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EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

ALBANIA

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.

Information on the Charter, statements of interpretation, and general questions from the Committee, is contained in the General Introduction to all Conclusions.

The following chapter concerns Albania, which ratified the Revised European Social Charter on 14 November 2002. The deadline for submitting the 12th report was 31 December 2020 and Albania submitted it on 27 November 2020.

The Committee recalls that Albania was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to all findings of non-conformity or deferral in its previous conclusions (Conclusions 2017).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions 2017) found the situation to be in conformity, there was no examination of the situation in 2020.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerned the following provisions of the thematic group II "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3);
- the right to protection of health (Article 11);
- the right to social security (Article 12);
- the right to social and medical assistance (Article 13);
- the right to benefit from social welfare services (Article 14);
- the right of elderly persons to social protection (Article 23);
- the right to protection against poverty and social exclusion (Article 30).

Albania has accepted all provisions from the above-mentioned group except Articles 12, 13, 14, 23 and 30.

The reference period was from 1 January 2016 to 31 December 2019.

The conclusions relating to Albania concern seven situations and are as follows:

– seven conclusions of non-conformity: Articles 3§1, 3§2, 3§3, 3§4, 11§1, 11§2 and 11§3.

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

- the right to just conditions of work (Article 2);
- the right to a fair remuneration (Article 4);
- the right to organise (Article 5);
- the right to bargain collectively (Article 6);
- the right to information and consultation (Article 21);
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22);
- the right to dignity at work (Article 26);
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28);
- the right to information and consultation in collective redundancy procedures (Article 29).

The deadline for submitting that report was 31 December 2021.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

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

The Committee notes that for the purposes of this report, States were asked to reply to the specific targeted questions put to them in relation to Article 3§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity or deferrals (see appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the remit of the thematic group “Health, social security and social protection”).

In its previous conclusion the Committee found that the situation in Albania was not in conformity with Article 3§1 of the Charter because of the lack of involvement of the public authorities in research relating to health and safety at work and the absence of consultation of employers’ and workers’ organisations by the public authorities in practice (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted questions.

The Committee wishes to point out that it will take note of the reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e., after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle

General objective of the policy

In its targeted question, the Committee asked about policy formulation processes and practical arrangements made to identify new or emerging situations that represent a challenge to the right to safe and healthy working conditions, the results of such processes, as well as intended future developments.

The Committee notes that the Albanian authorities have not provided any information on the policy formulation processes and practical arrangements made to identify new or emerging situations. The Committee therefore reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 3§1 of the Charter in this respect.

The Committee had previously requested that the next report should provide information on the provisions of national legislation which provide for the obligation to take the necessary protective measures against special risks, risks in specific sectors of the economy, but also to ensure the periodic surveillance of workers exposed to specific risks to life and health in the workplace, as well as on the practical implementation on these provisions (Conclusions 2017). It had also requested that the next report provide information on the activities implemented and the results obtained in the context of the action plans set out in the Policy Paper on Health and Safety. The Committee had also asked the authorities for information about the activities carried out in the field of research, knowledge and communication relating to psychosocial risks.

In response to the Committee’s first request, the report states that several standards have been adopted under Law No. 10237/2010 on occupational safety and health, as amended, and in particular Decree No. 596/2019, which amends Decree No. 639/2016 on the rules, procedures and health examination tests to be carried out in relation to the work of employees, as well as the mode of operation of the occupational health service. These standards integrate several relevant European Directives (Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at

work of workers with a fixed-term employment relationship or a temporary employment relationship; Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board ships).

With regard to the Committee's second and third requests, the report does not provide enough information. The Committee therefore requests the Government to provide information in the next report regarding the specific measures set out and adopted in the context of the policy paper and policy action plan for safety and health at work 2016-2020, as well as on the activities carried out in terms of research, knowledge and communication relating to psychosocial risks.

The Committee therefore reiterates its request and reserves its position on this aspect. If the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 3§1 of the Charter on this point.

Organisation of occupational risk prevention

The Committee had previously requested information on the measures taken by the Labour Inspectorate to develop an occupational health and safety culture among employers and employees, and to share its experience in implementing instructions, preventive measures and consultations (Conclusions 2017).

The report indicates that the authorities have reformed the work of the Labour Inspectorate and have set up a training centre for the 98 labour inspectors. According to the report, since July 2018, companies and employees have been handling complaints, requesting information, and providing various legal clarifications via the official website of the State Labour and Social Services Inspectorate (SLSSI). The report also indicates that this website has been updated.

The Committee notes that the Labour Inspectorate has also established an interpretation grid for sanctions ("The Penalty Matrix"), which both guides the work of the inspectors and makes it easier for the inspected companies to change their practices to bring them into line with the legislation. The authorities report that they collect data on the most frequently breached legal provisions with a view to changing the nature of inspections.

The report states that the Labour Inspectorate has strengthened its cooperation with other inspection services (e.g. the tax and customs authorities, the Social Insurance Institute, the National Health Inspectorate, the National Police), independent public institutions (e.g. the Anti-Discrimination Commissioner), well-known organisations (e.g. the Gender Alliance for Development Centre), but also employers' and workers' organisations.

The Committee notes that an Employment and Social Affairs Platform (ESAP) was launched with the support of the International Labour Office, in the period May-June 2018, and was funded by the European Commission with a view to strengthening the Western Balkans labour inspectorates capacity for inspection in the construction sector and in the garment industry. Other activities were initiated in the context of the activities of the European Agency for Safety and Health at Work (EU-OSHA), including a campaign on the "Management of Hazardous Substances".

The Committee considers that the evidence provided by the authorities demonstrates the efforts undertaken by Albania to define and implement a national occupational safety and health policy focused on creating and maintaining a culture of preventing occupational risks.

However, the reported data show an increase in the number of occupational accidents between 2017 and 2019. The Committee will assess this increase in the context of the Conclusion for Article 3§3.

In line with the questions raised under Article 3§3, the Committee requests the authorities to provide data indicating whether the new approach adopted has led to a concrete improvement in occupational safety and health and to a reduction in the number of accidents

and damage to health resulting from work, particularly in small and medium-sized enterprises operating in the manufacturing, mining and construction sectors, taking into account informal employment.

Pending receipt of the requested information, the Committee reserves its position on this point.

Improvement of occupational safety and health

The Committee had previously concluded that the situation was not in conformity with Article 3§1 of the Charter on the grounds that the public authorities are not involved in research relating to occupational health and safety, in the training of qualified professionals, or in defining training programs or certifying processes (Conclusions 2017).

The Committee notes that the report states that labour inspectors working in the field must follow instructions which have been developed to enable them to verify the proper application of occupational safety and health guidance (risk assessment, consultation of the occupational physician, the use of individual and collective protective equipment and the use of appropriate signs).

The Committee takes note of these aspects and asks the authorities to describe how the initial and continuous training programmes for labour inspectors integrate questions relating to the improvement of workers' safety and health.

Pending receipt of the requested information, the Committee reserves its position on this point.

Consultation with employers' and workers' organisations

The Committee had previously concluded that the situation was not in conformity with Article 3§1 of the Charter on the grounds that it was not established that employers' and workers' organisations were consulted by the public authorities in practice (Conclusions 2017).

The Committee notes that the report states that in the context of raising awareness among employees and employers, as one of the main issues of the intersectoral Occupational Safety and Health Strategy Document 2016-2020, the Labour Inspectorate co-operates with, among others, employers' and employees' organisations. The Committee takes note of this and requests the to provide information about the activities developed within the context of this co-operation between the Labour Inspectorate and employers' and employees' organisations.

The Committee recalls that Article 3§1 requires consultation not only for tripartite co-operation between the authorities, employers and workers to seek ways of improving working conditions and the working environment, but also for the co-ordination of activities and co-operation on key safety and prevention issues. Mechanisms and procedures for consultation with employers' and workers' organisations must be set up at national and sectoral level. The right to consultation is satisfied when there are specialised bodies made up of representatives of the government and of employers' and workers' organisations, which are consulted by the public authorities. While these consultations may take place on a permanent or an ad hoc basis, they must in any case be effective in terms of powers, procedures, participants, frequency of meetings and matters discussed, in order to promote social dialogue in occupational safety and health matters.

The Committee reiterates its conclusion that the situation is not in conformity with Article 3§1 of the Charter on the grounds that employers' and workers' organisations are not consulted by the public authorities in practice.

Covid-19

In its targeted question, the Committee asked about the protection of frontline workers, instructions and training, the quantity and the adequacy of personal protective equipment provided to workers, and the effectiveness of these measures within the context of the Covid-19 pandemic.

The Committee notes that the State Labour and Social Services Inspectorate, as an executive arm of the public administration, implements and monitors the measures taken by the Government and the Ministry of Health to prevent the spread of Covid-19. The Committee notes the adoption of Ordinances Nos. 46/2020 and 266/2020 "On taking special measures to prevent the spread of infection caused by Covid-19" .

The Committee notes the data provided on the number and share of inspections against the spread of Covid-19 during June 2020 checking on the implementation of protocols to minimise the spread of Covid-19. The Committee notes that half of the 329 inspections that took place were conducted in manufacturing companies. It notes that the inspections monitored the situation of more than 16,000 employees (70% women). The inspections showed that in the vast majority of cases, the public health measures taken to prevent the spread of the virus were correctly implemented. Of the 329 inspections carried out, 115 were completed, 198 are still ongoing (there was no activity at 16 inspected sites).

The Committee notes the adoption of several protocols taking into account the needs of certain categories of people during the pandemic (e.g., the protocol on the management of children in need of protection; the protocol on the operation of public and non-public residential centres providing housing services (shelters) for victims of domestic violence and trafficking; the protocol for the operation of public and non-public residential centres that provide long-term housing services for the elderly).

In line with its Statement on Covid-19 and social rights (March 2021), the Committee recalls that, in the context of the Covid-19 crisis, and with a view to mitigating the adverse impact of the crisis and accelerating the post-pandemic social and economic recovery, each State Party must assess whether its existing legal and policy frameworks are adequate to ensure a Charter-compliant response to the challenges presented by Covid-19. Where those frameworks are not adequate, the State must amend them within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources, including through the adoption of any additional measures that are required to ensure that the State is able to comply with its Charter obligations in the face of the social rights risks posed by the Covid-19 crisis.

The Committee points out that, in order to secure the rights set out in Article 3, a response to Covid-19 in terms of national law and practice should involve the immediate introduction of health and safety measures at the workplace such as adequate physical distancing, the use of personal protective equipment, strengthened hygiene and disinfection measures, as well as stricter medical supervision, where appropriate. In this respect, due account should be taken of the fact that certain categories of workers, such as frontline health care workers, social workers, teachers, transport and delivery workers, garbage collection workers, and agro-food processing workers are exposed to heightened risks. States Parties must ensure that their national policies on occupational safety and health, and their health and safety regulations, reflect and address the hazardous agents and the particular psychosocial risks faced by different groups of workers in the Covid-19 context. The Committee also stresses that the situation requires a thorough review of occupational risk prevention, at national policy level, as well as at company level, in close consultation with the social partners as stipulated by Article 3§1 of the Charter. The national legal framework may require amendment, and risk assessments at company level must be adapted to the new circumstances.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 3§1 of the Charter on the ground that employers' and workers' organisations are not consulted by the public authorities in practice.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

The previous conclusion was one of non-conformity on the grounds that the level of protection against asbestos was inadequate, it had not been established that the domestic workers and home workers were protected by occupational health and safety regulations, and employers' and employees' organisations were not being consulted by public authorities in practice (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted question.

Content of the regulations on health and safety at work

In its previous conclusion, the Committee requested information on regulations covering work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships (Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). The Committee considered that if the requested information was not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 3§2 of the Charter (Conclusions 2017).

No information is provided on these issues in the report. Therefore the Committee concludes that it has not been established that there are regulations covering work related stress, harassment and aggression.

In its targeted question on Article 3§2, the Committee asked for information on regulations adopted to improve health and safety in evolving new situations such as in the digital and platform economy by, for example, strictly limiting and regulating electronic monitoring of workers, by recognising a right to disconnect, right to be unavailable outside agreed working and standby time, mandatory digital disconnection from the work environment during rest periods. It also requested information on regulations adopted in response to emerging occupational risks.

However no information is provided in the report on these issues therefore the Committee repeats its request for this information. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 3§2 of the Charter on this point.

The Covid-19 pandemic has changed the way many people work, and many workers now telework or work remotely. Teleworking or remote working may lead to excessive working hours.

The Committee considers that, consistent with States Parties' obligations in terms of Article 3§2, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to enable fully the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the "right to disconnect").

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

Being connected outside normal working hours also increases the risk of electronic monitoring of workers during such periods, which is facilitated by technical devices and software. This can further blur the boundaries between work and private life and may have implications for the physical and mental health of workers.

Therefore, the Committee considers that States Parties must take measures to limit and regulate the electronic monitoring of workers.

Establishment, alteration and upkeep of workplaces

The Committee previously requested information on the implementation of preventive measures against risks posed by the workplace on the provision of information and training for workers, as well as on a schedule for compliance. It asked that the next report provide full and detailed information on the legislation and regulations, including any amendments thereto adopted during the reference period, which specifically relate to that subject (Conclusions 2017).

The report provides no information in these respects. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 3§2 of the Charter on this point.

Protection against hazardous substances and agents

The Committee previously concluded that the situation was not in conformity with Article 3§2 of the Charter on the ground that the level of protection against asbestos was inadequate and requested information on:

- steps taken to draw up an inventory of all contaminated buildings containing asbestos;
- measures taken to ensure that in all workplaces where workers are exposed to asbestos, employers take all appropriate measures to prevent, or control, the release of asbestos dust in the air, and that employers comply with the prescribed exposure limits;
- to confirm that the most harmful forms of asbestos are prohibited;
- whether workers are protected against ionising radiation up to a level at least equivalent to that set in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) (Conclusions 2017);

The Committee further asked the next report to provide information on the specific provisions relating to protection against risks of exposure to benzene (Conclusions 2017).

The report provides no information on these issues. Therefore the Committee reiterates its previous conclusion of non-conformity.

Personal scope of the regulations

Temporary workers

In its previous conclusions, the Committee asked for information on how protection for agency workers (on recruitment and when they change posts) is guaranteed as well as

information and training and access to occupational health services. The report does not provide any information on this point (Conclusions 2013, 2017).

The Committee concludes that it has not been established that there is adequate protection for temporary agency workers.

Other types of workers

The Committee previously found that the situation was in not conformity with Article 3§2 on the ground that it had not been established that domestic workers and home workers were protected by occupational health and safety regulations. It also asked whether the Labour Inspectorate had access to private residences (Conclusions 2017).

No information has been provided on these issues. Therefore, the Committee reiterates its previous conclusion.

Consultation with employers' and workers' organisations

The Committee previously concluded that the situation was not in conformity with Article 3§2 of the Charter on the ground that employers' and employees' organisations were not consulted on health and safety matters by public authorities in practice (Conclusions 2017).

The Committee notes that the report provides no information on this issue and reiterates its previous conclusion of non-conformity.

Conclusion

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

- it has not been established that there are occupational health and safety regulations covering psychosocial risks;
- the level of protection against asbestos is inadequate,
- it has not been established that temporary agency workers, domestic workers and home workers are protected by occupational health and safety regulations, and
- employers' and employees' organisations are not being consulted by public authorities in practice.

Article 3 - Right to safe and healthy working conditions
Paragraph 3 - Enforcement of safety and health regulations

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions for Article 3§3 of the Charter as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee concluded that the situation in Albania was not in conformity with Article 3§3 of the Charter on the grounds that it had not been established that accidents at work and occupational diseases were monitored efficiently and that the activities of the Labour Inspectorate were efficient in practice (Conclusions 2017).

The Committee wishes to point out that it will take note of the reply relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e., after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

Assessment of the Committee will therefore concern the information provided by the Government in response to the non-conformity conclusion and to the targeted questions.

Accidents at work and occupational diseases

The Committee previously examined the situation regarding accidents at work and occupational diseases (Conclusions 2017). Concerning the accidents at work, the Committee reiterated its request for information on the standardised incidence rates of accidents at work and fatal accidents at work and asked also for information on preventive and enforcement activities undertaken to prevent the accidents at work. In its targeted question on Article 3§3 with regard to accidents at work and occupational diseases, the Committee asked for information on statistical data on prevalence of work-related death, injury and disability including as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs (e.g. cycle delivery services, including those employed or whose work is managed through digital platform; performers in the sports entertainment industry, including, in particular, contact sports; jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products; new forms of high-yield high-stress trading; military and law enforcement; etc.) and also as regards the victims of harassment at work and poor management.

In reply, the report provides that twenty-six Council of Ministers’ decisions were approved between 2017 and 2019, including those related to the protection of children at work and the functioning of health services at work, transposing the relevant Council directives of the European Union. The report explains that one occurring problem in the implementation of Law No. 10237 of 18 February 2010 “On safety and health at work” as amended, is the lack of reporting of accidents at work and of occupational diseases which undermined the identification of the safety and health measures not being implemented by the concerned entity, and that the resulting failure to improve the situation became a source of accidents for other surrounding entities. In order to increase the professional capacity of labour inspectors and to ensure the transparency of the labour inspection process, the official website of the State Labour and Social Services Inspectorate (SLSSI) has been upgraded, which serves as a bridge of communication between businesses and employees, gives clarifications on legal

procedures and provides data on the most frequently violated legal provisions, with the aim of building clearly oriented planning on the inspection carried out by differentiating the sectors or activities.

The report provides information on the number of reported accidents during the period 2017-2020, broken down by sector, activity and year. The number of accidents at work has increased from 120 (137 employees injured) in 2017, 166 in 2018 (195 employees injured) to 197 in 2019 (176 employees injured). Between January and May 2020 (outside the reference period), the number of accidents at work was 63 (58 employees injured). The number of fatal accidents was 18 in 2017, 27 in 2018, 38 in 2019 and 12 in January-May 2020 (outside the reference period). According to the report, the majority of work accidents took place in the mining and quarry sector, manufacturing and construction. The report does not indicate the standardised incidence rate expressed as a number of accidents per 100,000 workers.

Given the estimated total number of labour force in Albania (1,408,795 in 2020 according to World Bank data), the number of reported accidents appears to be low (cf. Conclusions 2013) which could be explained at least in part by reluctance among employers to file notifications. It appears from the report that the lack of reporting of work accidents which disallows the identification of the necessary safety measures in the concerned entities, continued to be an important issue in the reference period despite the improvements made concerning the webpage of the SLSSI which now provides comprehensive statistics and analysis on different areas and sectors.

In addition, according to the ILO 2019 Labour Force Survey, informal employment in Albania is 56.7% of the total number of employees. Of the total informal workers, 63.9% work in the agricultural sector. According to the European Commission 2020 Analytical report, the informal economy remains significant and the highest percentage of informal employment in Albania is reported in trade activities (42.2%), manufacturing (17.3%) and construction (16.6%). The Labour Force Survey analysed by the ILO shows that informal employment continues to be a worrying phenomenon for Albania, which could be further exacerbated by the pandemic crisis.

The Committee considers that the figures provided do not establish that accidents at work are monitored effectively. Reiterating that the satisfactory application of the Charter cannot be ensured solely by the operation of legislation and regulations, if they are not effectively enforced and rigorously supervised and that the frequency of accidents at work and their evolution are key aspects of monitoring the effective observance of the rights guaranteed in Article 3§3, the Committee asks that the next report provide:

- Information on measures adopted to improve the rate of reporting occupational accidents in practice.
- information on the standardised incidence rates of accidents at work and fatal accidents at work.

The Committee also reiterates its targeted question on information on statistical data as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs (e.g. cycle delivery services, including those employed or whose work is managed through digital platform; performers in the sports entertainment industry, including in particular contact sports; jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products; new forms of high-yield high-stress trading; military and law enforcement; etc.) and also as regards the victims of harassment at work and poor management.

Having regard to the informal economy, the Committee also asks that the authorities:

- provide information on regulatory measures in particular, to reduce informality in labour sector; and incentives given to employees and employers in the informal sector to formalise their activities.
- ensure that the numbers on work accidents they provide also cover the informal employment sector.
- provide information on measures taken or envisaged to ensure that safety and health regulations are adequately enforced in the context of informal employment.

As to the occupational diseases, according to the report, the number of employees diagnosed with occupational diseases was 10 in 2017, 11 in 2018, 28 in 2009 and 2 in the period January-April 2020. It appears from the 2017 Conclusions that those numbers were 3,880 in 2013, 1853 in 2014 and 1,123 in 2015.

The report does not provide any information on the legal definition of occupational diseases and the mechanism for recognising, reviewing and revising them. It indicates that the above numbers have been declared by enterprise doctors and are not confirmed by the doctors specialised in occupational diseases and are not accompanied by the standard declaration sheet of occupational diseases issued by the Ministry of Health, which certifies whether the disease is caused or not by the work performed. The report does not, however, provide sufficient detail on the legal definition of occupational diseases, nor on the procedure to be followed by the specialist doctor and the Ministry, concerning “recognising, reviewing and revising” the occupational diseases.

The report provides information on the number of types of hazardous substances broken down by cities for the period January-December 2017. It also indicates that during the same period 1,478 entities have employees dealing with occupational safety and health issues and the number of these employees amounts to 3709 and that some 5,451 entities have in place the first aid service. Concerning the years 2019 and 2020, the report provides information on the number of entities that have risk assessment documents, security councils, that have full time medical service and part-time medical service.

The report does not provide information on the incidence rate and the number of recognised and reported occupational diseases during the reference period broken down by sector of activity, including cases of fatal occupational diseases. Although the above statistical data suggests that the authorities follow the implementation of safety and health measures in entities, no information has been provided in particular on measures taken or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases; the most frequent occupational diseases during the reference period, or the specific preventive measures taken or envisaged.

The Committee still considers that occupational diseases are not monitored effectively and reiterates its request in the previous Conclusions 2017 that the next report provide:

- information on the legal definition of occupational diseases; including the mechanism for recognising, reviewing and revising of occupational diseases (or the list of occupational diseases).
- information on the incidence rate and the number of recognised and reported occupational diseases during the reference period (broken down by sector of activity and year), including cases of fatal occupational diseases.
- the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged.
- information on measures taken or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases.

Activities of the Labour Inspectorate

The Committee previously examined the activities of the Labour Inspectorate and considered that it had not been established that the activities of the Labour Inspectorate are

effective in practice (Conclusions 2017). The Committee asked that the authorities provide the following information in the next report: any change in the general framework for labour inspection activities during the reference period; the number of inspectors (while distinguishing clearly between administrative staff and inspection staff); the number of general, thematic, and unscheduled inspection visits assigned solely to the occupational health and safety legislation and regulations; details by category, of administrative measures that labour inspectors are entitled to take and, for each category, the number of such measures actually taken; the outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings. The targeted question with regard to the activities of the Labour Inspectorate concerned the organisation of the Labour Inspectorate, and the trends in resources allocated to labour inspection services, including human resources; number of health and safety inspection visits by the Labour Inspectorate and the proportion of workers and companies covered by the inspections as well as the number of breaches to health and safety regulations and the nature and type of sanctions; whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors.

The report provides that the State Labour and Social Services Inspectorate's staff amounts to 154 employees, 98 of which are labour inspectors with remainder being administrative staff. In 2017, 7,958 inspections have been conducted, covering 182,154 employees; in 2018, 12,297 inspections covering 291,244 employees; in 2019, 13,079 inspections covering 296,808 employees and in 2020 (January-May), 2,814 inspections, covering 71,631 employees.

In 2018 and 2019, the coverage rate by labour inspection was therefore approximately 20% of the total labour force, which is double of the figure noted by the Committee in 2013 (10%). However, despite the increase in the number of inspections conducted and the number of employees and entities covered by those inspections, the number of labour inspectors decreased (167 in 2013 and 129 in 2011). The average ratio of labour inspectors is therefore less than the EU average (one inspector per 10,000 employees – 2016-2020 Occupational Safety and Health Policy Document). According to the numbers provided by the EU (Analytical Report 2020 Albania) during 2019, 10,042 inspections were carried out (9,994 in the private sector) in both private and public sectors. It appears therefore that the targeting of private firms continued to be the case in the reference period.

The report provides that in 2017, 80 fines were imposed by labour inspectors (approximately 112,000 € in total) and 1% of all the entities were sanctioned for offence under the labour legislation. In 2018, 175 entities were fined for offence to the labour legislation (242,344 € in total) and in 2019, 160 entities were fined with a total value of 3,097,877 €. In the period January-May 2020, 65% of punitive measures involved a "warning", 30% was "suspension" and 4% concerned a "fine". During this period, 23 fines were imposed although only 1% of these fines concerned the legislation regarding safety and health at work.

The report does not contain any information on measures taken to focus labour inspection on small and medium-sized enterprises and the Committee reiterates its request in the 2017 Conclusions that the next report provides information in this respect. The figures provided in the report concerning the numbers of inspections per year and the number of employees covered by those inspections do not specify the rate of inspections assigned solely to occupational health and safety legislation. The figures provided (concerning fines imposed during the reference period) concern violations of labour legislation in general and the rate of fines imposed for violation of occupation safety and health legislation is not indicated in the report. Nor does the report provide information on criminal provisions which are applicable in case of violation of health and safety at work legislation or on the number and outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings.

The report also indicates that the Law No. 9634 "on the Labour Inspectorate" applies to natural and legal, local or foreign, private or public persons, who exercise profitable or non-profitable economic activities in the territory of the Republic of Albania. This law excludes

from its scope, institutions or activities, where the entry of the labour inspectors endangers the interest of national security and workplaces where the inspection on labour relations, safety and health at work are regulated by special laws. The Committee asks that the next report provide information on arrangements that are in place to ensure the supervision of health and safety regulations in workplaces which are excluded from the scope of application of the law on Labour Inspectorate.

The Committee still considers that it has not been established that the activities of the Labour Inspectorate are effective in practice, and therefore asks that the above mentioned information be provided in the next report.

Covid-19

The report states that the SLSSI approved the Order No. 46 dated 12 March 2020 "On taking special measures to prevent the spread of infection caused by Covid-19. In this framework, 329 entities were inspected in June 2020 (the figures provided are broken down by regions and sectors) and 73% of those inspections concerned manufacturing enterprise (162 entities) and trade, hotel-bar-restaurant (78 entities). At the time of the submission of the report, 198 inspections were in progress. Suspension measures were taken against 8 entities for non-implementation of protection measures, warnings were issued to 2 entities and fines were imposed on 2 entities. The inspections conducted in 329 entities covered in total 16,212 employees (11,407 female employees). The report also provides figures concerning the number of entities where the work environment was disinfected by state of private institutions with state licence (280), where there is in place a hand disinfectant for all employees (303), where the safety distance between employees is respected (306), where the employees who are at work are equipped with protective measures (masks etc.) (304), where the temperature is measured before employees enter the work premises (253) and where medical service is provided at work (191).

The task-force set-up by the Prime Minister's Order conducted verifications on the implementation of protocols to minimize the spread of Covid-19 with the participation of labour inspectors in 5,467 entities. The majority of these verifications took place in indoor food markets, dental clinics, constructions, bar-café-restaurants and kindergarten and nursery school, and fines were imposed on 35 entities, some 19 were ordered to suspend activities, and 2,500 received counselling.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 3§3 of the Charter on the grounds that it has not been established that:

- the accidents at work and occupational diseases are monitored effectively;
- the activities of the Labour Inspectorate are effective in practice.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”). However, no targeted questions were posed in respect of Article 3§4 of the Charter.

The Committee previously examined Albania’s framework on occupational health services and found that the situation was not in conformity with Article 3§4 of the Charter on the ground that there is no strategy to develop occupational health services for all workers (Conclusions 2017). The Committee will therefore restrict its consideration to the Government’s replies to the previous conclusion of non-conformity.

In the previous conclusions, the Committee considered that the Government was not in a position to give an accurate estimate of the number of companies and the proportion of employees that still do not have access to occupational health services (Conclusions 2017). It further noted that there was no plan in place by the Government, its agencies, or private enterprises to improve the provision of such services during the reference period. The Committee requested information on the provisions in national legislation concerning the legal obligation of employers to take necessary measures with respect to the medical professional visits and periodic surveillance of workers, in consultation with the company doctor, and also information on the implementation of those provisions in practice.

In reply, the report indicates that in 2017, the number of entities which have employees dealing with occupational safety and health issues was 827 and this number was 1,478 in 2018. The number of these employees was 3,234 in 2017 and 3,709 in 2018. In addition, in 2017, 148 entities, and in 2018, 235 entities had specialised services outside the enterprise to organise protection and preventive activities. The report also indicates that in 2017, periodic control of employees existed in 2,242 entities and in 4,500 entities in 2018 and those controls were performed by 1,460 doctors (1,624 doctors in 2018). The report indicates further that in 2019, the number of entities with full-time medical service was 172 with part-time medical service was 1,648, and in 3,211 entities periodic medical examination of employees were conducted.

The report does not indicate the number of companies and the proportion of employees that do not have access to occupational health services. Given that, in 2017, the estimated total number of enterprises in Albania was 162,452 (according to Albania’s statistics office, INSTAT) and that the estimated total number in the labour force was 1,344,945 (according to World Bank data), the Committee finds that the figures provided in the report as regards the access to occupational health services are very low. Moreover, the report does not provide any information on any plan in place to improve the provision of such services during the reference period. Nor does the report provide information on the provisions in national legislation concerning the legal obligation of employers to take necessary measures with respect to the medical professional visits and periodic surveillance of workers, in consultation with the company doctor. The Committee reiterates its request for information on these points and considers that it has not been established that measures are taken to promote the progressive development of occupation health services and that there is no strategy to develop occupational health services for all workers.

The Committee also notes that, according to INSTAT statistics, small and medium-sized enterprises in Albania account for 99.8% of the active enterprises in 2018. The Committee therefore requests detailed information on the content and organisation of occupational

health services in small and medium enterprises (SMEs) and on existing strategies or incentives to foster access, especially for workers from SMEs, to occupational health services. Further, it requests that the next report provide information on whether health services are limited to medical examinations or include, for example, information, advice, and counselling in occupational health matters and on whether workers participated in organisation and/or management of health services.

Lastly, the Committee asks that the next report provide information on any prospects in Albania concerning the ratification of ILO Occupational Health Services Convention No. 161 (1985).

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that:

- measures are taken to promote the progressive development of occupational health services;
- there is no strategy to develop occupational health services for all workers.

Article 11 - Right to protection of health

Paragraph 1 - Removal of the causes of ill-health

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 11§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee concluded that the situation in Albania was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality have been insufficient;
- public healthcare expenditure is too low;
- the provision of healthcare is subject to unnecessary delays (Conclusions 2017).

The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted questions.

The Committee wishes to point out that it will take note of the reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

Measures to ensure the highest possible standard of health

The report indicates that the following strategies/programmes have been developed: the National Health Strategy 2016-2020, Primary Healthcare Services Development Strategy 2020-2025, National Programme for the Prevention and Control of Non-Infectious Diseases 2016-2020, Cervical Cancer Screening Programme, National Programme for Breast Cancer Screening.

The report does not provide information in response to the targeted questions for this cycle. No overall and disaggregated statistical data on life expectancy across the country and different population groups (urban; rural; distinct ethnic groups and minorities; longer term homeless or unemployed; etc.) is provided. The Committee reiterates its request for the above mentioned data, including information on any anomalous situation (e.g. particular areas in the community; specific professions or jobs; proximity to active or decommissioned industrial or highly contaminated sites or mines; etc.) and on prevalence of particular diseases among relevant groups (e.g. cancer) or blood borne infectious diseases (e.g. new cases HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison; etc.). It notes from WHO indicators that life expectancy at birth (average for both sexes) was 78 years in 2019 (compared to 77.84 years in 2015).

As regards the first ground of non-conformity (see Conclusions 2017) and the Committee’s specific request for information on sexual and reproductive health care services, the report indicates that the Strategic Document and Action Plan for Sexual and Reproductive Health 2017-2021 aims to improve the sexual and reproductive health of the population through activities derived from the following strategic objectives: reduction of maternal morbidity and mortality; reducing the morbidity and mortality of newborns, infants, children and adolescents; promoting good reproductive and sexual health; increasing the prevalence of modern methods of contraception through promotion, increasing access and quality of family planning services; reduce the incidence of sexually transmitted infections, HIV and AIDS;

early detection, prevention and treatment of reproductive tract cancers; development and implementation of cross-cutting measures to ensure access to and quality of sexual and reproductive health services; etc .

The Committee notes from World Bank indicators that the infant mortality rate (per 1,000 live births) stood at 8.5 in 2015 and 8.6 in 2019. According to the same source, the estimated ratio of maternal mortality (per 100,000 live births) was 15 in 2017 (as compared to 16 in 2016).

The Committee asks that the next report provide information on the implementation of the above mentioned measures/activities and their impact on improving the effective access to sexual and reproductive healthcare services for women and girls. Meanwhile, the Committee reserves its position on this point.

Access to healthcare

In a targeted question, the Committee asked information about sexual and reproductive healthcare services for women and girls (including access to abortion) and statistical information about early (underage or minor) motherhood, as well as child and maternal mortality.

The report provides information on the Strategic Document and Action Plan for Sexual and Reproductive Health 2017-2021 which aims to improve the sexual and reproductive health of the population. However, the report does not reply to the question on the concrete sexual and reproductive health-care services available for women and girls (including access to abortion services), statistical information about early (underage or minor) motherhood, child and maternal mortality as well as information on policies designed to remove as far as possible the causes for the anomalies observed (premature death; preventable infection by blood borne diseases; etc.). The Committee reiterates its questions.

The Committee asks for information on measures taken to ensure that women and girls have access to modern contraception. It also asks for information on the proportion of the cost of contraceptives that is not covered by the State (in cases where the cost is not fully reimbursed by the State).

The Committee further asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part. It also asks whether abortion care is available in medical facilities across the country, including in rural areas.

With regard to the other two grounds of non-conformity mentioned above (see Conclusions 2017), the report does not provide any information or data to show that measures are taken to address or remedy the problem. Given the lack of such information, the Committee maintains its conclusion of non-conformity.

The Committee asks that the next report contain information on the public health expenditure as a share of GDP.

The Committee refers to its general question as regards the right to protection of health of transgender persons in the general introduction. The Committee recalls that respect for physical and psychological integrity is an integral part of the right to the protection of health guaranteed by Article 11. Article 11 imposes a range of positive and negative obligations, including the obligation of the state to refrain from interfering directly or indirectly with the enjoyment of the right to health. Any kind of unnecessary medical treatment can be considered as contrary to Article 11, if accessing another right is contingent upon undergoing that treatment (*Transgender Europe and ILGA Europe v. Czech Republic*, Complaint No. 117/2015, decision on the merits of 15 May 2018, §§74, 79, 80).

The Committee recalls that state recognition of a person's gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human

rights. It also recalls that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, op. cit., §§78 and 82).

The Committee invites states to provide information on the access of transgender persons to gender reassignment treatment (both in terms of availability and accessibility). It asks whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other medical requirements which could impair their health or physical and psychological integrity. The Committee also invites states to provide information on measures taken to ensure that access to healthcare in general, including sexual and reproductive healthcare, is provided without discrimination on the basis of gender identity.

In a targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report does not contain any information on this matter. The Committee asks that information be provided in the next report on the measures taken to ensure informed consent to health-related interventions or treatment.

Covid-19

In the context of the Covid-19 crisis, the Committee asked the States Parties to evaluate the adequacy of measures taken to limit the spread of virus in the population as well as the measures taken to treat the ill (under Article 11§3).

For the purposes of Article 11§1, the Committee considers information focused on measures taken to treat the ill (sufficient number of hospital beds, including intensive care units and equipment, and rapid deployment of sufficient numbers of medical personnel).

The report indicates that a “Covid-19 Action Plan for Albania: Prevention, Preparation and Response against Covid-19” has been adopted and updated regularly. With regard to treating those who are ill, the report indicates that measures were taken to increase the capacity of hospitals.

The Committee recalls that during a pandemic, States Parties must take all necessary measures to treat those who fall ill, including ensuring the availability of a sufficient number of hospital beds, intensive care units and equipment. All possible measures must be taken to ensure that an adequate number of healthcare professionals are deployed (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

The Committee also recalls that access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and States must ensure that groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status are adequately protected by the healthcare measures put in place. Moreover, States must take specific, targeted measures to ensure enjoyment of the right to protection of health of those whose work (whether formal or informal) places them at particular risk of infection (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

During a pandemic, States must take all possible measures as referred to above in the shortest possible time, with the maximum use of financial, technical and human resources, and by all appropriate means both national and international in character, including international assistance and cooperation (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

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

- public healthcare expenditure is too low;
- the provision of healthcare is subject to unnecessary delays.

Article 11 - Right to protection of health

Paragraph 2 - Advisory and educational facilities

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter with respect to the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

In its previous conclusion (Conclusions 2017), the Committee found that the situation in Albania was not in conformity with Article 11§2 of the Charter on the grounds that it had not been established that:

- public information and awareness-raising were public health priorities;
- counselling and screening for pregnant women and children were frequent enough or that the proportion of mothers and children covered throughout the country was sufficient.

Education and awareness raising

In its previous conclusion, the Committee found that the situation was not in conformity with Article 11§2 on the ground that it had not been established that public information and awareness-raising were public health priorities (Conclusions 2017). It requested updated information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases (Conclusions 2013 and 2017). It also asked for information on concrete campaigns undertaken in the media, in schools and public institutions to prevent high-risk behaviours (smoking, overconsumption of alcohol and drug abuse) and to encourage a sense of individual responsibility regarding, in particular, healthy eating, sexuality and the environment.

The report indicates that a National Health Strategy was adopted for the 2016-2020 period. It aims at protecting, improving and promoting health, productivity and the well-being of everyone in Albania. According to the report, the strategic priorities are the following: (1) investing in people’s health throughout their lives; (2) ensuring universal health coverage; (3) strengthening health systems centred on people; (4) improving governance and cross-sectoral cooperation in health.

The report also indicates that a new Health Promotion Action Plan was launched for the 2017-2021 period. It aims at the protection and promotion of the Albanian population’s health and well-being through empowerment and involvement of individuals, families and communities in partnership with health care providers and all other actors. It focuses on the promotion of health, i.e., among others, a healthy lifestyle including a balanced diet, physical activities, avoiding tobacco use, drug use and heavy alcohol consumption.

The report also provides information on specific strategies introduced during the reference period. In particular, a Policy Document on the Strategy for the Prevention and Reduction of Alcohol Damage in Albania and its five-year Action Plan were adopted for the period 2017-2021. According to the report, the Ministry of Health is also drafting the National Drug Control Plan and its five-year action plan.

Moreover, the report indicates that the measures taken by the Ministry of Health in setting up the new institution of the Health Inspectorate are producing positive results in the implementation of the health legislation concerning the protection of individuals against smoking, or the control of young people’s access to alcohol.

The Committee reiterates its request for information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases. 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 Albania is in conformity with Article 11§2 of the Charter in this respect.

The Committee noted in its previous conclusion (Conclusions 2013) that in compulsory education, health issues were addressed in the subject of “Social ethics” between the 1st and 8th grades. Afterwards, they were integrated into the Biology course over the 5 years of the secondary education cycle. The latter subject included other topics such as mental health, human body anatomy and the functioning of human organs. In its previous conclusion (Conclusions 2017), the Committee asked whether particular topics such as smoking, alcohol and drugs, healthy eating habits, sexuality, road safety or the environment were covered by the school curriculum and reserved its position on this point. The report contains no information on this issue. Therefore, the Committee concludes that the situation is not in conformity with Article 11§2 on the ground that it has not been established that health education is incorporated into the school curriculum.

The Committee asks for the information about health-related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in schools.

As regards sexual and reproductive health education, the report indicates that a Strategic Document and Action Plan were adopted for the 2017-2021 period in order to improve the sexual and reproductive health of Albania’s population. This strategic document seeks to improve reproductive health through actions arising from the following main strategic objectives: the reduction of infant, child, maternal morbidity and mortality; the promotion of good reproductive and sexual health; the reduction of the incidence of sexually-transmitted infections, HIV and AIDS; the development and implementation of comprehensive measures to ensure the quality of and access to services in the field of sexual and reproductive health; other actions, such as the promotion of maternal, infant and child health, family planning and abortion, are also being considered. The Committee asks that information be provided in the next report on the implementation of this Strategic document and its action plan.

The report does not contain any information on whether and how sexual and reproductive education is provided in schools. Therefore, the Committee reiterates its question. 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 Albania is in conformity with Article 11§2 of the Charter in this respect.

In its targeted questions, the Committee also asked for information about awareness-raising and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. The report does not contain any information concerning this point. Therefore, the Committee reiterates its question. 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 Albania is in conformity with Article 11§2 of the Charter in this respect.

Counselling and screening

In its previous conclusion, the Committee found that the situation was not in conformity with Article 11§2 on the ground that it had not been established that counselling and screening services for pregnant women and children were frequent enough or that the proportion of mothers and children covered by this service throughout the country was sufficient (Conclusions 2017). The report does not contain any information. Therefore, the Committee reiterates its previous ground of non-conformity. It repeats its request for information on counselling and screening services available to pregnant women and their implementation in practice. It also reiterates its request for figures on the number of medical staff in schools in

rural areas with low medical care, and for information regarding health checks for schoolchildren.

In its previous conclusion, the Committee asked for updated information on the measures taken to ensure screening for the population at large, and in particular screening for the diseases which are the leading causes of death. In response, the report indicates that a national programme adopted by the Decision of the Council of Ministers No. 185 of 4 February 2014, was amended in 2016. Currently, the programme covers all citizens aged 35 to 70. It aims at screening the population for risk factors and prevalent diseases in order to improve health care, the prevention of diseases and their complications, the early detection of disorders, treatment in the early stages of diseases. According to the report, the programme is offered at basic health care centres throughout the country and covers a population of about 900,000 inhabitants.

The Committee notes some specific measures taken during the reference period, especially for women. The Cervical Cancer Screening Programme, introduced in 2019, offers cervical cancer screening through HPV test to all women aged 40-49 every 5 years, in order to prevent cervical cancer. This national programme aims to identify women at risk of developing cervical cancer, to diagnose precancerous lesions at an early stage, to prevent the development of cancer and other fatal consequences associated with it. The HPV test is planned to be performed free of charge for about 16,000 women each year. A National Programme for Breast Cancer Screening has also been launched in order to provide a mandatory mammogram to women over 50 years of age. The Committee asks that information be provided in the next report on the implementation of these programmes in practice.

The report also indicates that the National Programme for the Prevention and Control of Non-Infectious Diseases in Albania was launched for the 2016-2020 period. Its aim is to prevent and control non-communicable diseases in order to reduce their burden and prevent premature deaths by taking integrated actions, improving the quality of life and equity in healthy living.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:

- health education is incorporated into the school curriculum,
- counselling and screening services for pregnant women and children are frequent enough or that the proportion of mothers and children covered by this service throughout the country is sufficient.

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government’s replies to the targeted questions, namely about healthcare services in prison; community-based mental health services; drug abuse prevention and harm reduction; healthy environment; immunisation and epidemiological monitoring; Covid-19; and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (namely, after 31 December 2019). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

In its previous conclusion, the Committee reached a conclusion of non-conformity on the ground that efficient immunisation and epidemiological monitoring programmes were not in place (Conclusions 2017).

Healthcare services in places of detention

In a targeted question, the Committee asked for a general overview of healthcare services in places of detention, in particular prisons (under whose responsibility they operate/which ministry they report to, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision, conditions of care in community-based establishments when necessary etc.).

The report provides very limited information on these questions.

The Committee notes that in *Strazimiri v. Albania* (2020), the European Court of Human Rights (ECtHR) has found multiple violations of the European Convention on Human Rights (ECHR) on account of the poor conditions of detention and inadequate medical treatment of a mentally ill person subject to court-ordered compulsory medical treatment, amounting to therapeutic abandonment. To address the structural problem that this case exemplified, the ECtHR indicated that an “appropriate institution” had to be opened for the purpose of curing or alleviating the mental-health condition of the detainees, including, where appropriate, bringing about a reduction in or control over their dangerousness and facilitating their reintegration into society. Notably, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has also criticised Albania regularly since 2000 for placing “persons of unsound mind” exempted from criminal responsibility in penal facilities. The Committee also notes that in the context of the process of execution before the Committee of Ministers, the Albanian authorities committed to undertake a wide-ranging reform to address the issues identified in the *Strazimiri* judgment.

The Committee reiterates its request for a general overview of healthcare services in places of detention, in particular prisons (under whose responsibility they operate/which ministry they report to, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision, conditions of care in community-based establishments when necessary,

etc.). The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 11§3 of the Charter.

The Committee also asks for information about the measures taken to address the structural problems with the system of compulsory mental health detention as described by different Council of Europe bodies.

Community-based mental health services

In a targeted question, the Committee asked for information regarding the availability and extent of community-based mental health services and on the transition to community-based mental health from former large-scale institutions. The Committee also asked for statistical information on outreach measures in connection with the mental health assessment of vulnerable populations and on proactive measures adopted to ensure that persons in need of mental healthcare are not neglected.

The report notes that the implementation of the Action Plan for the Development of Mental Health Services 2013-2022 continued through the establishment and operation of a network of integrated mental health services comprising ten Community Mental Health Centres and fourteen Supported Homes that offer treatment, rehabilitation and social integration. These measures pursued the overall objectives of achieving deinstitutionalisation and decentralisation. The report notes that the newly opened services accommodated 140 individuals.

In its concluding observations on Albania published in 2019, the Committee on the Rights of Persons with Disabilities (CRPD Committee) noted a lack of progress on deinstitutionalisation and on implementing independent living arrangements, as well as a lack of disaggregated data on the number of persons with disabilities still living in institutional settings. The CRPD Committee called for measures to address these issues, including by developing and implementing an effective deinstitutionalisation plan, with a clear time frame and benchmarks, and allocating sufficient funds for its implementation, particularly at the local level. The Council of Europe Commissioner for Human Rights expressed similar concerns in her country visit report published in 2018.

Consistent with the World Health Organisation (WHO) Comprehensive Mental Health Action Plan 2013-2030, and other relevant standards, the Committee considers that a human rights-compliant approach to mental health requires at a minimum the following elements: a) developing human rights-compliant mental health governance through, inter alia, mental health legislation and strategies that are in line with the Convention on the Rights of Persons with Disabilities and other relevant instruments, best practice and evidence; b) providing mental health in primary care community-based settings, including by replacing long-stay psychiatric hospitals with community-based non-specialised health settings; and c) implementing strategies for promotion and prevention in mental health, including campaigns to reduce stigmatisation, discrimination and human rights violations.

The Committee notes that Article 15§3 of the Charter ordinarily provides an opportunity to examine the process of deinstitutionalisation of persons with disabilities. As Albania has not ratified that provision, the issue in question falls to be assessed under Article 11§3.

Accordingly, the Committee asks for information as follows:

- the number of fully and/or partially closed institutions, or the reduction in the number of beds in long-stay psychiatric hospitals; if a deinstitutionalisation strategy is in place, what the timeline is for the closure of all institutions;
- the alternatives that have been put in place: the type of community-based services, including access to personal assistance, housing options, and access to mainstream services, including employment and education;

- with regard to housing, to what extent people leaving institutions are able to choose where and with whom they would like to live, and whether they are obliged to access a particular living arrangement to access support;
- data on the number of people living in group housing (small group homes, family-type homes, etc.) after leaving institutions, disaggregated by age and impairment;
- how services are funded, how disability-related costs are funded, and how individuals are assessed for access to different support services and allowances;
- how the quality of community-based services is monitored, and how persons with disabilities and their representative organisations are involved in the delivery, monitoring or evaluation of community-based services.

Drug abuse prevention and harm reduction

In a targeted question, the Committee asked for information about drug-related deaths and transmission of infectious diseases among people who use or inject psychoactive substances both in the community and in custodial settings. The Committee also asked for an overview of the national policy designed to respond to substance use and related disorders (dissuasion, education, and public health-based harm reduction approaches, including use or availability of WHO listed essential medicines for opioid agonist treatment) while ensuring that the “available, accessible, acceptable and sufficient quality” criteria (WHO’s 3AQ) are respected, subject always to the exigency of informed consent. This rules out, on the one hand, consent by constraint (such as in the case of acceptance of detox and other mandatory treatment in lieu of deprivation of liberty as punishment) and, on the other hand, consent based on insufficient, inaccurate or misleading information (i.e. not based on state of the art scientific evidence).

The Committee refers to the 2020 European Union Progress Report, which notes that drug abuse prevention and harm reduction activities have only taken place sporadically, mainly at the initiative of the Department of Health Promotion and the Institute of Public Health.

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Albania is in conformity with Article 11§3 of the Charter.

Healthy environment

In a targeted question, the Committee asked for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, including proximity to active or decommissioned (but not properly isolated or decontaminated) industrial sites with contaminant or toxic emissions, leakages or outflows, including slow releases or transfers to the neighbouring environment, nuclear sites, mines, as well as on the measures taken to address the health problems of the populations affected, and to inform the public, including pupils and students, about general and local environmental problems.

In addition, in its previous conclusions, the Committee asked for updated information on the relevant legal framework and institutional structures for the proper implementation of the legislation with regard to air quality, waste management, water quality, food safety, noise pollution, asbestos, as well as for data on the levels of air pollution, contamination of water and food intoxication during the reference period, and the trends in such levels (Conclusions 2017). The Committee pointed out that in the absence of such information, there would be nothing to show that the situation was in conformity with the Charter on this point.

The Committee notes that according to the 2020 European Union Progress Report, Albania had made limited progress in adopting the necessary policies and legislation in areas such as waste and water management, environmental crime and civil protection, and that significant efforts were still needed on implementation and enforcement, especially on waste

management, water and air quality and climate change. In particular, alignment with the European Union legislation on industrial pollution and risk management was deemed still at an early stage. At the same time, capacity constraints were hampering progress in implementing legislation on the prevention of major accidents involving dangerous chemicals.

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Namely, the Committee asks for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, including proximity to active or decommissioned (but not properly isolated or decontaminated) industrial sites with contaminant or toxic emissions, leakages or outflows, including slow releases or transfers to the neighbouring environment, nuclear sites, mines, as well as on the measures taken to address the health problems of the populations affected, and to inform the public, including pupils and students, about general and local environmental problems. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

Immunisation and epidemiological monitoring

In its previous conclusions, the Committee reached a conclusion of non-conformity on the ground that efficient immunisation and epidemiological monitoring programmes were not in place and asked for information on the implementation of the law on the control of infectious diseases in practice and the measures taken to ensure that the immunisation programmes and the epidemiological monitoring were efficient (Conclusions 2017).

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request for comprehensive information on the practical measures taken to control infectious diseases and to develop efficient immunisation and epidemiological monitoring programmes. Meanwhile, the Committee reiterates the conclusion that the situation is not in conformity with Article 11§3 of the Charter on the ground that efficient immunisation and epidemiological monitoring programmes are not in place.

In a targeted question, the Committee asked States Parties to describe the measures taken to ensure that vaccine research is promoted, adequately funded and efficiently coordinated across public and private actors.

The Committee notes that the information requested is not provided.

Tobacco and alcohol

In its previous conclusions, the Committee asked for information about the legislation prohibiting the sale of tobacco products to young persons, tobacco advertising, promotion and sponsorship, and about health warnings on tobacco packages (Conclusions 2017). The Committee also asked for updated information on the trends in the consumption of tobacco (adults and youth). The Committee pointed out that if this information was not provided in the next report, there would be nothing to show that the situation was in conformity with the Charter on this point.

The report provides limited information on the questions raised by the Committee. It indicates that a Health Promotion Action Plan was adopted for the period 2017-2021, which emphasises the importance of healthy living. The report further notes that the Health Inspectorate had a significant impact on smoking rates and access of young people to alcohol, but without providing information on consumption trends.

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request for information about the legislation prohibiting the sale of tobacco products to young persons, tobacco advertising, promotion and advertising, and

about health warnings on tobacco packages. The Committee also asks for updated information on the trends in the consumption of tobacco (adults and youth). Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that sufficient measures were taken to prevent smoking.

In its previous conclusions, the Committee asked for updated information on the legislation with regard to alcohol consumption, as well as on consumption trends, and reserved its position on this point (Conclusions 2017).

The report notes that a Strategy for the Prevention and Reduction of Alcohol Damage and Action Plan for the period 2017-2021 have been adopted, which aim to balance the competing objectives of preventing damage caused by alcoholism and developing a safe and healthy drinking culture.

The Committee asks for updated information on the implementation and impact of the Strategy for the Prevention and Reduction of Alcohol Damage, and on consumption trends.

Accidents

In its previous conclusions, the Committee asked for information on the measures taken to reduce injury and death by accidents as well as trends in the number of accidents, pointing out that if this information was not provided, there would be nothing to establish that the situation was in conformity with the Charter on this point (Conclusions 2017).

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request for information. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to prevent accidents.

Covid-19

In a targeted question, the Committee asked States Parties to evaluate the adequacy of measures taken to limit the spread of the Covid-19 virus in the population (testing and tracing, physical distancing and self-isolation, provision of surgical masks, disinfectant, etc.).

The report describes some of the measures taken to limit the spread of the virus. In particular, the report indicates that a "Covid-19 Action Plan for Albania: Prevention, Preparation and Response against Covid-19" has been adopted and updated regularly.

The Committee recalls that States Parties must take measures to prevent and limit the spread of the virus, including testing and tracing, physical distancing and self-isolation, the provision of adequate masks and disinfectant, as well as the imposition of quarantine and 'lockdown' arrangements. All such measures must be designed and implemented having regard to the current state of scientific knowledge and in accordance with relevant human rights standards (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020). Furthermore, access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and that groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status must be adequately protected by the healthcare measures put in place (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

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

- it has not been established that adequate measures were taken to overcome environmental pollution;

- efficient immunisation and epidemiological monitoring programmes are not in place;
- it has not been established that sufficient measures were taken to prevent smoking;
- it has not been established that adequate measures were taken to prevent accidents.