



March 2020

# **EUROPEAN SOCIAL CHARTER**

European Committee of Social Rights

Conclusions 2019

**GEORGIA**

*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.<sup>1</sup>

The European Social Charter (revised) was ratified by Georgia on 22 August 2005. The time limit for submitting the 12th report on the application of this treaty to the Council of Europe was 31 October 2018 and Georgia submitted it on 31 October 2018.

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).

Andorra has accepted all provisions from the above-mentioned group except Articles 8§§1 and 2, 16, 17§2 and 31.

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

The present chapter on Georgia concerns 29 situations and contains:

– 5 conclusions of conformity: Articles 8§3, 19§3, 19§5, 19§8 and 27§3;

– 19 conclusions of non-conformity: Articles 7§1, 7§2, 7§3, 7§4, 7§5, 7§6, 7§8, 7§9, 7§10, 8§4, 8§5, 17§1, 19§1, 19§4, 19§6, 19§10, 19§11, 27§1 and 27§2.

In respect of the other 5 situations related to Articles 7§7, 19§2, 19§7, 19§9 and 19§12, 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 Georgia under the Revised Charter. The Government consequently has an obligation to provide this information in the next report from Georgia on the articles in question.

The next report from Georgia 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.

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<sup>1</sup> The conclusions as well as state reports can be consulted on the Council of Europe's Internet site ([www.coe.int/socialcharter](http://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 Georgia.

The Committee recalls that according to Article 4 (1) of the Georgian Labour Code, the minimum age for admission to employment is 16. As an exception, Article 4 (2) of the Code allows the employment of children below 16 years of age, on the condition that such work is not against their interests, does not damage their moral, physical or mental development or limit their right and ability to obtain elementary, compulsory and basic education, and upon the consent from their legal representative, tutor or guardian. Moreover, according to Article 4 (3) of the Code, a labour agreement can be concluded with a child aged below 14 years only for work related to sport, art, cultural and advertising activities.

In its previous conclusion, the Committee found that the situation in Georgia was not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment under the age of 15 did not apply to all economic sectors and all forms of economic activity. In particular, the Committee noted that self-employment was not regulated by the legislation of Georgia and the provisions of the Labour Code applied only to employed workers (Conclusions 2015).

The current report does not provide any further information on this point. The Committee notes from another source that children working in the informal economy, or working on an unpaid basis, as well as those working on their own account, are excluded from the application of the provisions of the Labour Code (Direct Request (CEACR) – adopted 2015, published 105<sup>th</sup> ILC session (2016), Minimum Age Convention, 1973 (No. 138)).

The Committee recalls that the prohibition on 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 also extends to all forms of economic activity, irrespective of the status of the worker (employee, self-employed, unpaid family helper or other) (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§27-28).

The Committee recalls that in its previous conclusion (Conclusions 2015) it asked that the next report provide updated information and statistics on the employment of children under the age of 15, in particular children working in the streets and the agricultural sector.

In this respect, the current report indicates that in 2015 the National Statistics Office conducted a National Child Labour Survey. It appears from the survey that the employment rate for children aged 5 to 17 years amounted to 5.8%. More than half of children involved in child labour are aged 5 to 13 years (51.8%). 90.4% of working children aged 5 to 13 years are employed in the agricultural sector, 5.2% of children aged from 5 to 17 years work in the industrial sector and 12.2% of children aged from 5 to 17 years work in the services sector. According to the survey, the number of children involved in household business/farm (unpaid family workers) is nearly eight times higher than the number of children engaged in paid employment (87.0% and 10.5% respectively). Helping family enterprise or farm and supplementing household income were reported to be the main reasons for child employment.

Considering that children working in the informal economy, or working on an unpaid basis, as well as those working on their own account, are excluded from the application of the provisions of the Labour Code, the Committee reiterates its previous finding of non-conformity on this point. In addition, given the number of children aged 5 to 13 years who work, according to the data available to the Committee, it concludes that the situation in Georgia is not in conformity with Article 7§1 of the Charter on the ground that the prohibition

of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity.

In its previous conclusion, the Committee also concluded that the situation in Georgia was not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the ages of 15 was excessive and therefore could not be qualified as light work (Conclusions 2015).

Concerning the duration of work children under the age of 16 are permitted to perform, the current report states that in 2013 amendments to the Georgian Labour Code (Organic Law of Georgia No. 729 of 12 June 2013) were introduced in order to restrict the number of working hours of minors, which was previously set at 41 hours per week. In this regard, according to Article 14 (3) of the Labour Code, the duration of working time for minors from 14 to 16 years of age shall not exceed 24 hours per week.

According to another source, the Rules of the Ministry of Labour of Georgia, (Chapter 300-7-1) allows the employment of children in entertainment, notably film, video, stage or other live performance. In order to do so, permission must be obtained by way of a certificate issued by the Department of Labour (Direct Request (CEACR) – adopted 2015, published 105<sup>th</sup> ILC session (2016), Minimum Age Convention, 1973 (No. 138)). According to Rule 5, the working hours for a minor under 16 years of age for entertainment purposes shall not exceed 10 hours a day, including two hours break for meals, rest and recreation.

The Committee refers to its Statement of Interpretation on permitted duration of light work and recalls that children under the age of 15 and those who are subject to compulsory schooling are entitled to perform only “light” work. Work considered to be “light” in nature ceases to be so if it is performed for an excessive duration (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §§29-31). States are therefore required to set out the conditions for the performance of “light work” and the maximum permitted duration of such work. Concerning work during school term, the Committee has considered that a situation in which a child under the age of 15 years works for between 20 and 25 hours per week during school term (Conclusions II, p. 32), or three hours per school day is contrary to the Charter (Conclusions IV, p. 54). The Committee also considered that a situation in which children of 14 years of age work up to 24 hours per week and up to 10 hours per day is not in conformity with the Charter (Conclusions 2011, Armenia).

Given that according to the Georgian Labour Code, children under the age of 15 are allowed to perform light work up to 24 hours per week and, in the entertainment sector, up to 10 hours a day, the Committee reiterates its previous findings of non-conformity, on the ground that the daily and weekly working time for children under the age of 15 is excessive and cannot be qualified as light work.

The Committee notes that the Labour Code does not specify the duration of working time for children below 14 years of age. The Committee asks for information in the next report on the duration of working time for children below 14 years of age. Pending receipt of the information requested, the Committee reserves its conclusion on this point.

The Committee has previously concluded that the situation in Georgia was not in conformity with Article 7§1 of the Charter on the ground that during the reference period, there was no labour inspection supervising that the regulations on child labour were respected in practice (Conclusions 2015).

In this regard, the current report indicates that following the abolition of the Labour Inspectorate in 2006, the Government established the Labour Conditions Inspection Department within the Ministry of Labour, Health, and Social Affairs by Decision No. 81, signed in March 2015. The Department implemented a pilot programme, according to which inspections to the enterprises or companies are available only with the consent of the employer. According to the report, in the framework of the 2015-2017 State Program, 340

companies were inspected. In terms of forced labour and labour exploitation, between 2016 and 2017, 206 companies (of which 14 unannounced inspections) were inspected. The report indicates that the labour inspectors have issued 6460 recommendations.

The Committee notes from another source that in 2017, the government created a special working group – made up of 25 labour inspectors trained by the ILO – within the Chief Prosecutor’s Office to identify and correct gaps in the government’s capacity to enforce laws against forced labour and other forms of labour exploitation. The labour monitors conducted 392 monitoring site visits, none of which were unannounced and found no violations of child labour laws (US Department of Labour – 2017 Findings on the Worst Forms of Child Labour – Georgia).

The Committee notes from the current report that outside the reference period, a law on Occupational Safety (March 2018), and two Resolutions on Increased Risk, Hard, Harmful and Hazardous Works (July 2018) were adopted. The Committee notes that according to the report, the above-mentioned Law and the Resolutions envisage the removal of limits imposed on the inspections of the labour conditions so that undertakings and companies and enterprises can be subjected, once a year, to an inspection concerning arduous, dangerous and unhealthy work presenting increased risks; these inspection visits will be carried out on the basis of a preliminary annual list of companies, without prior notification to the employer and after authorisation by the judge. The Committee requests that the next report provide detailed evidence that the Labour Conditions Inspection Department has conducted unannounced inspection visits and imposed sanctions for non-compliance with the rules relating to child labour.

The Committee recalls that the effective protection of the rights guaranteed by Article 7§1 cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspectorate has a decisive role to play in this respect (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32).

The Committee notes that the mandate of labour inspectors has been expanded. However, the report does not provide information on inspections concerning work performed by children under the ages of 15. Moreover, the Committee notes that during the reference period, unannounced inspections were not carried out. The Committee, therefore, reiterates its findings of non-conformity on this point, on the ground that the labour inspections supervising that the regulations on child labour were respected in practice were very limited and during the reference period were carried out only with the consent of the employer.

The Committee recalls that in its previous conclusion (Conclusions 2015), it asked whether the educational and social services had the competence to monitor how work within the family was performed by children. Given that the report does not provide any information on this point, the Committee reiterates its question.

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

### *Conclusion*

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

- the prohibition of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity;
- children under the age of 15 are permitted to perform light work for an excessive duration and therefore such work cannot be qualified as light;
- labour inspections supervising that the regulations on child labour were respected in practice were very limited and during the reference period were carried out only with the consent of the employer.

## **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 Georgia.

The Committee noted previously (Conclusions 2011) that according to the Labour Code it is prohibited to conclude labour agreement with young persons under the age of 18, with respect to prescribed occupations regarded as dangerous or unhealthy. The Committee also noted that the Labour Code does not provide any exception from this prohibition. According to the Labour Code it is prohibited to conclude labour agreement with persons under the age of 18 for activities related to gambling, nightclubs, preparation, transportation and sale of erotic and pornographic products, as well as pharmaceutical and toxic substances. Moreover, Appendix 1 of the Order No. 147/N of May 2007 contains a list of heavy, hazardous and harmful works which are prohibited to young workers under 18 years of age (Conclusions 2015).

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§2 of the Charter on the ground that during the reference period there was no labour inspection to supervise how the regulations regarding the prohibition of employment of young persons under 18 for dangerous or unhealthy activities were implemented in practice.

The current report indicates that following the abolition of the Labour Inspectorate in 2006, the Government established the Labour Conditions Inspection Department within the Ministry of Labour, Health, and Social Affairs by Resolution No. 81, signed in March 2015. The Labour Conditions Inspection Department implemented a pilot programme, according to which inspections to the enterprises or companies are available only with the consent of the employer. The report indicates that in the framework of the 2015-2017 State Program, 340 companies have been inspected. In terms of forced labour and labour exploitation, from the year 2016 to the year 2017, 206 companies have been inspected (14 unscheduled). The report indicates that the labour inspectors have issued around 6460 recommendations.

The Committee notes from another source that in Georgia 15.6 thousand children aged from 5 to 17 are involved in hazardous work, accounting for 63.9% of the total number of children in child labour, and 46.4% of children in employment. The majority of the children employed in hazardous work (9.0 thousand children) have night work as the hazardous work criterion. 5.5 thousand children are employed in unhealthy environment, accounting for 35.2% of all children engaged in hazardous work. 24.5% of children involved in hazardous work handle heavy loads at workplace. Children also work long hours (8.7%), operate machinery/heavy equipment (9.1%) or are engaged in such kind of occupations which are hazardous for a child (12.7%) (ILO – Geostat – National Child Labour Survey 2015 – Georgia).

The Committee notes from the current report that outside the reference period a law on Occupational Safety (March 2018), and two Resolutions on Increased Risk, Hard, Harmful and Hazardous Works (July 2018) were adopted. According to the report, the Law on Occupational Safety establishes a special system of sanctions within the competence of the Labour Inspectorate, including warnings, financial sanctions and suspensions of working process. The Committee takes note from the report that the Law and the Resolutions will allow the removal of limitations to labour inspection to inspect companies and enterprises from increased risk, hard, harmful and hazardous works once a year, based on preliminary annual list of companies, without prior notification to the employer and prior permission from the Court. The Committee requests that the next report provide detailed evidence that the Labour Conditions Inspection Department has conducted unannounced inspections and has levied sanctions on violators in relation to children and young persons under 18 years of age employed in dangerous or unhealthy activities.

The Committee recalls that the effective protection of the rights guaranteed by the Charter cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32).

The Committee notes that the mandate of labour inspectors has been expanded. However, the report does not provide information on inspections concerning the employment of young persons under 18 for dangerous or unhealthy activities. Moreover, the Committee notes that during the reference period unannounced inspections were not carried out. The Committee therefore reiterates its findings of non-conformity on this point, on the ground that the labour inspections supervising that the regulations on the prohibition of employment of young persons under 18 for dangerous or unhealthy activities were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

#### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 7§2 of the Charter on the ground that labour inspections supervising that the regulations on the prohibition of employment of young persons under 18 for dangerous or unhealthy activities were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.



## **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 Georgia.

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§3 of the Charter on the ground that the daily and working time for children subject to compulsory education is excessive and therefore cannot be qualified as light work (Conclusions 2015).

The Committee notes that in Georgia compulsory education laws require children to attend school until the age of 16.

The Committee refers to its conclusion on Article 7§1 where it noted that according to Article 4 of the Labour Code children from 14 to 16 years of age are allowed, with agreement of a legitimate representative of the child, to perform work which does not conflict with the child's interests, does not cause damage to his/her moral, physical and mental development and does not limit his/her right and ability to receive education. It also noted that according to Article 14 (3) of the Georgian Labour Code the duration of working time for minors from 14 to 16 years of age must be maximum 24 hours a week. The Committee further noted that the working hours for a minor under 16 years of age for entertainment purposes shall not exceed ten hours a day, including two hours break for meals and for rest and recreation.

The Committee refers also to its conclusion on Article 7§1 where it noted that a labour agreement can be concluded with a child below 14 years only for work related to sport, art, cultural and advertising activities. The Committee noted that the Labour Code does not specify the duration of working time for children below 14 years old. The Committee asks that the next report provide information on the duration of working time for children below 14 years old. Pending receipt of the information requested the Committee reserves its conclusion on this point.

In the light of the principles on permitted duration of light work, mentioned under Article 7§1, the Committee considers that the daily and weekly duration of light work permitted to children subject to compulsory education is excessive and therefore cannot be qualified as being light work. The Committee therefore reiterates its previous findings of non-conformity.

In its previous conclusion, the Committee asked previously whether the rest period free of work has a duration of at least two consecutive weeks during the summer holiday. It also asked what the rest periods during the other school holidays are.

The Committee recalls that in order not to deprive children of the full benefit of their education, States Parties must provide for a mandatory and uninterrupted period of rest during school holidays. Its duration shall not be less than 2 weeks during the summer holidays. Furthermore the assessment of compliance over the school year takes account of the length and distribution of holidays, the timing of uninterrupted period of rest, the nature and the length of the light work and of the control efficiency of the labour inspectorate (Conclusions 2011, Statement of Interpretation on Article 7§3).

The Committee notes that the report does not specify whether during the summer holidays the child has the right to a rest period free of work of at least two consecutive weeks. The Committee therefore reiterates its previous question. Meanwhile, it reserves its conclusion on this point.

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§3 of the Charter on the ground that during the reference period there was no labour inspection to monitor the conditions of work of children who are still subject to compulsory education (Conclusions 2015).

The Committee recalls that the effective protection of the rights guaranteed by the Charter cannot be ensured solely by legislation; the legislation must be effectively applied in practice

and rigorously supervised. The Labour Inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32).

The Committee notes that following the abolition of the Labour Inspectorate in 2006, the Government established the Labour Conditions Inspection Department within the Ministry of Labour, Health, and Social Affairs. However, the report does not provide information on inspections concerning work performed by children who are still subject to compulsory education. Moreover, the Committee notes that during the reference period unannounced inspections were not carried out. The Committee therefore reiterates its findings of non-conformity on this point, on the ground that the labour inspections supervising that the regulations on work of children who are still subject to compulsory education were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

#### *Conclusion*

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

- the daily and weekly duration of light work permitted to children subject to compulsory education is excessive and therefore such work cannot be qualified as being light;
- labour inspections supervising that the regulations on work of children who are still subject to compulsory education were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

## **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 Georgia.

The Committee recalls that in 2013 amendments to the Georgian Labour Code (Organic Law of Georgia No. 729 of 12 June 2013) were introduced in order to restrict the volume of working hours of minors, which previously amounted to 41 hours a week. In this respect, according to the report, Article 14 (3) of the Georgian Labour Code establishes that the duration of working time for minors from 16 to 18 years of age shall not exceed 36 hours a week.

The Committee recalls that for persons under 16 years of age, a limit of eight hours a day or forty hours a week is contrary to Article 7 of the Charter (Conclusions XI-1 (1991), Netherlands). However, for persons over 16 years of age, the same limits are in conformity with the Article (Conclusions 2002, Italy).

Given that according to Article 14 (3) of the Georgian Labour Code establishes that the duration of working time for minors from 16 to 18 years of age shall not exceed 36 hours a week, the Committee concludes that the situation in Georgia is in conformity with Article 7§4 of the Charter on this point.

The Committee previously concluded that the situation in Georgia was not in conformity with Article 7§4 of the Charter on the ground that during the reference period there was no labour inspection to monitor the working time of young persons under 18 years of age who are no longer subject to compulsory education.

Concerning the activities of the Labour Conditions Inspection Department within the Ministry of Labour, Health, and Social Affairs, the Committee refers to its conclusion under Article 7§1 of the Charter.

The Committee recalls that the effective protection of the rights guaranteed by the Charter cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32).

The Committee notes that following the abolition of the Labour Inspectorate in 2006, the Government established the Labour Conditions Inspection Department within the Ministry of Labour, Health, and Social Affairs. However, the report does not provide information on inspections concerning work performed by young persons under 18 years of age who are no longer subject to compulsory education. Moreover, the Committee notes that during the reference period unannounced inspections were not carried out. The Committee therefore reiterates its findings of non-conformity on this point, on the ground that the labour inspections supervising that the regulations on work performed by young persons under 18 years of age who are no longer subject to compulsory education were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 7§4 of the Charter on the ground that the labour inspections supervising that the regulations on work performed by young persons under 18 years of age who are no longer subject to compulsory education were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

## **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 Georgia.

In its previous conclusions (2015 and 2017), the Committee found the situation not in conformity with Article 7§5 of the Charter on the ground that it has not been established that the level of wages paid to young workers. is fair.

### **Young workers**

In its previous conclusions (2015 and 2017), the Committee requested information on the corresponding minimum wages paid to young workers in practice in the economic activities mentioned in the report.

The report indicates, as already mentioned in previous reports, that in the private sector the minimum wage according the President Order № 351 is 20 GEL (6,09 EUR) and in the public sector, pursuant to the President Order № 43, is 135 GEL (41,13 EUR). The report states that in practice the minimum wages are much higher. The report further indicates that according to the Labour Code of Georgia, the amount of wages is subject of agreements between employers and employees. In case of violation of their rights, the workers have the right to apply to the court. With regard to statistics on wages the report indicates that the National statistics office does not aggregate data on wages.

In its previous Conclusions (2017) the Committee asked information on the State Strategy of Labour Market Formation and its Implementation Action Plan for 2015-2018, which also envisaged the minimum wage reform. The report does not provide any information on this point.

In its previous conclusions (2017) the Committee underlined that in order to assess the conformity of the situation with Article 7§5 of the Charter, the Committee requests information on the corresponding minimum wages paid to young workers in practice in the economic activities mentioned in the report. The report fails to provide information on this issue. The Committee notes that the report, again, fails to provide information on the minimum wages paid to young workers in practice in different economic activities, for the Committee to compare it with the reference wage (average wage). Therefore, the Committee reiterates its previous finding of non-conformity on the ground that it has not been established that the minimum wage paid to young workers is fair.

### **Apprentices**

In its previous Conclusions (2015) the Committee asked that the report provided information with regard to the minimum wages paid to the apprentices. The report indicates that, as already mentioned in previous reports, the remuneration for apprenticeship is equal to the monthly salary of the worker employed on the same position. In this respect the Committee reiterated that in order to assess the conformity of the situation with Article 7§5 of the Charter, the Committee requested to be provided with the net values of the allowances paid to apprentices (after deduction of social security contributions) in practice at the beginning and at the end of the apprenticeship. In the absence of a reply to its question on this issue, the Committee considers that it has not been established that the minimum wage paid to apprentices is fair.

### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 7§5 of the Charter on the grounds that:

- it has not been established that the minimum wage paid to young workers is fair.
- it has not been established that the minimum wage paid to apprentices is 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 Georgia.

In its previous conclusions (Conclusions 2011 and 2015), the Committee recalled that, in application of Article 7§6, time spent on vocational training by young people during normal working hours must be treated as part of the working day. Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked. The Committee asked whether such is the situation regarding the inclusion of vocational training in the normal working time in Georgia.

The report indicates, as previously, that according to the Labour Code, the labour relationship is suspended during the vocational training, professional retraining or education which does not exceed 30 calendar days per year. The report states that study leaves for up to three months may be granted to civil servants once in five years for upgrading qualifications. Salary shall be maintained for public employees during their study leaves.

The Committee notes again from the information provided in the report that since the labour contract is suspended during the vocational training, the time of training shall not be included in the normal working hours and thus remunerated as such. The Committee considers that the situation is not in conformity with Article 7§6 of the Charter on the ground that the time spent in vocational training is not included in the normal working time.

### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 7§6 of the Charter on the ground that the time spent in vocational training is not included in the normal working time.

**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 Georgia.

In its previous conclusions (2011 and 2015), the Committee recalled that, in application of Article 7§7, young persons under 18 years of age must be given at least four weeks' annual holiday with pay. The arrangements which apply are the same as those applicable to annual paid leave for adults (Article 2§3). For example, employed persons of under 18 years of age should not have the option of giving-up their annual holiday with pay; in the event of illness or accident during the holidays, they must have the right to take the leave lost at some other time.

The report doesn't give a clear answer to the question. It only indicates that the "Georgian Labour Code" states that if giving the employee paid leave in the current year adversely affects the normal course of work, by consent of the employee, the leave may be carried forward to the next year. Instead in the case of a minor paid leave shall never be carried forward into the next year (article 25 (1)). The law does not envisage any provisions on compensation for such leave. In addition the report states that according to the Order of Ministry of Labour, Health and Social Affairs #87/n, February 20, 2009 on "Rules for Appointment and Provision of Aid for Temporary Incapacity for Work" if temporary incapacity for work starts during the leave (leave is suspended) and compensation is paid for the whole period of incapacity. In this case days of leave will be carried forward for the period of days indicated in the sick-leave certificate (article 4 (6)). The Committee in this respect reiterates its question. The Committee therefore defers its position on this point. The Committee in the absence of an answer to its question states that there will be nothing to establish that young persons under 18 years of age are entitled to a fair paid annual holidays.

The Committee recalls 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 asks 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 paid annual holidays.

*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 Georgia.

The report indicates that it is prohibited to employ a minor for a night job (from 10 p.m. to 6:00 a.m.) without his/her consent.

In its previous conclusion (2015) the Committee asked again whether an employer can employ a young person under 18 in night work if the minor has given his/her consent or whether the exception mentioned in Article 18 of the Labour Code requiring the consent applies only to a person who takes care of a child under the age of three and/or a person with limited capabilities. The report is silent on this point. The Committee reiterates its question and defers its position. The Committee in the absence of an answer to its question states that there will be nothing to establish that the prohibition of night work is effectively guaranteed.

The Committee considered that exceptions can be made as regards certain occupations, if they are explicitly provided in national law, necessary for the proper functioning of the economic sector and if the number of young workers concerned is low (Conclusions XVII-2 (2005) Malta). In its previous conclusion (2015) the Committee asked whether such exceptions are instituted with regard to certain occupations and which is the number of young workers not covered by the ban on night work. The report does not reply to its question. The report again is silent on this point. The Committee reiterates its question and defers its position. The Committee in the absence of an answer to its question states that there will be nothing to establish that the prohibition of night work is effectively guaranteed.

In its previous conclusions (2011 and 2015), the Committee asked for information on the activity of the Labour Inspectorate concerning the supervision of the situation in practice. The report does not provide information on this point. From the information provided from Georgia in its previous report the Labour Inspectorate was abolished in 2006. Since that time, the government has lacked a functioning labor inspection mechanism to monitor, inspect, and enforce child labor laws, including through unannounced inspections. More recently the Prime Minister Decree N.81 signed in March 2015 established a Department of Labor Inspection within the Ministry of Labour, Health and Social Affairs.

The Committee recalls that the situation in practice should be regularly monitored. It considers that the labour inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §32). The Committee considers that from the information provided it has not been established that there is an efficient and effective system of Labour Inspection in Georgia monitoring how the regulations regarding prohibition of night work of young persons under 18 years of age were implemented in practice.

*Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 7§8 of the Charter on the ground that it has not been established that there was an efficient and effective system of Labour Inspection monitoring how the regulations regarding prohibition of night work of young persons under 18 years of age were implemented in practice.

## **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 Georgia.

The report states that the Law of Georgia on “Occupational Safety” defines obligation of the employer to ensure preventive and periodic medical check-up of the employees according to Georgian legislation (article 6 (2, “h”)

The Committee previously asked information on the initial and periodic medical check-ups and at what intervals they were carried out. The report does not provide any information in this sense. The Committee recalls that in application of Article 7§9, domestic law must provide for compulsory regular medical check-ups for under 18 year-olds employed in occupations specified by national laws or regulations. The obligation entails a full medical examination on recruitment and regular check-ups thereafter (Conclusions XIII-1 (1993) Sweden). The intervals between check-ups must not be too long. In this regard, an interval of three years has been considered to be too long by the Committee (Conclusions 2011, Estonia). Given the lack of information in the report, the Committee concludes that the situation is not in conformity with Article 7§9 of the Charter on the ground that it has not been established that there is an initial medical check-up at recruitment and regular medical check-ups thereafter of young workers under 18 years of age employed in occupations specified by national laws and regulations.

### *Conclusion*

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



**Article 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 Georgia.

***Protection against sexual exploitation***

In its previous conclusion (Conclusions 2015), the Committee asked whether legislation permitted the prosecution of children involved in prostitution not linked to trafficking.

According to the report prostitution is an administrative offence, not a criminal offence. Therefore no one, regardless of age, can be prosecuted for prostitution, whether or not it is related to trafficking. Article 253(2)(b) of the Criminal Code criminalises the involvement of a minor in prostitution through violence, the threat of violence or of destruction of property, blackmail or deception. The sanction is imprisonment for five to seven years.

The Committee notes from the UN Committee of the Rights of the Child Concluding Observations on the report submitted by Georgia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OP/GEO/CO/1, September 2019) that the Criminal Code does not criminalize possessing, importing and exporting child pornography; the Criminal Code does not provide an explicit definition of online child sexual exploitation and the solicitation of children between 16 and 18 years of age for sexual purposes (grooming) is not criminalized.

The Committee seeks confirmation that persons using the services of a child engaged in prostitution may be prosecuted and that the recruitment of anyone under the aged of 18 into prostitution is criminalized irrespective of consent or lack of violence or of destruction of property, blackmail or deception.

The Committee recalls that in order to guarantee the right provided by Article 7§10, Parties must take specific measures to prohibit and combat all forms of sexual exploitation of children, in particular children's involvement in the sex industry. The Committee considers that all forms of sexual exploitation are not adequately criminalized. It asks the next report to provide information on any measures taken to address this.

Meanwhile it concludes that the situation is not in conformity with the Charter.

The Committee requested in its previous conclusion information on the number of cases of sexual exploitation of children, identification of victims and prosecution of perpetrators.

According to the report, between 2014 and 2017, investigations concerning the sexual exploitation of children were opened in 2 cases, 1 perpetrator was prosecuted and 3 convicted, 1 child was granted victim status and provided with all necessary services.

The Committee takes note of the figures provided. It notes from the report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her visit to Georgia and submitted to the UN Human Rights Council in 2017 (A/HRC/34/55/Add.1) that there is no comprehensive and reliable data on the scope and different forms of sexual abuse and exploitation of children in Georgia. It asks that the next report provide information on the steps taken to address this situation.

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

The Committee notes from the above-mentioned report of the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography that despite a high internet coverage in Georgia there are no studies on the impact of information and communication technologies on the sexual abuse and exploitation of children.

It also notes in this context from the UN Committee of the Rights of the Child's Concluding Observations on the report submitted by Georgia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and

child pornography (cited above) that there are currently no programmes for raising awareness and developing skills among parents, children, teachers, businesses, professionals and the general public about the risks of online sexual exploitation and abuse.

In its previous conclusion (Conclusions 2015), the Committee noted that in 2012 a specialised cybercrime unit was established within the Central Criminal Police Department which carries out prevention, detection, suppression and investigation of online child pornographic crime in Georgia.

The Committee therefore requests that the next report provide information on the functioning of the Cybercrime Unit or any other relevant service and the results of their action to protect children against the misuse of information technologies. In the meantime, it reserves its position on this point.

### ***Protection from other forms of exploitation***

In January 2018 (outside the reference period), the Human Rights Protection Department was established under the Ministry of Internal Affairs to ensure a rapid response and effective investigation of domestic violence, hate crimes, violence against women, trafficking and crimes committed by or against minors. As 20 percent of minor victims and 46 percent of juvenile offenders come from the capital, it is planned to create a separate unit to investigate only crimes committed by or against minors in Tbilisi. The Committee asks for updated information to be provided in the next report.

Unaccompanied children who are victims of trafficking are under the legal guardianship of the Social Service Agency. Child victims of trafficking and children accompanying trafficked parents benefit from the services of the State Fund Shelter and from legal, psychological and medical assistance.

The report indicates, as regards forced labour, that the Department of Inspection of Working Conditions, which is responsible for collecting data in the field of prevention of trafficking in human beings (forced labour and labour exploitation), has not recorded any cases of forced labour in companies already inspected.

The Committee notes that the government passed the 2018 Law on Occupational Safety to allow unannounced inspections in harmful, hazardous, and heavy industries. The Labour Inspectorate is allowed to conduct unannounced inspections only in harmful, hazardous, and heavy industries, and requires a court order to inspect all other businesses in the country.

The Committee notes from a National Child Labour Survey 2015 conducted by the National Statistics Office of Georgia (GEOSTAT) with financial and technical support of the International Labour Organization (ILO) that 4.2% of 5-17 year-old children are involved in child labour. More than half of children in child labour (51.8%) were 5-13 years of age (below the minimum age permissible for light work) A total of 63.9% of children in child labour perform “hazardous work”, while 36.1% were involved in “child labour other than hazardous work”.

The Committee considers that in light of the information available, as well as the lack of provided on the extent of the problem and measures taken to address the issue of child labour, that the situation is not conformity with the Charter on the grounds that a significant number of children are involved in child labour and hazardous work.

In its previous conclusion (Conclusion 2015), the Committee requested to be informed about the implementation of the National Action Plan for Child Welfare and in particular about the number of children in street situations. It also asked whether the legislation permits prosecuting children for begging in the street.

The report states that criminal legislation does not apply to children who are directly involved in street begging.

The report does not provide information on the number of children in street situations. The Committee therefore reiterates its request to be informed about the extent of the phenomenon. The Committee considers that if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

The report states that in June 2016 Parliament adopted some 15 legislative amendments aimed at creating a legal framework to provide free identity documents for children living and/or working on the streets and to strengthen the role of social workers in providing assistance to these children, including the removal of children from situations of exploitation.

The Ministry of Internal Affairs is currently developing a concept on children living and working on the streets and analysing the existing situation.

The Committee notes from the GRETA report of 11 March 2016 that there appears to be insufficient awareness among police officers as regards the identification of victims of trafficking among children living and working on the streets, who are among the most vulnerable to trafficking in Georgia.

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 Georgia.

The Committee asks the next report to provide information on developments in the situation demonstrating that children in street situations are protected both in law and practice.

In the meantime it reserves its position on this point.

#### *Conclusion*

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

- not all forms of sexual exploitation are criminalised;
- a significant number of children are involved in child labour and hazardous work.

**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 Georgia.

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.

It also asks that the next report contain updated information on any changes to the legal framework concerning nursing breaks. It also asks what rules apply to women working part-time.

*Conclusion*

The Committee concludes that the situation in Georgia 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 Georgia.

The Committee previously noted that the Labour Code provides that pregnant women, women having recently given birth or who are nursing their infant cannot perform night work (from 10 pm to 6 am) without their consent. The same restrictions apply to women employed in the public sector.

In its previous conclusion, the Committee asked to explain in more detail the rules which applied to night work and in particular whether a medical check-up was carried out before an employee who is pregnant, has recently given birth or is nursing her infant was assigned to night work and regularly thereafter, allowing for a transfer to daytime work and what rules applied if such transfer was not possible. It also pointed out that should the next report fail to provide the requested information, there would be nothing to establish that the situation was in conformity with Article 8§4 of the Charter.

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 the protected period.

The Committee refers to its conclusion on Article 2§7 (Conclusions 2018) providing that the situation was not in conformity with the Charter on the ground that it had not been established that night workers were effectively subject to a compulsory regular medical examination.

The Committee observes that the report does not contain all the information requested. Therefore, it finds that the situation is not in conformity with the Charter on the ground that it has not been established that regulations on night work offer sufficient protection for the employed women who are pregnant, have recently given birth or are nursing their infant.

*Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 8§4 of the Charter on the ground that it has not been established that regulations on night work offer sufficient protection for the employed women who are pregnant, have recently given birth or are nursing their infant.

**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 Georgia.

In its previous conclusion (Conclusions 2017), the Committee found that the situation was not in conformity with Article 8§5 on the ground that, during the reference period, there were no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who had recently given birth or who were nursing their infant. It asked whether the law explicitly prohibited the employment of women who were pregnant, had recently given birth or were nursing, in underground mining; whether it defined a list of activities unsuitable to the condition of such women and prohibited or strictly regulated their employment there. It also asked what guarantees relating to professional risk exposure were set through specific regulations in favour of women having recently given birth or, if no such specific regulations existed, through the general health and safety regulations.

The Committee noted previously (Conclusions 2015 and 2011) that Article 4§5 of the Labour Code prohibits the employment of pregnant or nursing women in dangerous, unhealthy or arduous work. The report confirms that this also applies to officials and support staff in the public sector subject to the specific provisions set out in the Law on Public Service (Article 14) or other specific legislation.

Under Order No. 147/N of 3 May 2007 of the Ministry of Labour, Health and Social Affairs approving the list of arduous, unhealthy and dangerous work, underground mining is considered arduous, unhealthy and dangerous work for all categories of employees. The Committee notes that the law prohibits the employment of pregnant women, women who have recently given birth or who are breastfeeding in underground mines. According to the report, the provisions of Order No. 147/N apply in the same way to persons employed in other arduous, unhealthy or dangerous work. However, the Committee asks for confirmation in the next report that this order applies to these categories of women as regards certain other dangerous activities, such as those involving exposure to lead, benzene, ionising radiation, high temperatures, vibration or viral agents.

In its previous conclusion (Conclusions 2017), the Committee also asked whether the law provided for the temporary reassignment of women during pregnancy and maternity period to work suitable to their condition without loss of pay or they were granted paid leave if such reassignment was not possible and whether, in the event of reassignment to another post for reasons related to pregnancy/maternity, the women concerned retained the right to return to their post at the end of the protected period.

In response, the report states that the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs is currently amending labour legislation in accordance with EU Directives (as envisaged in Appendix XXX of the EU-Georgia Association Agreement) with regard to the occupational health and safety of pregnant women, women who have recently given birth or who are breastfeeding or to the security of transfer to another post or to paid leave if a transfer proves impossible.

In the light of the foregoing, the Committee finds that the situation is still not in conformity with Article 8§5 of the Charter on the ground that there are no adequate regulations on dangerous, unhealthy or arduous work in respect of pregnant women, women who have recently given birth or who are breastfeeding. It asks for up-to-date information in the next report on any change to the legal framework concerning the prohibition of dangerous, unhealthy or arduous work.

The Committee points out that Article 8 of the Charter provides specific rights protecting employed women during pregnancy and maternity (Statement of Interpretation on Articles 8§4 and 8§5, Conclusions 2019). Since pregnancy and maternity are gender-specific, any less favourable treatment due to pregnancy or maternity is to be considered as direct gender discrimination. Consequently, the non-provision of specific rights aimed at protecting the

health and safety of a mother and a child during pregnancy and maternity, or the erosion of their rights due to special protection during such a period are also direct gender discrimination. It follows that, in order to ensure non-discrimination on the grounds of gender, employed women during the protected period may not be placed in a less advantageous situation, also with regard to their income, if an adjustment of their working conditions is necessary in order to ensure the required level of the protection of health. It follows that, in the case a woman cannot be employed in her workplace due to health and safety concerns and as a result, she is transferred to another post or, should such transfer not be possible, she is granted leave instead, States must ensure that during the protected period, she is entitled to her average previous pay or provided with a social security benefit corresponding to 100% of her previous average pay. Further, she should have the right to return to her previous post.

#### *Conclusion*

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

## **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 Georgia.

#### ***The legal status of the child***

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.

The Committee notes from other sources [*European Network on Statelessness, Country briefing 2017*] that statelessness has been a significant issue in Georgia, largely due to the break-up of the USSR, paired with large scale migration and displacement of populations. However, Georgia has significantly reduced the number of stateless persons, mainly through the adoption of legislation that introduced a statelessness determination procedure and awareness-raising measures. Although numbers have decreased, there is still a group of stateless people and many undocumented persons at risk of statelessness.

Therefore the Committee asks what measures have been taken by the State to further 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, persons in an irregular situation.

#### ***Protection from ill-treatment and abuse***

In its previous conclusion the Committee found that the situation was not in conformity with the Charter as not all forms of corporal punishment in institutions, schools and in the home were prohibited (Conclusions 2017).

The Committee notes that the report refers to the new child referral mechanism (adopted in 2016) and states that the mechanism prohibits all forms of violence, including corporal punishment in all settings, including the home. The Committee notes that the referral mechanism foresees the development of an integrated database of cases of child violence by January 2019. The database will gather information on the child victims, the perpetrators, the forms of violence, etc. Moreover, all governmental institutions and their structural units, public law entities subordinate to government agencies, nursery schools, general education institutions, sports and arts schools, medical service providers of all kinds including general practitioners, as well as local authorities, all have a duty to refer possible cases of child violence to both the Social Service Agency and the police. However, the Committee considers that this does not amount to a statutory ban on corporal punishment in all settings.

The Committee also notes from other sources (*Global Initiative to end Corporal Punishment of Children – Briefing to the European Committee of Social Rights 2019, UN Committee on the Rights of the Child, Concluding Observations on the fourth periodic report of Georgia (CRC/C/GEO/CO/4, March 2017)*) that there is no explicit prohibition of corporal punishment of children in Georgia. However, a draft Code on the Rights of the Child is currently under discussion, which provides for a full prohibition of all corporal punishment. The Committee asks to be kept informed of all developments in this respect, but meanwhile, concludes the situation still is not in conformity with the Charter.

#### ***Rights of children in public care***

The Committee refers to its previous conclusions for a description of the situation.



It previously noted that there had been a considerable decrease in the number of children placed in large-sized institutions, and an increase in the number of children placed in foster care (Conclusions 2015). The current report refers to the new legislation on adoption and foster care passed in 2017, and states that the process of de-institutionalization of children with disabilities continues, as well as the transfer of children into alternative family-type services, into foster care and small family-type homes continues.

The report also provides information on the measures taken to care for children in a street situation. The Committee refers to its conclusion under Article 7§10 in this respect.

The Committee requests that the next report provide more information on the new legislation and on the number of children in public care, along with data on the number cared for in institutions and foster families. It also requests information on the monitoring of foster families and residential institutions. In this respect, the Committee notes from the above-cited Concluding Observations of the UN Committee of the Rights of the Child that access to childcare institutions run by religious bodies is limited and that there is no mandatory registration requirement for such institutions. The Committee asks for the Government's comments on this point.

The Committee previously asked whether the precarious financial situation of a family can be the sole ground for suspension or deprivation of parental rights (Conclusions 2015). No information is provided in this respect, so the Committee reiterates its request for this information. The Committee recalls that a situation of financial need is not sufficient to justify placement in public care. In such a case, the family must receive adequate support in the form of social assistance to ensure the child's well-being. The Committee considers that should the requested information not be provided in the next report, there will be nothing to establish that the situation in Georgia is in conformity with Article 17 of the Charter.

### ***Right to education***

The Committee recalls that Georgia has not accepted Article 17§2 of the Charter, nor has Georgia accepted 15§1 of the Charter. It therefore examines the issues relating to education under this provision.

The Committee previously requested information on the measures taken to facilitate access to education for Roma children, and access to mainstream education for children with disabilities (Conclusions 2015). No information is provided in the report; therefore, the Committee reiterates its request for this information. The Committee considers that should the requested information not be provided in the next report, there will be nothing to establish that the situation in Georgia is in conformity with Article 17 of the Charter.

In addition, the Committee seeks information on whether all children, irrespective of their residency status, including those in an irregular situation, have the right to access compulsory education. Finally, it wishes to receive information on the measures taken to encourage school attendance.

### ***Children in conflict with the law***

The Committee recalls that the age of criminal responsibility is set at 14 years.

The Committee notes that a new Juvenile Justice Code was adopted in 2015. According to the report, the new Code is based on the UN Convention on the Rights of the Child, the UN Model Law on Juvenile Justice and other relevant international human rights instruments. The new Code expands the alternatives to criminal prosecution, such as diversion programmes and mediation, and diversifies the sanctions available to judges to ensure that the detention and imprisonment of a child are used only as a measure of last resort.

The overall period of pre-trial detention shall not exceed 40 days. Normally, a child should not spend more than a total period of 6 months in detention. According to the Juvenile

Justice Code, a fixed-term period of imprisonment may be imposed on a child if he/she has committed a serious infringement of the law. For children aged 14 to 16, the sentence shall be reduced by one third, and the maximum sentence shall not exceed 10 years. For children aged 16 to 18, the sentence shall be reduced by one fourth, and the maximum sentence shall not exceed 12 years. Children in detention are always be separated from adults.

The Committee recalls that prison sentences should only exceptionally be imposed on children, and only for a short duration. The Committee requests that the next report provide information on the number of children sentenced to detention for periods longer than 6 months and information on the length of such sentences. It also asks whether sentences are regularly reviewed.

The report provides information on the Individual Sentence Planning Mechanism. This mechanism provides for a multidisciplinary approach and assesses detained minors' needs and exposure to risk. An individual multidisciplinary team is assigned to each minor, comprised of a social worker, a psychologist, a doctor and a prison officer who draw up an Individual Sentence Plan. It integrates educational, rehabilitation and recreational programmes. Its final approval is subject to the prior consent of the minor.

The Committee wishes to know whether the entry into force of the new Juvenile Justice Code has reduced the number of children in detention and whether minors in detention may be held in solitary confinement and if so, for how long and under what circumstances.

### ***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 (FEANTSA) v, Netherlands, Complaint No.86/2012, Decision on the merits of 2 July 2014, §50].

The Committee considers that the detention of children on the basis of their immigration status or that of 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 that they are unaccompanied or separated, or on their migratory or residence status, or lack thereof.

The Committee asks what measures have been taken to ensure that children irregularly present are accommodated in appropriate settings. It also requests further information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse. Lastly, it requests information as to whether children who are irregularly present in the State, whether accompanied by their parents or not, may be detained and if so, under what circumstances.

As regards age assessment, 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 Georgia uses bone testing to assess age and, if so, in what situations the State does so. Should the State carry out such testing, 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 Parties efforts to ensure the right of children and young persons to social, legal and economic protection. The obligation of State Parties 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 amelioration 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.

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 Georgia is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in all settings

## **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 Georgia.

### ***Migration trends***

Georgia is mainly a source country for migration. According to the 2014 population census the largest number of emigrants from Georgia are in Russia and Greece, followed by Turkey, Italy, Germany and the USA. More than half (55%) of emigrants are women, although the gender ratio varies significantly by current country of residence. For instance, the majority of emigrants in Greece, Turkey and Italy are women, while it appears that primarily men emigrate to Russia and Ukraine.

There were 11,751 foreign citizen immigrants in Georgia in 2014. The foreigners living in Georgia are predominately citizens of Russia, Armenia, Azerbaijan, Ukraine or Turkey. Almost half of foreigners living in Georgia (47%) were born in Georgia, this particularly concerns citizens of Russia, Armenia, Azerbaijan and Greece.

According to the Public Service Development Agency's (PSDA) data on issuance of residence permits to foreign citizens (both temporary and permanent), in the past five years (2012-2016), over 70,000 persons have received residence permits. The largest numbers of residence permits in 2015-2016 were granted to citizens of Azerbaijan, Russia, Turkey, Armenia, Ukraine, India, China and Iran.

### ***Change in policy and the legal framework***

In recent years, in parallel with the EU approximation process, the legislation of Georgia regulating migration has been updated significantly. This process was stimulated by the Visa Dialogue with the EU and the Visa Liberalisation Action Plan (VLAP) for Georgia. A new Organic Law on the Citizenship of Georgia was developed and approved (2014). The law simplified the process of determining the citizenship of Georgia and introduced new regulations with respect to the procedures for acquiring citizenship by naturalisation.

The new Law on the Legal Status of Aliens and Stateless Persons was adopted (2014), which sets new grounds for the entry and stay of aliens in Georgia, introduces new visa categories, classifies types of residence permits, and introduces effective mechanisms for removing aliens from the country, all being in full compliance with universally recognised principles and norms of international law, and ensuring the protection of fundamental human rights and freedoms.

In order to regulate labour migration, the Law on Labour Migration was adopted (2015). The Law establishes a national mechanism for regulating labour migration. The main purpose of the Law is to promote the development of legal labour migration and thereby reduce illegal labour migration and trafficking.

The Committee notes the information provided in the report regarding new IOM project on "Sustaining Border Management and Migration Governance in Georgia" and the EU funded ICMPD project on "Sustaining Migration Management in Georgia (ENIGMMA 2)". Both projects are aimed at supporting Georgian authorities in implementing the 2016-2020 Migration Strategy of Georgia and its Action Plans.

In addition to the 2016-2020 Migration Strategy of Georgia a number of other relevant strategic documents have been adopted. The Committee asks the next report to provide information on their implementation and impact.

### ***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 on 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).

The Committee notes that website of the State Commission of Migration Issues (<http://migration.commission.ge/>) provides information for emigrants and immigrants on different aspects of migration. Special guidebooks on emigration and immigration developed in Georgian and English (updated in 2017) and available on-line, as well as in printed versions in all SCMI entities.

The report does not provide any further information on the Committee's request expressed in its previous conclusion (Conclusions 2015) regarding the existing guidelines for officials on application of criteria when considering visa and residence permit applications. Thus, the Committee reiterates its request, whether guidelines exist for officials on how to apply the criteria for admission, and if so wishes to receive details of such guidelines.

The Committee notes, that IOM continues to provide extensive assistance to Georgian authorities in migration related issues. IOM operates a number of assisted voluntary return and reintegration programmes for citizens of Georgia who were denied asylum in Europe. The reintegration package includes various types of medical treatment for returnees, temporary accommodation, vocational training courses, setting up small businesses and public education.

The Committee reiterates its question from the previous conclusion (Conclusions 2015) whether arrival assistance is available to non-Georgian migrants.

The committee considers that the assistance to emigrants provided by the government, along with the network of independent assistance, constitutes sufficient measures concerning the provision of adequate and free services for migrants, and in this regard the situation in Georgia is in conformity with Article 19§1 of 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 the MIA Academy continues to provide basic training courses to Border Police and Boarded Check Point Officers, which include topics on, *inter alia*, migration, transnational and organised crimes, legal status of aliens, stateless persons, refugees and asylum seekers, identification of irregular migrants, etc.

Special training courses, including the above-mentioned topics, are provided also to Patrol Police, Neighbourhood Police and Community Police officers. Special attention is paid on the issues related to the discrimination and equal treatment of different minorities. The training course on human rights was updated in 2017 and topic on the case law of the ECHR, gender equality, anti-discrimination, investigation of crimes motivated by intolerance, proportionality of use of force, etc, were introduced. Furthermore, the MIA Academy is planning to update the training module on Policing in Diverse Communities. Topics, such as Police code of ethics, standards of communication with citizens, general standards of police ethics, ethics and corruption are covered in all courses.

The Committee notes from the Fifth Report of the European Commission against Racism and Intolerance (ECRI) (adopted 2015) that in 2014, the Georgian Parliament enacted the Law on the Elimination of All Forms of Discrimination. The enumerated grounds of discrimination include race, colour, language, citizenship, origin, religion or belief, national, ethnic or social origin, sexual orientation and gender identity. Also in 2014, the Parliament adopted the 2014-2020 National Human Rights Strategy. The strategic focus areas include freedom of religion and belief, as well as equal rights and protection of the rights of minorities.

The ECRI report reveals that the hate speech against ethnic and religious minorities continues to be a widespread problem in Georgia and these groups are still often viewed mainly through a security lens. The results of a monitoring project of political discourse covering the period from February to May 2014 indicated that members from all main parties engaged in hate speech. Xenophobic, Islamophobic attitudes are also present in the media. Hate speech is also widespread on the Internet and goes largely unchecked and unpunished. In recent years, it has shifted increasingly away from content directly provided by site operators to the comments sections in which readers, assuming anonymity, leave hate messages.

The Committee notes from the report that following a successful cooperation between the territorial units of the MIA and the Public Defender's office (HRPD) in 2018, hate motive was identified in 95 cases; up to 80 persons were accused of sex/gender based crimes; 11 persons – sexual orientation/gender identity; 4 persons – ethnic, national and racial intolerance. A guideline on crimes committed on grounds of discrimination was elaborated which includes international and domestic legislation on the mentioned crimes, investigation methodology, as well as prevention and general approaches. A 3-day course was developed on hate crimes for the MIA officers and investigators.

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

The Committee reiterates its request for further information on the activities of the Public Defender, particularly in relation to migrants.

The Committee notes from the abovementioned Fifth Report of ECRI that the media is regulated, in addition to the law on Broadcasting, by several self-regulatory mechanisms, which are foreseen by the Journalistic Code of Conduct. The 2006 Georgian Public Broadcasters' Code of Conduct, for example, forbids hate speech. However, so far only three complaints were considered by the relevant board. Proactive monitoring was stopped in 2010 and replaced with a reactive approach. Private TV and radio operators also set up similar mechanisms, but these have largely been described by NGOs monitoring Georgian media as non-functional and/or ineffective. The Committee asks for updated information in this regard.

The Committee notes from the report that the fight against trafficking continues to remain in the focus of Georgian authorities. Several consecutive National Action Plans on Combating Trafficking in Human Beings were adopted and implemented during 2007-2018. The NAP 2019-2020 was in the process of elaboration when the report was submitted.

The Georgian authorities continue to cooperate with IOM, US State Department and other international partners in implementing joint projects and initiatives to combat trafficking and identify and provide support to victims of trafficking. Specialised mobile groups (6) and task forces have been created operating in Tbilisi and regions. For the effective implementation of the preventive measures, the Interagency Council elaborated Common Information Strategy on combating trafficking. This Strategy specifically identified targeted vulnerable groups, including IDPs, children, minorities and people from rural areas, regions and means for implementation.

The Committee notes that the measures taken by the Georgian authorities in combating trafficking are positively assessed by US State Department, GRETA and other international bodies.

The report provides no information relating to the measures taken by the Georgian authorities to counter misleading propaganda, as requested in the Committees previous conclusions (Conclusions 2011 and 2015). As a result, the Committee finds that it has not been demonstrated that the measures taken to combat misleading propaganda are sufficient to conform with the Charter.

The Committee recalls 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 Georgian authorities had adopted the 2009-2014 National Concept for Tolerance and Civic Integration and an associated Action Plan. According to the Fifth ECRI report, the Action Plan was largely implemented, in conjunction with positive legislative changes. A new Civic Equality and Integration Strategy 2015-2020 was in the process of elaboration.

The Committee asks for complete and up-to-date information on any awareness-raising campaigns related to migration and integration.

### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 19§1 of the Charter on the ground that it has not been established that adequate measures have been taken against misleading propaganda in relation to emigration and immigration.

## **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 Georgia.

#### ***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).

The Committee assessed the legal framework related to assistance offered to migrant workers in its previous conclusions ([Conclusions 2015](#)). It noted in particular that migrants residing permanently, impoverished families and homeless persons in Georgia have the same right to assistance, pension and other forms of social security as citizens. The Committee asked whether these provisions also apply upon arrival to all migrants.

In reply, the report states that beneficiaries of international protection are provided with social-economic assistance, have right to free accommodation, education and healthcare. The report provides relevant statistics in this respect. The Committee asks whether appropriate assistance is also offered in practice to all migrant workers who are faced with an emergency or particular difficulty, not only to those under international protection or residing permanently.

The Committee further notes that it reserved its previous conclusion, awaiting information whether emergency healthcare is provided to all migrant workers. The report confirms that this is the case for beneficiaries or applicants for international protection. The Committee notes from previous reports that healthcare provision is granted to foreigners pursuant to the Law on Legal Status of Foreigners of Georgia. However, it insists that the next report confirms that all migrant workers, irrespectively of their status, can benefit from medical care in emergency. It underlines that should the next report not provide comprehensive information in this respect, there will be nothing to establish 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*

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

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

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 assessed the strategic vision for migration management in Georgia in its previous conclusion ([Conclusions 2017](#)) and found the situation to be in conformity with the Charter.

The Committee notes from the International Centre for Migration Policy Development report on Georgia that Georgia's migration policy and management structure has evolved and "significant progress has been made in almost all directions" following the revision of the key principles underlying migration policies in line with the EU Migration Acquis. In particular, as pointed out by the report, comprehensive policy framework documents have been developed and adopted. Furthermore, a migration management structure with a coordinating agency have been established.

The report provides information on increased inter-governmental cooperation: a migration agreement was signed with France, a draft agreement with Poland is underway and a national circular migration scheme with Germany was implemented. Bilateral agreements with a number of further EU member states are in the negotiation process.

The Committee also notes from the report that the Migration Strategy 2016-2020, aiming, *inter alia*, at facilitation of return and reintegration of Georgian citizens is in the process of implementation. It asks the next report to provide more detailed information on what contacts and information exchanges are established by migration services in emigration and migration countries and whether the cooperation of the services extends beyond social security alone (for example in family matters).

### *Conclusion*

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

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

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

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

It concluded previously ([Conclusions 2017](#) and [Conclusions 2015](#)) that the situation was not in conformity with the Charter on the grounds that it had not been established that migrant workers lawfully resident in the country were treated no less favourably than nationals with regard to remuneration and other working conditions, as well as with regard to accommodation. It asked for specific information on measures taken to ensure that equal treatment is ensured in all aspects covered by Article 19§4 of the Charter.

### ***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).

The Committee further 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).

The Committee notes from previous reports that under the Labour Code, any form of discrimination based upon any ground, including nationality, origin or place of residence, affiliation to trade unions, political or other opinions is prohibited in labour and pre-contractual relations.

in reply to the Committee's request for information on implementation of the relevant legal framework, the report states that the Ministry of Internally Displaced Persons, Labour, Health and Social Affairs is responsible for measures taken in the field of migration, in particular rule-setting, data collection, reporting. The Ministry has also enacted by-laws necessary for a full implementation of the law, such as on review of cases of administrative breaches in the field.

Furthermore, in 2015, the Government adopted Resolution no. 417 on employment of a migrant worker and performance of paid labour activities by such immigrant. The resolution defines conditions for employment by a local employer, rights and responsibilities of a migrant worker and of an employer, as well as guarantees and obligation to provide information about the employment. According to the resolution, the employer is obliged to inform Social Service Agency within 30 calendar days after the entry into force of the labour contract with a migrant worker.

The Committee takes note of this positive information. It asks the next report to provide more explicit information showing that the migrant workers are treated non-discriminatively in the following aspects:

- conditions of access to employment, self-employment or other occupation, including selection criteria, recruitment conditions and promotion;
- access to vocational guidance and training, skills development and retraining;
- terms of employment and working conditions, including rules on dismissal and remuneration.

### ***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)).

The Committee notes from previous reports that migrant workers have the right to assembly and manifestation, as well as the right to participate in collective bargaining and receive benefits of these processes equal to citizens (see Conclusions 2015). Since 2011 the Committee has asked for information the monitoring and practical implementation of these provisions. The report does not reply to this request and the Committee considers that it has not been established that this is the case.

### ***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, §§1111-1113). 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 previous conclusion (Conclusions 2017), the Committee asked for information proving the absence of discrimination in practice of migrant workers with regard to accommodation or on any possible measure taken to remedy cases of discrimination. Despite the Committee's repeated request the report provides no such information. The Committee therefore finds the situation not to be in conformity with the Charter on the ground that it has not been established that migrant workers lawfully resident in the country are treated no less favourably than nationals with regard to accommodation.

### ***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 notes from previous reports that the Labour Inspectorate is responsible for monitoring labour conditions of migrant workers and, where necessary, sanctioning companies in case of infringement. It further notes the information in the previous report provided under Article 7§1 that the Labour Inspectorate in cases in which it finds non-compliance, gives warning to improve non-compliance in a reasonable period. It may use financial sanction if the company does not improve non-compliance in a reasonable period. This information is accompanied by relevant statistics.

The Committee has repeatedly asked for comprehensive information, sufficient to establish that there are effective supervisory bodies to monitor and to ensure that no discrimination occurs in practice and that the monitoring procedures prove efficient in the discrimination matters. Furthermore, in 2015 the Committee asked for information on the implementation of

the “Memorandum of Mutual Cooperation on Promotion of Detection of Cases of Trafficking in Human Beings”, signed between the Ministry of Labour, Health and Social Affairs of Georgia and Ministry of Internal Affairs in this respect. It also asked what body was responsible for dealing with cases of discrimination in relation to membership and activities of trade unions, and for details of any complaints referring to such issues. The report does not reply to these requests.

The report does not address the issue of a judicial or administrative remedy in cases of discrimination. Neither does it provide information on the situation in practice, including numbers of discrimination case and most common grounds for discrimination. The Committee recalls that states must show that the national situation is in conformity with the Charter and that in the event of repeated absence of information, it concludes that there is failure to comply.

### *Conclusion*

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

- migrant workers lawfully resident in the country are treated no less favourably than nationals with regard to accommodation.
- the right to equality regarding employment, right to organise and accommodation is subject to an effective mechanism of monitoring or judicial review.

**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 Georgia.

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).

It notes from the report that the situation is the same as the Committee assessed in its previous conclusion (Conclusions 2015) and found to be in conformity with the Charter.

*Conclusion*

The Committee concludes that the situation in Georgia 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 Georgia.

### **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).

The Committee has already assessed the scope of the right to family reunion in its previous conclusions. Persons who can apply for family reunion in Georgia are: a spouse, child, parent, as well as a person under guardianship or custody of a fully dependent minor and a legally incompetent or disabled person (see also for details Conclusions 2015 and [2017](#)).

### **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 particular, the Committee recalls that a state may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health. These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-by-case basis, that the illness or condition constitutes a threat to public order or security. Furthermore, the level of means or sufficient accommodation required by States Parties to bring in the family or certain family members should not be so restrictive as to prevent any family reunion, and social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion (Conclusions 2011, Statement of Interpretation on Article 19§6).

The Committee has previously considered ([Conclusions 2017](#)) that the situation in Georgia was not in conformity with the Charter on the ground that it had not been established that the State facilitates as far as possible the reunion of the families of migrant workers. The Committee observed in this respect, in particular, that requirements as to health, means, accommodation and length of residence prior to eligibility are so restrictive that they might prevent any family reunion. The report largely repeats the information already assessed by the Committee. It does not reply to its request to clarify what are the diseases listed by the Ministry of Labour, Health and Social Affairs as an obstacle to the granting of a permit, albeit it states that no family reunion permit was refused on reasons of health. Neither does it

confirm that social benefits are included when assessing the income of the person requesting a permit for a member of his or her family (the required level of means stands above double the amount of the minimum subsistence level). No information was provided on the details of the accommodation requirement, if applicable and the Committee reiterates its conclusion on non-conformity.

In its previous conclusion, the Committee also asked for clarifications about the procedure and decision making process to assess whether the granting of a residence permit on family reunion did not pose a risk to state security and/or public safety interests; in particular what types of considerations such a decision could take into account and what criteria applied to assess the risks. The report does not address this issue. The Committee 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 concludes that there is failure to comply.

The report confirms that no requirements for family members of migrant to pass language or integration tests apply prior to or after entry to Georgia.

Finally, the Committee recalled that once a migrant worker's family members have exercised the right to family reunion and have joined him or her in the territory of a State, they should have an independent right to stay in that territory (Conclusions XVI-1 (2002), Article 19§8, Netherlands) and asked if this was the case in Georgia. The Committee understands from the report that family members' permits remain contingent upon the right to stay of the migrant worker. The Committee therefore considers that the situation is not in conformity with the Charter in this respect.

### ***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).

In the previous conclusion ([Conclusions 2017](#)) the Committee noted that an administrative and judicial appeal was available in cases concerning a family reunion. The Committee, however, required information and statistical data concerning appeals relating to the granting of residence permits on family reunion grounds and the report does not satisfy this request.

The Committee recalls its questions and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point.

### ***Conclusion***

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

- it has not been established the State facilitates as far as possible the reunion of the families of migrant workers;
- family members of a migrant worker are not granted an independent right to stay after exercising their right to family reunion.



**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 Georgia.

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).

In its previous conclusion ([Conclusions 2015](#)), the Committee understood from the report that migrants were subject to the same criteria as nationals and could therefore benefit from the provision of legal aid where the interests of justice require. It asked whether the provision of assistance extended to interpretation so that the litigant is fully aware of the situation in cases where the defendant does not understand the language of proceedings. The report does not address this issue.

The Committee repeats its request and considers that if the necessary information is not provided in the next report there will be nothing to indicate that the situation is in conformity with the Charter.

*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 8 - Guarantees concerning deportation*

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

### **General principles**

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).

### **Guarantees concerning deportation**

In its previous conclusion ([Conclusions 2015](#)), the Committee assessed the legal framework governing the expulsion of aliens and found it to be in conformity with the Charter. No changes have been reported.

In reply to the Committee's detailed questions about the interpretation of the law in practice, the report states that when deciding on the expulsion of a foreigner, the courts take into account all individual aspects, as required by Article 19§8 of the Charter. In particular, in cases concerning a potential risk to health, a foreigner is not considered to pose a risk to public order if he or she agrees to undergo a relevant treatment. Finally, the report confirms that right to appeal against expulsion decision is available in all cases and provides relevant statistics.

### *Conclusion*

The Committee concludes that the situation in Georgia is in conformity with Article 19§8 of the Charter.

**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 Georgia.

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).

The Committee notes that no changes have been reported to the situation which it has previously found to be in conformity with the Charter ([Conclusions 2015](#)).

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. As the report does not reply on the 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 situation is in conformity with the Charter on this point.

*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 10 - Equal treatment for the self-employed*

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

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 Georgia not to be in conformity with Articles 19§1, 19§4, 19§6 and 19§11. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Georgia is not in conformity with Article 19§10 of the Charter.

*Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§1, 19§4, 19§6 and 19§11 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 Georgia.

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).

The Committee deferred its previous conclusion ([Conclusions 2017](#)), repeating its request for information on programmes specifically aimed at teaching the national language to migrant workers and their families, in particular: on what basis foreign citizens had the right to instruction of the national language; whether any special or extracurricular classes, or other forms of assistance, were provided to the children of migrant workers to enable them to learn the language and participate fully in their education; what courses, if any, were available to adult migrants to assist their learning, and what were the costs associated with such classes. The Committee asked, in particular, for further details on the language courses carried out within vocational education institutes and through the School of Public Administration and to confirm that foreign persons could attend such courses free of charge.

The Committee also noted that children of migrants under international protection participated in language courses and asked whether children of migrant workers, who arrived in Georgia without knowing the language, and were not refugees, asylum seekers etc., could also attend special Georgian language courses, free of charge, in order to rapidly integrate at school and in society with children of their age.

The report provides that Georgia implements Georgian Language Training Programme for persons under the international protection. Furthermore, since 2010 it supports the ethnic minority university entrants in receiving education, providing successful candidates with a year-long intensive course in Georgian language (200 students annually). Furthermore, online resources (textbooks, self-evaluation tests and an audio-dictionary) were made available on a website with 27,000 users.

The Committee considers that the report still does not provide the information essential for the evaluation of the fulfilment of all obligations laid down by Article 19§11, in particular as regards the language training and assistance for children of migrant workers in schools and on language courses available to all adult migrants, not only those under the international protection. Indeed, the number of users of the online resources to learn Georgian as a foreign language indicates a considerable need for learning opportunities for foreigners. The Committee insist that the next report provide comprehensive information in this respect, replying to all its specific questions. Meanwhile, it considers that it has not been demonstrated that the situation is in conformity with the Charter.

### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 19§11 of the Charter on the ground that it has not been established that the State adequately promotes and facilitates the teaching of the national language to migrant workers and members of their families.

**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 Georgia.

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).

The Committee deferred its conclusion at the previous examination (Conclusions 2015), lacking information necessary to determine whether the activities of the state in this regard were satisfactory. The report confirms that state-financed foreign language schools operate in Georgia, teaching a number of languages. These include those of the largest migrant groups: Russian, Ukrainian, as well as Armenian, Azerbaijani, English and others. It provides statistics and some explanations on their organisation. The Committee understands that children of migrant workers have access to the multilingual education and asks the next report to provide more details on what steps the government has taken to facilitate it.

The following information has not yet been provided, preventing the Committee from making a comprehensive assessment whether the situation satisfies the requirements of Article 19§12:

- information on what additional educational programs for the instruction of foreign languages exist,
- information on availability of mother tongue language classes for migrant worker's children outside the school system,
- information on other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin,
- information on whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support.

Should the information requested not be provided in the next report, the Committee considers that there will not be sufficient information to demonstrate that the situation is in conformity with Article 19§12 of the Charter.

*Conclusion*

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

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

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

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

### ***Employment, vocational guidance and training***

In its previous conclusions (Conclusions 2017 and 2015), the Committee concluded that the situation was not in conformity with Article 27§1 of the Charter on the ground that it had not been established that there were services providing vocational guidance, training and retraining of workers with family responsibilities.

The report states that the Government adopted a national strategy and action plans (2013-2014, 2015-2018) to develop training and vocational integration offers. In 2013, a structural unit was set up within the Programmes Department that contributed to activities to promote employment (intermediary services, advice and training for job seekers, technological aids, etc.).

According to the report, the Social Service Agency of the Ministry for Internally Displaced Persons, Labour, Health and Social Affairs has introduced a programme to develop employment assistance programmes designed to promote an active labour market policy and employment support services. The programme aims to extend the labour market management information system (launched in 2013), to hold individual and group consultation on the labour market at municipal level, to provide and promote intermediary services, to offer professional advice and career planning services at municipal level, and to develop and implement mechanisms to promote the employment of vulnerable groups. The programme also comprises measures to raise employer awareness through, in particular, employment forums whose aim is to establish direct contact between employers and jobseekers on the one hand and media representatives and public stakeholders (NGOs, social partners, employment agencies) on the other, through work-related training courses and seminars.

With regard to vocational guidance, the report states that the 2015-2017 Action Plan for the Development and Implementation of the Strategy for a Universally Accessible Service for Lifelong Professional Consulting and Career Planning was approved by Ordinance No. 721 of 26 December 2014. It aims to develop universally accessible services for lifelong career advice and career planning throughout the country. In addition, Ordinance No. 676 of 30 December 2015 introduced service standards for professional advice career planning and the basic requirements for these services making it possible for different providers to provide a service of the same standard.

As to the vocational training programme, the report states that in 2015, the Ministry for Internally Displaced Persons, Labour, Health and Social Affairs launched a training, retraining and qualification programme intended to improve the competitiveness of jobseekers in the labour market.

The Committee notes the figures presented in the report. It also notes that there is no information in the report on specific measures for jobseekers with family responsibilities. Accordingly, it asks for the next report to specify whether there are placement services, information programmes or training measures for workers with family responsibilities. In the meantime, it reserves its position on this matter.

### ***Conditions of employment, social security***

In its previous conclusions (Conclusions 2017 and 2015), the Committee found that the situation was not in conformity with Article 27§1 of the Charter on the ground that it had not been established that the legislation specifically provides for facilitation of reconciliation of working and private life for persons with family responsibilities. The report contains no



information on this matter, and therefore the Committee concludes that the situation in Georgia is not in conformity with Article 27§1 of the Charter on the ground that the legislation does not provide for facilitation of reconciliation of working and private life for persons with family responsibilities. It asks again the next report to describe any provisions included in legislation and/or collective agreements on working conditions that may facilitate the reconciliation of working and private life, such as part-time work, working from home or flexible working hours.

In its previous conclusions, the Committee also found that the situation was not in conformity on the ground that it had not been established that workers on parental leave maintain their social security rights. The report states that the Universal Healthcare Programme which was implemented in 2013 does not include any restrictions on the use of healthcare services by workers on leave owing to family responsibilities. The Committee asks the next report to provide more information on this point. In the meantime, it reserves its position on this point.

In its previous conclusions (Conclusions 2015 and 2011), the Committee asked whether periods of absence were taken into account for determining the right to pension and for calculating the amount of pension. In the absence of the requested information, the Committee reiterates its request. 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 Georgia is in conformity with Article 27§1 of the Charter in this respect.

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

In its previous conclusion (Conclusions 2015), the Committee noted that the kindergartens are not-for-profit legal entities. Preschool institutions management body is responsible for financing and educational programme and participates in all stages of functioning of kindergartens. The preschool education is completely decentralised. Local communities are in charge of funding and operating preschool education institutions. The report does not contain new information. The Committee wishes to receive updated information on the provision of places in preschool institutions.

#### *Conclusion*

The Committee concludes that the situation in Georgia is not in conformity with Article 27§1 of the Charter on the ground that the legislation does not specifically provide for facilitation of reconciliation of working and private life for persons with family responsibilities.

## **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 Georgia.

In its previous conclusions (Conclusions 2017 and 2015), the Committee found that the situation in Georgia was not in conformity with Article 27§2 of the Charter on the grounds that it had not been established that fathers had a right to use a part of parental leave on an individual, non-transferable basis and that it had not been established that arrangements (i.e. social security benefits or social assistance schemes) had been put in place for remuneration of parental leave (after 183 days) or additional child care leave.

In its previous conclusion (Conclusions 2017), the Committee asked if Article 27 of the Labour Code covered both maternity and parental leave (up to 730 days) and if so, what the proportion of parental leave was. The report does not answer the Committee's question, therefore it reiterates it.

In its previous conclusion, the Committee also asked whether fathers had an individual right to parental leave, at least some part of which would be non-transferable (in both, public and private sectors). The report does not contain information on this subject so the Committee repeats its request and finds that the situation is not in conformity with Article 27§2 of the Charter on the ground that fathers have no right to use a part of parental leave on an individual, non-transferrable basis.

In reply to another question from the Committee, the report states that, under the Law on Public Service, public officials may be granted maternity leave of 730 calendar days (at their request) including 183 paid days (200 paid days in the event of complications during pregnancy or multiple births). Leave of 550 calendar days including 90 paid days is granted to all public officials provided that the child's mother has not used the leave. The Committee understands that this 550-day leave period relates only to adopted children.

In its previous conclusion, the Committee asked if there were any arrangements (such as social security benefits or social assistance schemes) for remuneration for parents who take parental leave (after 183 days) and extra childcare leave of absence (Article 30 of the Labour Code). The report contains no information in the report on this subject, therefore the Committee reiterates its question and finds that the situation is not in conformity with Article 27§2 of the Charter on the ground that no arrangements (social security benefits or social assistance schemes) have been set up to remunerate parents on parental leave beyond the 183<sup>rd</sup> day or on additional childcare leave.

There is no information in the report on further amendments to ensure that private sector employees are entitled to parental leave (for both parents), therefore the Committee reiterates its question.

### *Conclusion*

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

- fathers have no right to use a part of parental leave on an individual, non-transferrable basis;
- no arrangements have been set up to remunerate parents on parental leave beyond the 183<sup>rd</sup> day or on additional childcare leave.

## **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 Georgia.

It already examined the situation with regard to the illegality of dismissal on the ground of family responsibilities in its previous conclusion (Conclusions 2015). It will therefore only consider the recent developments and additional information.

### ***Protection against dismissal***

In its previous conclusion (Conclusions 2015), the Committee found that the dismissal protection provided for employees with family responsibilities was adequate. However, it asked for information on any relevant decisions delivered by competent national courts in this area.

In reply, the report states that since the amendments to the Labour Code in 2013 (see Conclusions 2015), the Supreme Court has examined only one case of a dismissal during a period of maternity leave. It found that the employer had no valid reason to justify the dismissal.

### ***Effective remedies***

In reply to another question from the Committee, the report states that the law does not impose any ceiling on the compensation in discrimination cases.

### *Conclusion*

The Committee concludes that the situation in Georgia is in conformity with Article 27§3 of the Charter.