent bodies and organisations, available in 6 languages, were placed in border crossing points.

It is noted that a round-table discussion on "Combating racial discrimination and intolerance in Armenia" was held by the ECRI jointly with the Human Rights Defender's office and the Ministry of Justice of Armenia, as a follow-up to the above-mentioned ECRI report. During the meeting, issues related to the legislative and institutional framework for the fight against discrimination, integration policies for refugees and other immigrants were discussed.

The Committee also notes the joint events and trainings organised in cooperation with the Armenian Red Cross Society and the Armenian office of the UNHCR, with the participation of the representatives of the Human Rights Defender's Office, Police, Border Guard Troops and National Security Service on international standards on human rights and protection of refugees and asylum-seekers, as well as inter-agency cooperation.

The Committee notes from the above-mentioned ECRI report that the level of xenophobia against ethnic minorities in Armenia in traditional media is very low. However, several instances of intolerant statements have been found there, targeting people belonging to the LGBT community or to non-traditional religious groups.

With regard to non-traditional religious groups, ECRI notes that the media have published a significant number of reports stigmatising minority religious groups as "sects" and propagated fear of religious minorities. Several articles were published in newspapers, portraying religious minorities as criminals and spies; while these did not refer to particular religious groups, their combined result was an atmosphere of intolerance towards all religious minorities. Religious groups also reported increased intolerance and threats on social networks.

The Committee recalls that States have an obligation to take measures or undertake programmes to prevent the dissemination of false information to departing nationals, as well as to prevent the misinformation of foreigners wishing to enter the country. Authorities should take action in this area as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia).

According to ECRI, no independent mechanism for dealing with complaints against the police has been created. There are no statistics on offences motivated by religious hatred and civil- and administrative-law actions for racial discrimination.

ECRI notes in its report, that there are continues training courses for members of the judiciary, law enforcement authorities and lawyers. While these courses are about human rights in general, there is a thematic focus on combating racism and intolerance. They are an integral part of initial training at the Police Academy and the Judicial Academy. It should be also underlined that Armenia is involved in the Council of Europe assistance programme "Human Rights Education for Legal Professionals" (HELP). ECRI understands that these training

initiatives have helped to raise legal professionals' awareness of racism and racial discrimination issues and improved their ability to respond effectively thereto.

The Committee notes, that since 2002 several strategies and action plans have been implemented to fight trafficking, including the 2016-2018 National Programme to fight against trafficking in and exploitation of human beings, which includes activities directed at raising awareness and capacity enhancement among employees of public administration, local self-government bodies and organisations dealing with this topic, as well as raising awareness on trafficking and exploitation of human beings among public in general. According to the report, a guide on identifying and referring children victims of trafficking, as well as the National Programme for the fight against trafficking in and exploitation of human beings for 2019-2021 are being developed.

The Committee notes that number of activities have been organised to promote the provision of information to combat misleading propaganda, in combination with the Migration Resource Centres (including mobile migration resource centre and "iMigrant" application). It also notes that strategies and legal frameworks exist to combat trafficking and to deal with discrimination. It asks that the next report provide a full and up to date description of the situation in law and in practice regarding the matters dealt with above and highlighted in the case law of the Committee. In particular, it requests information on measures taken to implement and reinforce the legal and policy framework.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Armenia is in conformity with Article 19§1 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 2 - Departure, journey and reception

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

Immediate assistance offered to migrant workers

This provision obliges States to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception (Conclusions III (1973), Cyprus).

Reception means the period of weeks which follows immediately from the migrant workers' arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty (Conclusions IV, (1975) Statement of Interpretation on Article 19§2). It must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures (Conclusions IV (1975), Germany). The Charter requires States to provide explicitly for assistance in matters of basic need, or demonstrate that the authorities are adequately prepared to afford it to migrants when necessary (Conclusions XX-4 (2015), Poland).

The Committee also reiterates that equality in law does not always and necessarily ensure equality in practice. Additional action becomes necessary owing to the different situation of migrant workers as compared with nationals (Conclusions V (1977), Statement of Interpretation on Article 19).

In its previous conclusion the Committee considered that the situation in Armenia was not in conformity with the Charter on the ground that no appropriate measures had been taken to facilitate the departure, journey and reception of foreign workers ([Conclusions 2017](#)). Most services available were dedicated in priority to immigrants and/or emigrants of Armenian origins and were related to raising awareness on migration issues, providing (potential) emigrants with pre-migration consulting services and assisting returning migrants in re-integration into the labour market. The Committee renewed its request for information on, in particular, services available for newly arrived migrants to support them upon reception in Armenia.

In reply, the report states that a mobile application is being developed which shall serve migrants with information on necessary procedures, residence, employment, as well as on matters such as social security, services, education, healthcare and others. It also provides information on programmes aimed at raising awareness about social services provided by the state, as well as at social and psychological rehabilitation of victims of trafficking. It also refers in this respect to Migration Strategy Action Plan 2018-2021 (out of the reference period).

The Committee recalls that the scope of Article 19§2, as indicated above, goes much beyond provision of information on relevant services for migrant workers but more specifically about existence of such services. In this light, the Committee again repeats its request that the next report provide a comprehensive reply to following questions:

- what specific steps are taken in the period following the arrival of any new migrants to assist them with matters such as those mentioned in the case-law of the Committee?
- what assistance, financial or otherwise, is available to all migrants in emergency situations, in particular in response to their needs of food, clothing and shelter?
- is other help available from the state, in particular are there limits or restrictions on the access of working migrants to state welfare provision, and if so, what those limits are?
- what rules govern the access to healthcare for all migrants, irrespectively of their status, in particular in emergency?

It recalls that states must show that the national situation is in conformity with the Charter. Accordingly, the Committee concludes that it has not been demonstrated that the situation is in conformity with the Charter on this point.

Services during the journey

As regards the journey, the Committee recalls that the obligation to "provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey" relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. The Committee considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the state is not responsible. In such cases, the need for reception facilities would be all the greater (Conclusions V (1975), Statement of Interpretation on Article 19§2).

The Committee notes that no large scale recruitment of migrant workers has been reported in the reference period. It asks what requirements for ensuring medical insurance, safety and social conditions are imposed on employers, shall such recruitment occur, and whether there is any mechanism for monitoring and dealing with complaints, if needed.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 19§2 of the Charter on the ground that it has not been established that appropriate measures have been taken to facilitate the departure, journey and reception of foreign workers.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 3 - Co-operation between social services of emigration and immigration states

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

The Committee recalls that the scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin (Conclusions XIV-1 (1998), Belgium).

It also recalls that formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a needs basis may be sufficient. Whilst it considers that collaboration among social services can be adapted in the light of the size of migratory movements (Conclusions XIV-1 (1996), Norway), it holds that there must still be established links or methods for such collaboration to take place.

The co-operation required entails a wider range of social and human problems facing migrants and their families than social security (Conclusions VII, (1981), Ireland). Common situations in which such co-operation would be useful would be for example where the migrant worker, who has left his or her family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to his or her country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which he was employed (Conclusions XV-1 (2000), Finland).

The Committee has noted in its previous conclusion that Migration Resource Centres were established to assist migrant workers in matters of employment ([Conclusions 2015](#)). It deferred its conclusions requesting more detailed information on cooperation between social services.

The report confirms that the Migration Resource Centres provide services to all foreign labour migrants, as well as to Armenian citizens. Furthermore, a number of international agreements on working activity and social protection for citizens working outside the borders was signed, inter alia, with Russia, Ukraine, Belarus, Bulgaria, Georgia, as well as partnership agreements with the CIS and the EU.

The Committee notes from the International Organisation for Migration (IOM) reports that Armenia is predominantly an emigration country and that return and reintegration assistance to migrants is offered in cooperation with the IOM. It requests information to be included in the next report on the assistance made available to returning migrants. Furthermore, it asks whether the cooperation extends beyond social security alone (for example in family matters), which would assist migrant workers in resolving any personal and family difficulties.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 4 - Equality regarding employment, right to organise and accommodation

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

Remuneration and other employment and working conditions

The Committee recalls that States are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training, promotion, as well as vocational training (Conclusions VII (1981), United-Kingdom).

In 2015 ([Conclusions 2015](#)) the Committee noted from the Migration and Integration Policy Index (MIPEX) report on Armenia (published 2010) that temporary migrant workers were not necessarily guaranteed equal access to the full labour market or public employment services and asked for comprehensive information on remuneration and other working conditions of migrant workers. The report states that the Law on employment provides equal right to employment to citizens and foreigners. It does not address the issue of equality of working conditions and prohibition of discrimination.

Again, the Committee notes from MIPEX (2013 report on Armenia) that temporary migrant workers are not guaranteed equal access to the full labour market or public employment services because authorities retain significant discretion in implementation. Foreigners also face limits on access to general support—more specifically, all foreigners are not guaranteed access to free vocational training, while they must pay two times as much as Armenian nationals do for the recognition of foreign qualifications.

The Committee urges the next report to comment on these observations and to provide exhaustive information on working conditions and equal treatment of migrant workers, including their remuneration and access to vocational training and promotion. It also asks for information on practical measures taken to implement the legislative framework and to ensure that general principles set in law are respected in practice. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Membership of trade unions and enjoyment of the benefits of collective bargaining

The Committee recalls that this sub-heading requires States to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining (Conclusions XIII-3 (1995), Turkey). This includes the right to be founding member and to have access to administrative and managerial posts in trade unions (Conclusions 2011, Statement of interpretation on Article 19§4(b)).

In this regard, the Committee refers to its previous conclusions ([Conclusions 2017](#)), where it found the situation to be in conformity with the Charter.

Accommodation

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

In its conclusion in 2015 ([Conclusions 2015](#)), the Committee asked for information on how equal treatment with respect to accommodation is secured. In reply, the report does not provide any information on access to subsidised housing or housing aids, such as loans or other allowances and on general availability of housing for migrant workers. The Committee

accordingly considers that it has not been demonstrated that the situation is in conformity with the Charter on this point.

Monitoring and judicial review

The Committee recalls that it is not enough for a government to demonstrate that no discrimination exists in law alone but also that it is obliged to demonstrate that it has taken adequate practical steps to eliminate all legal and de facto discrimination concerning the rights secured by Article 19§4 of the Charter (Conclusions III (1973), Statement of interpretation).

In particular, the Committee considers that in order to monitor and ensure that no discrimination occurs in practice, States Parties should have in place sufficient effective monitoring procedures or bodies to collect information, for example disaggregated data on remuneration or information on cases in employment tribunals (Conclusions XX-4 (2015), Germany).

The Committee further recalls that under Article 19§4(c), equal treatment can only be effective if there is a right of appeal before an independent body against the relevant administrative decision (Conclusions XV-1 (2000) Finland). It considers that existence of such review is important for all aspects covered by Article 19§4.

The Committee asked previously (Conclusions 2015) what body was responsible for the implementation of employment programmes and services, and whether any data was collected concerning the number of migrant workers who avail themselves of such programmes. It asked whether there were guidelines or rules which govern the actions of the responsible authority when dealing with migrant workers. It also asked whether employees of employment services receive training on non-discrimination. The report submits that Migration Resource Centres were established in the reference period, with the aim to inform migrant workers on their rights and obligations and offering consultancy for Armenians wishing to emigrate. In this framework, a training course was organised on management of the process of orientation of Armenian labour migrants before they leave.

The Committee further asked whether there was a body which could receive complaints concerning discrimination in employment and for information regarding the judicial application of the non-discrimination legislation.

The report does not provide information in this respect. The Committee notes from the MIPEX report, cited above that Armenia lacks a dedicated law and specialised equality agency to protect its residents from discrimination. The only provisions come from the constitution and vague equality clauses in a few national laws. Without a comprehensive law, the concepts of racial, ethnic, religious, nationality and other forms of discrimination are neither well-defined, nor specifically prohibited in all areas of life, such as vocational training, social protection and advantages, health and housing. The available enforcement mechanisms are not very effective for enforcing these fragmented prohibitions. Civil, criminal, and administrative courts are technically open to all types of discrimination cases, however, are likely to be ineffective without specific anti-discrimination mechanisms, including the shift in the burden of proof, protection against victimisation, and the role in proceedings for equality NGOs in support or on behalf of the victim and without the help of a specialised equality body, since the Human Rights Defender can only assist victims in cases against the state. The Armenian state has not taken on legal commitments to prevent and punish discrimination among staff and service-providers in the public sector. Nor has it led public dialogue and information campaigns on people's rights as victims.

In the light of the information in its possession, the Committee considers that it has not been established that the situation is in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 19§4 of the Charter on the grounds that it has not been established that the state:

- has taken adequate practical steps to eliminate all legal and de facto discrimination,
- put in place effective monitoring procedures or bodies, and
- ensures an effective right of appeal before an independent body concerning the rights secured by Article 19§4 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 5 - Equality regarding taxes and contributions

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

It recalls that this provision recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions (Conclusions XIX-4 (2011), Greece).

The Committee notes that the situation, which it has previously found to be in conformity with the Charter (Conclusions 2017), has not changed: migrant workers are treated equally with nationals as regards taxes and social contributions.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 19§5 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 6 - Family reunion

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

Scope

This provision obliges States Parties to allow the families of migrants legally established in the territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age of majority in the receiving State. "Dependent" children are understood as being those who have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies (Conclusions VIII (1984) Statement of Interpretation on Article 19§6).

In its previous conclusion ([Conclusions 2015](#)), the Committee requested detailed information on the scope of the right to family reunion, in particular whether there were any age limits imposed for children or spouses. As the report does not address this matter, the Committee recalls its question and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the right to family reunion is in conformity with the Charter in Armenia.

Conditions governing family reunion

The Committee recalls that a state must eliminate any legal obstacle preventing the members of a migrant worker's family from joining him (Conclusions II (1971), Cyprus). Any limitations upon the entry or continued present of migrant workers' family must not be such as to be likely to deprive this obligation of its content and, in particular, must not be so restrictive as to prevent any family reunion (Conclusions XVII-1 (2004), the Netherlands; Conclusions 2011, Statement of Interpretation on Article 19§6).

The Committee furthermore recalls taking into account the obligation to facilitate family reunion as far as possible under Article 19§6, States Parties should not adopt a blanket approach to the application of relevant requirements, so as to preclude the possibility of exemptions being made in respect of particular categories of cases, or for consideration of individual circumstances (Conclusions 2015, Statement of Interpretation on Article 19§6).

In its previous conclusion (Conclusions 2015), the Committee recalled all principles regarding requirements which a state may pose on migrant workers applying to bring in a family or a certain family member and asked for a full description of the legal framework for family reunion, including on any restrictions or requirements, and the measures taken to implement it. The report provides extensive information on the rights of refugees and asylum seekers in this respect but none as regards migrant workers who are not applying for international protection. In the light of the persistent lack of the essential information (see also [Conclusions 2011](#)), the Committee considers that it has not been demonstrated that the right to a family reunion is effectively secured.

Remedy

The Committee recalls that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness (Conclusions 2015, Statement of Interpretation on Article 19§6).

The Committee concluded in its previous conclusion (Conclusions 2015) that the situation was not in conformity with the Charter on the ground that there was no right of review of a decision rejecting an application for family reunion before an independent body. The report does not reply to this finding of non-conformity and the Committee reiterates it.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 19§6 of the Charter on the ground that:

- it has not been established that the right of families of migrants legally established in the territory to join them is effectively secured;
- there is no right of review of a decision rejecting an application for family reunion before an independent body.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 7 - Equality regarding legal proceedings

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

The Committee recalls that States must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals (Conclusions 2015, Armenia).

It further recalls that 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. 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 (Conclusions 2011, Statement of interpretation on Article 19§7).

The Committee notes that it previously assessed the legal framework relating to the access to free legal counsels, legal aid and interpreter for migrant workers in judicial proceedings (civil, criminal and administrative) concerning the rights guaranteed by Article 19§7 ([Conclusions 2017](#)) and found it to be in conformity with the requirements of the Charter. It will focus in the present assessment on any changes or outstanding issues.

The report recalls the provisions evaluated by the Committee in its previous conclusions. The Committee accordingly understands that a new Code of Civil Procedure, which was being drafted, has not yet been adopted and ask the next report to provide information on any developments in this respect in relation to the access to legal aid.

As regards the services of an interpreter in criminal proceedings, the court is obliged, at the expense of the state funds, to provide interpretation to an accused who does not have command of Armenian. Free assistance of an interpreter is also granted to a foreign-language witness or appointed expert who prove that they do not have sufficient means for ensuring paid interpretation.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 19§7 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 8 - Guarantees concerning deportation

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

The Committee has interpreted Article 19§8 as obliging 'States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality' (Conclusions VI (1979), Cyprus). Where expulsion measures are taken they cannot be in conformity with the Charter unless they are ordered, in accordance with the law, by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Any such expulsion should 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. Such expulsion 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, must also be considered to determine whether expulsion is proportionate. All foreign migrants served with expulsion orders must have also a right of appeal to a court or other independent body (Statement of Interpretation on Article 19§8, Conclusions 2015).

In its previous conclusion (Conclusions 2017), the Committee assessed the guarantees concerning deportation under the Armenian legal framework. It also took account of additional clarification provided by the authorities as regards expulsion on health grounds (see in this respect the Committee's request in Conclusions 2015). The Committee then deferred its conclusion, pending receipt of additional information on following issues:

- time-limit granted to foreigners whose residence permit expired prior to any expulsion, within which the police shall notify the person about the decision concerning his/her residency status and the time-limit for either getting a valid residence status, leave the country or lodge an appeal against that decision,
- whether courts, when examining the risk of violation of human rights in case of expulsion, take into account the Charter's requirements under Article 19§8 and assess the proportionality of expulsion be determined by considering 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, including the individual's connection or ties with both the host state and the state of origin, and the strength of any family relationships that he/she may have formed during this period.

The report recalls exhaustively the grounds and conditions for expulsion, as well as the relevant guarantees under the legal framework. However, it fails to respond to the Committee's questions. The Committee thus repeats its request for specific clarifications and exceptionally reserves its position once more. It recalls that states must show that the national situation is in conformity with the Charter. In the event of repeated absence of information, the Committee will conclude that there is failure to comply.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 9 - Transfer of earnings and savings

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

The Committee recalls that this provision obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country (Conclusions XIII-1 (1993), Greece).

In its previous conclusion (Conclusions 2015), the Committee found the situation to be in conformity with the requirements of the Charter and asked for updated information on the relevant legal framework.

The report confirms that there are no specific restrictions on transfer of income or savings of migrant workers. Any requirements for financial transfers pursuant to the regulatory legal acts of the Central Bank and the Law on combating money laundering and terrorism financing apply in equal terms to nationals and non-nationals.

In the previous conclusion (Conclusions 2015) the Committee referred to its Statement of Interpretation on Article 19§9 ([Conclusions 2011](#)), affirming that the right to transfer earnings and savings includes the right to transfer movable property of migrant workers. It asked whether there were any restrictions in this respect.

In reply, the report states that there are no restrictions on transfer of movable property of migrants.

Conclusion

The Committee concludes that the situation in Armenia is in conformity with Article 19§9 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 10 - Equal treatment for the self-employed

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

On the basis of the information in the report the Committee notes that there continues to be no discrimination in law between migrant employees and self-employed migrants in respect of the rights guaranteed by Article 19.

However, in the case of Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in Armenia not to be in conformity with Articles 19§2, 19§4 and 19§6. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Armenia is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§2, 19§4 and 19§6 apply also to self-employed migrants.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 11 - Teaching language of host state

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

The Committee recalls that the teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into the world of work and society at large. States should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age (Conclusions 2002, France).

Article 19§11 requires that States shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities. It considers that a requirement to pay substantial fees is not in conformity with the Charter. States are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible (Conclusions 2011, Norway).

The language of the host country is automatically taught to primary and secondary school students throughout the school curriculum but this is not enough to satisfy the obligations laid down by Article 19§11. The Committee recalls that States must make special effort to set up additional assistance for children of immigrants who have not attended primary school right from the beginning and who therefore lag behind their fellow students who are nationals of the country (Conclusions 2002, France).

In its previous conclusion, the Committee noted that there were no programmes or activities to enable migrant workers and their families to learn Armenian. It thus concluded that the situation was not in conformity with the Charter ([Conclusions 2015](#)).

In reply, the report provides that a new policy on integration of foreigners was adopted by the government in 2016. It envisaged organisation of Armenian language courses free of charge for refugees, persons who obtained asylum, as well as for "long-term migrants". National Institute of Education of the Ministry of Education and Science developed three course programmes: main, supplementary and a course for school-age children. First course was organised in 2018, outside the reference period. Furthermore, in cooperation with the Armenian Virtual College, the Ministry of Education envisages providing paid and free courses in Armenian as a foreign language. In case of availability of means, supplementary language courses for migrant workers and their families shall also be organised by the Yerevan State University of Languages and Social Sciences.

The Committee asks to be kept informed about the implementation of the new policy. It would like the next report to provide information, in particular:

- whether teaching opportunities apply to all migrant workers and on the conditions for participation in the free language courses,
- on measures adopted or envisaged to support children of migrant workers to enable them to participate fully in their education (included in the curricula, or provided outside of regular schooling, such as extracurricular classes, or other forms of assistance),
- whether financial means were made available to institutions tasks with provision of language education,
- on statistics concerning the number and percentage of migrant children who have access to the education system and receive necessary support, as well as on the number of adult migrant workers who participate in language courses.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 12 - Teaching mother tongue of migrant

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

The Committee recalls that according to its case law, States must promote and facilitate, as far as practicable, the teaching in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory. In practical terms, States should promote and facilitate the teaching of the mother tongue where there are a significant number of children of migrants who would follow such teachings (Conclusions 2011, Statement of interpretation on Article 19§12).

In its previous conclusion (Conclusions 2015), the Committee considered that the information in its disposal did not permit it to assess the situation and reserved its position on this issue. It asked, in particular for statistics on the number of children being taught their mother tongue, as well as for an up-to-date description of the situation.

In reply, the report states that children of national minorities, in particular of the largest groups – Russian and Assyrian, can study and learn certain subjects in their native languages in mainstream schools. The Committee asks the next report to provide more details on how bilingual schools are organised and funded.

As for the statistics, the Committee notes that the collection of relevant data was recommended by the European Commission against Racism and Intolerance (ECRI) in its 2016 report on Armenia. The report provides that the National Centre of Educational Technologies of the Ministry of Education and Science has developed an education management information system and it started to collect data on national identity, citizenship, status, native language and on activities being carried out. The Committee request the next report to provide the evaluation of statistical data collected through the new system.

The Committee notes from the recent ECRI reports and conclusions (see [ECRI 2016 report on Armenia](#)) that the Armenian authorities have taken important steps towards streamlining minority education, investing considerable effort and funding for teaching most minority languages and that the process is ongoing under the supervision of the ECRI. It asks to be informed in the next report on developments in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Armenia is in conformity with Article 19§12 of the Charter.

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

Paragraph 1 - Participation in working life

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

It already examined the situation with regard to the right of workers with family responsibilities to equal opportunity and treatment (employment, vocational guidance and training, conditions of employment, social security, child day care services and other childcare arrangements). Therefore, it will only consider the recent developments and additional information.

Employment, vocational guidance and training

In a previous conclusion (Conclusions 2015), the Committee asked for information on the implementation of the Law on Employment (which came into force on 1st January 2014), which provided for a new sub-programme in the framework of the organisation of vocational training for persons facing the risk of dismissal. The Committee also asked how many persons with family responsibilities had undergone the training and vocational guidance.

In reply to the Committee's question, the report describes an apprenticeship programme introduced in 2018 (outside the reference period) for young mothers who have no profession. Under the programme, vocational training of up to six months in duration is provided on employers' premises. The purpose of the programme is to grant these categories of young mothers the opportunity to acquire working skills and abilities. In 2018, 39 people benefited from the programme.

Conditions of employment, social security

The Committee understands that the situation which it previously found to be in conformity with the Charter (Conclusions 2015) remained the same during the reference period, and therefore reiterates its finding of conformity on this point.

Child day care services and other childcare arrangements

In its previous conclusion (Conclusions 2017), the Committee found that the situation was in conformity with the Charter on this point and asked whether preschool education was free of charge and, if not, which measures were taken to make it financially accessible for vulnerable families.

The Committee notes from the report that child care in day-care centres is provided in accordance with the criteria laid down in Government Decision No. 815-N of 31 May 2007. Government Decision No. 1292-N of 29 October 2015 lays down the criteria applicable to the staffing of children's day-care centres, staff qualifications and the staff/children ratio. The Committee notes from the report that the child care structure offered is not sufficient and that the government has taken a number of steps to improve the situation. The Committee wishes to be kept informed about the measures taken to resolve the problem. It also requests that the next report provide updated information regarding the structural capacity to accommodate children in kindergartens, disaggregated by age group and the number of applications for places turned down due to a lack of available places.

The Committee notes that the report only partly replies to these questions and therefore again asks whether preschool education is free of charge.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Armenia is in conformity with Article 27§1 of the Charter.

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

Paragraph 2 - Parental leave

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

It already considered the situation regarding parental leave in its previous conclusion (Conclusions 2015) and found that the situation was in conformity with Article 27§2 of the Charter.

In its previous conclusion (Conclusions 2015), the Committee already noted that Article 173 of the Labour Code, as amended, provides that parental leave for a child under the age of three can be granted upon the request of the mother, father or the guardian taking care of the child. The leave could be taken in a single period or used in parts. The employees entitled to request such leave can take it in turn. The Committee asked for the duration of the non-transferable part of fathers' entitlement to parental leave.

The Committee notes that the report does not reply to its question, therefore it reiterates it. The Committee considers important that national regulations entitle men and women to an *individual right* to parental leave on the grounds of the birth or adoption of a child. With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided to each parent and at least some part of it should be non-transferable. The Committee stresses that if the requested information is not provided in the next report, there will be nothing to establish that Armenia is in conformity with Article 27§2 of the Charter on this point.

It also asked for information on the level of the benefit for parental leave. In reply, the report states that, under Government Decision No. 1566-N of 29 December 2015, the amount defined for taking care of a child under the age of two years amounts to AMD 18,000 per month (€33 at the rate of 31 December 2017).

Under Article 27§2 of the Charter the States are under a positive obligation to encourage the use of parental leave by the father or the mother. The States shall ensure that employees receive an adequate compensation for their loss of earnings during the period of parental leave.

The modalities of compensation are within the margin of appreciation of the States Parties and can take the form of paid leave (continued payment of wages by the employer), a social security benefit, any alternative form of benefit from public funds or a combination of such types of benefit. Regardless of the modality of payment, the level of the benefit shall be adequate (Statement of Interpretation on Article 27§2 of the Charter, Conclusions 2015).

The Committee considers that the level of parental leave benefit is manifestly too low and is thus inadequate. Therefore, the situation is not in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 27§2 of the Charter on the ground that the level of parental leave benefit is manifestly too low.

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

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

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

Protection against dismissal

The Committee notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter.

Effective remedies

In its previous conclusions (Conclusions 2015 and 2017), the Committee noted that there was a ceiling on the pecuniary damages that could be paid to employees unlawfully dismissed due to their parental responsibilities. Under Article 265 of the Labour Code, in the case of termination of the employment contract without a lawful ground or in breach of the procedure prescribed by law, the rights of the employee must be restored. An average salary for the entire period of enforced idleness would be paid to the employee. The Committee deferred its previous conclusions (Conclusions 2017) on this point and asked whether compensation for non-pecuniary damage could be sought through other legal avenues (e.g. non-discrimination legislation). In particular, it asked for information on the draft law relating to combating discrimination.

In reply, in addition to the information already submitted, the report contains information on compensation for non-pecuniary damage for the employer's discriminatory treatment relating to family obligations. However, the Committee notes that Article 162§1 of the Civil Code (as amended by Laws Nos. HO-21-N of 19 May 2014 and HO-184-N of 21 December 2015) does not specifically concern cases of dismissal. However, Article 162§5 (as amended by Law No. HO-184-N of 21 December 2015) provides that compensation for non-pecuniary damage resulting from unlawful administrative decisions shall be awarded as prescribed by law. The Committee refers to its conclusions relating to Article 8§2 of the Charter and considers that the situation is in conformity on this point. The Committee requests that the next report clarify, in the light of the relevant case law, what criteria are taken into account by the court when awarding compensation. It also requests that the next report provide examples of the relevant case law showing how these provisions are applied in cases of unlawful dismissal of employees with family responsibilities.

The Committee also takes note of the draft law on the matter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Armenia is in conformity with Article 27§3 of the Charter.