



March 2022

# **EUROPEAN SOCIAL CHARTER (REVISED)**

European Committee of Social Rights

Conclusions 2021

**NORTH MACEDONIA**

*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 North Macedonia, which ratified the Revised European Social Charter on 6 January 2012. The deadline for submitting the 8<sup>th</sup> report was 31 December 2020 and North Macedonia submitted it on 1 June 2021.

The Committee recalls that North Macedonia 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 1196<sup>th</sup> 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).

North Macedonia has accepted all provisions from the above-mentioned group except Articles 3§1, 3§3, 14, 23 and 30.

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

The conclusions relating to North Macedonia concern 10 situations and are as follows:

- 3 conclusions of conformity: Articles 11§2, 12§2 and 13§2;
- 3 conclusions of non-conformity: Articles 12§1, 12§4 and 13§1.

In respect of the other 4 situations related to Articles 3§2, 11§1, 11§3 and 12§3, the Committee needs further information in order to examine the situation.

The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by North Macedonia under the Revised Charter.

The next report from North Macedonia 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](http://www.coe.int/socialcharter).

### **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 North Macedonia.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§2 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”).

The Committee notes that its previous conclusion was one of deferral pending receipt of information (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response to the deferrals and to the targeted question.

#### ***Content of the regulations on health and safety at work***

In its previous conclusion, the Committee pointed out that regulations concerning health and safety at work must cover work-related stress, aggression, and violence specific to work, especially for workers under atypical working relationships. The Committee asked that the next report provided full and detailed information on the legislation and regulations, including any amendments thereto adopted during the reference period, which specifically govern the risks listed in the general introduction to Conclusions XIV-2. It also asked for an explanation on the relevance of the respective legislation, regulations, and standards within the legal system (Conclusions 2017).

In response, the report states that between 2016 and 2019 two rulebooks were prepared: the Rulebook on the minimum requirements for safety and health at work of pregnant workers, workers who have recently given birth or are breastfeeding (Official Gazette of the Republic of North Macedonia No. 197/2017) and the Rulebook on safety and health at work signs (Official Gazette of the Republic of North Macedonia No. 107/2019). The report also states that a new Law on safety and health at work will be adopted. The report also states that the report of the experts of the International Labour Organisation on whether the Macedonian legal framework on health and safety at work complied with international standards was received at the end of 2018 and the beginning of 2019. Several consultation meetings were held in 2019 on the specific ideas of how to improve the safety and health at work framework. In 2017 the Strategy for Safety and Health at Work 2020 together with the Action plan was adopted for the period 2017-2020. The majority of the information provided about the report of the implementation of the Strategy falls outside the reference period. However, certain activities were carried out between 2017 and 2019 and they are related, for example, to the effects of alcohol, narcotic and psychotropic substances and medical therapy on the safety of workers, to violence at work as a special form of psychosocial harm to health workers, to the research on work and mobbing related stress among different groups of workers.

The Committee notes that the information requested in its previous conclusion is not provided. Therefore, 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 North Macedonia is in conformity with Article 3§2 of the Charter on this point.

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. 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 North Macedonia 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***

In its previous conclusion, the Committee asked for information on the Government's intent to ratify or implement ILO Conventions No. 167 on Safety and Health in Construction (1988); No. 176 on Safety and Health in Mines (1995); and No. 184 on Safety and Health in Agriculture (2001). It also asked for more detailed information on the implementation of preventive measures geared to the nature of risks, on the provision of information and training of workers, as well as on a schedule for compliance (Conclusions 2017).

In response, the report states that in the upcoming period the assessment of the need to ratify the ILO instruments will be made. The report also states that North Macedonia has already adopted certain regulations: Rulebook on the minimum requirements for safety and health at work at temporary and mobile construction sites (Official Gazette of North Macedonia No. 105/2008); Rulebook on the minimum requirements for safety and health at work of workers in the mineral-extracting industry through drilling (Official Gazette of North Macedonia No. 163/2011); Rulebook on the minimum requirements for safety and health at work of workers in surface and underground mineral-extracting mining (Official Gazette of North Macedonia No. 64/2012). The report also states that the Strategy for Safety and Health at Work 2020 sets national priorities and that one of them is the development of training and education programmes in the field of safety and health at work.

The Committee notes that no specific information about the training of workers is provided and requests the next report to provide the relevant information.

### ***Protection against hazardous substances and agents***

In its previous conclusion, the Committee asked for detailed information on exposure limit values, on the ban of production and sale of asbestos and products containing it, and on the incorporation of the requirements of the International Commission on Radiological Protection Recommendation (No. 103, 2007). It also asked whether the authorities considered drawing up an inventory of all contaminated buildings and materials. The Committee also asked for information on the specific provisions relating to protection against risks of exposure to benzene (Conclusions 2017).

The report states that the production, sale and use of all types of asbestos is prohibited in accordance with the List of prohibited and restricted chemicals of 2011, and the import of asbestos was prohibited in 2013 by the Decision on distribution of goods in forms of import and export. There is the Rulebook on the minimum requirements for safety and health at work of workers from the risks related to exposure to asbestos at work (Official Gazette of North Macedonia No. 50/2009), which transposed several of the EU Directives. In accordance with this Rulebook, the maximum permissible concentration of asbestos in the air in the working environment is 0.1 asbestos fibres per cubic centimetre. Workers exposed to asbestos are medically supervised in accordance with the said Rulebook and the Regulation on the type, manner, scope and price-list of medical examination of workers (Official Gazette of North Macedonia No. 60/2013).

The Committee notes that no information about whether the authorities have considered drawing up an inventory of all asbestos-contaminated buildings and materials has been provided.

As for benzene, the report states that the Rulebook on the minimum requirements for safety and health at work of workers from the risks related to exposure to chemical substances was prepared and adopted (Official Gazette of North Macedonia No. 46/2010) and that benzene is listed in the Appendix No. 1 of this Rulebook as a carcinogen of group 1, and that the occupational exposure limit values for benzene are set at 3.25 milligrams in a cubic meter if the worker works 8 hours per day. The same limit value is set by the Rulebook on the minimum requirements for safety and health at work of workers from the risks related to exposure to carcinogens, mutagens or substances toxic to the reproductive system (Official Gazette of North Macedonia No. 110/2010). The exposure to short-term values may last for a maximum of 15 minutes and must not be repeated more than four times during a work shift, with at least 60 minutes elapsed between two exposures to this concentration. For benzene, the short-term value is set at 4 milligrams in a cubic meter.

The report provides no information on the incorporation of the requirements of the International Commission on Radiological Protection Recommendation (No. 103, 2007). The Committee thus reiterates its previous request of information in this respect and points out that if the information requested is not provided in the next report, there will be nothing to establish that the situation in North Macedonia is in conformity with Article 3§2 of the Charter.

### ***Personal scope of the regulations***

#### ***Temporary workers***

The Committee previously noted that there was no information on the protection of workers in fixed-term employment, agency and temporary workers and asked the next report to provide information on how such workers were protected effectively and without discrimination, including against risk related to successive periods of exposure to dangerous substances when working for different employers, and through the prohibition of the use of

non-permanent and temporary workers for some particularly dangerous tasks, was implemented in the laws and regulations. It also asked for details about the access of the above categories of workers to information and training regarding occupational safety and health, as well as to medical surveillance and representation at work (Conclusions 2017).

The report provides no information requested. The Committee thus reiterates its previous request of information in this respect and points out that if the information requested is not provided in the next report, there will be nothing to establish that the situation in North Macedonia is in conformity with Article 3§2 of the Charter on this point.

### ***Other types of workers***

The Committee previously noted that there was no information on the protection of self-employed, home and domestic workers and asked the next report to provide information on how such workers were protected effectively and without discrimination, including against risk related to successive periods of exposure to dangerous substances when working for different employers. It also asked for details about the access of the above categories of workers to information and training regarding occupational safety and health, as well as to medical surveillance and representation at work (Conclusions 2017).

The report provides no information requested. The Committee thus reiterates its previous request of information in this respect and points out that if the information requested is not provided in the next report, there will be nothing to establish that the situation in North Macedonia is in conformity with Article 3§2 of the Charter on this point.

### ***Consultation with employers' and workers' organisations***

In its previous conclusion, the Committee asked how employers' and workers' organisations were consulted in the preparation of regulations on safety and health at work (Conclusions 2017).

In response, the report states that the consultations in the preparation of safety and health regulations at work always include representatives of employers' organisations, workers' organisations, as well as economic chambers, representatives of the civil society and the representatives of the academic community and other experts. The main mechanism through which this cooperation is done is the National Council for Safety and Health at Work. Its sessions are held at regular intervals, at least 3-4 times a year and a number of relevant issues are discussed, important documents in the field of safety and health at work are reviewed and adopted. The Council for Safety and Health at Work is an expert advisory body, it consists of 15 members: 4 members of employers' organisations, 4 members of workers' organisations, 3 members appointed by the Government, two members are representatives of the academic community, one member is a representative of the association of safety at work experts and the remaining member is a representative of the association of doctors. Issues in the field of safety and health at work are often a subject of discussions of the tripartite Economic and Social Council, which includes representatives of the Government, employers' and workers' organisations. In 2016 the National Council for Safety and Health at Work prepared information on the Assessment of the implementation of the Action plan for safety at work for implementation of the strategy for safety at work 2011-2015 and adopted a general conclusion that a number of planned activities have been successfully conducted and specific results were achieved. The Strategy for Safety and Health at Work with an Action plan for the period until 2020 was again prepared in cooperation with the said Council.

### ***Conclusion***

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

**Article 3 - Right to safe and healthy working conditions**

*Paragraph 4 - Occupational health services*

The Committee notes that no targeted questions were asked under Article 3§4 of the Charter. As the previous conclusion found the situation in North Macedonia to be in conformity with the Charter, there was no examination of the situation in 2021.

## **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 North Macedonia.

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 North Macedonia was in conformity with Article 11§1 of the Charter, pending receipt of the information requested (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response 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***

In a targeted question for this cycle, the Committee asked for 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.) identifying 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.).

The report indicates that according to the data from the State Statistical Office, life expectancy in the period 2017-2019 was 74.39 for men, 78.28 for women, and an average of 76.34 years for both sexes. The Committee notes that life expectancy has slightly increased since the previous reference period (75.7 years in 2015). However, the rate is below that of other European countries. For instance, according to Eurostat, the average life expectancy at birth in the EU-27 was estimated at 81.3 years in 2019.

The report indicates that women have a longer life expectancy than men, by about 3.9 years. The report further provides statistical data regarding the main causes of mortality, namely cardiovascular diseases (representing 53.9% of total mortality); cancer; mortality from injuries, poisonings and other consequences caused by external factors as well as blood-borne diseases. It is reported that in 2019, 50 cases of Hepatitis C were registered, which is an increase of 42.9% compared to the 35 registered patients the previous year. The Committee asks for information on the measures taken to prevent exposure to and contamination by the Hepatitis C virus.

The report does not provide information responding to the Committee’s request for 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.) identifying 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.). The Committee reiterates its question.

## **Access to healthcare**

In a targeted question, the Committee asked for information about sexual and reproductive health-care 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. It also asked for information on policies designed to remove as far as possible the causes for the anomalies observed.

The report provides information on the measures taken through the Strategy for Sexual and Reproductive Health 2010-2020 and its respective Action Plans. The report states that, for example, the implementation of the measure for free examinations of pregnant women and free childbirth, regardless of their health insurance status, was initiated. In rural areas, where there is a shortage of family gynaecologists, visits are made by gynaecologists in mobile clinics. The report adds that family planning workshops were organised for family doctors, and training for gynaecologists working in maternity hospitals was held. Moreover, a number of clinical Guidelines were developed such as the Clinical Guidelines for Early Detection of Risk Pregnancy and the Guidelines for Safe Abortion. In 2018, the Action Plan for Sexual and Reproductive Health 2018-2020 was adopted. The report states that, as part of the ongoing efforts to reduce mortality and morbidity among pregnant women and infants, new medical methods have been introduced in the treatment of patients, and training of health workers aimed at promoting the health of mothers and new-borns was also carried out.

With regard to abortion, the report states that a new Law on Termination of Pregnancy was adopted in 2019, which abolished the barriers that previously made it difficult to access care for safe termination of pregnancy. The report adds that within the Peri Mak project implemented in cooperation with Project Hope, new medical equipment was provided for the Special Hospital for Gynaecology and Obstetrics in Chair, Skopje. The Committee asks for information on the cost of abortion and whether it is 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.

The report indicates that the use of contraceptives is low at country level; only 14% of women who are married or live as a couple use modern methods of contraception (1.1% of whom use oral contraception and 1.4% use an intrauterine device), while 10.3% of women in North Macedonia have unsatisfied contraceptive needs. With regard to family planning services, the report states that there has been an increase in the number of family planning councils during the reference period (23.2% more in 2018 compared to 2017).

The Committee asks for information on the 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 report further provides statistical data on early motherhood. The data provided by the report shows that the juvenile pregnancy rate has decreased from 19.5 per 1,000 in 2016 to 18.4 in 2018.

The report indicates that in 2019, a Perinatal Care Master Plan was prepared with the technical support of WHO. The Master Plan aims to improve maternal and neonatal health outcomes by developing a comprehensive model for providing perinatal care services with strong control of quality and of the health information system.

The report indicates that the infant mortality rate (number of infant deaths per 1,000 live births) decreased from 11.9 in 2016, to 9.2 in 2017 and 5.7 in 2018. According to Eurostat, the infant mortality rate stood at 5.6 in 2019, while the EU-27 average was 3.4. The Committee notes the decreasing trend of infant mortality during the reference period. However, it notes, that despite the measures taken in this field, the infant mortality rate

remains above the rate of other European countries (for example the EU-27 average was 3.4 in 2019). The Committee asks for updated information in the next report on the infant mortality rate and the outcomes of the measures taken, including the ones presented in the report, to improve the health of infants and reduce infant mortality.

The report does not provide data on maternal mortality. The Committee notes that according to World Bank data, maternal mortality (number of deaths per 100,000 live births) was 8 in 2016 and 7 in 2017 (while the EU average was 6 in 2017). The Committee asks for updated information regarding the maternal mortality rate and information on any measures taken to reduce it.

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*, §§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 provide any information in this sense. 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 provides information on the measures taken to treat Covid-19 patients. For example, hospitals devoted special operating rooms and rooms for patients who tested positive for Covid-19 and who needed other surgical interventions. The number of hospital beds for patients who tested positive for Covid-19 is reported to have increased from 304 to 651, but in case of need, a total of 1,600 hospital beds could be made available (in the general hospital “8<sup>th</sup> of September” in Skopje and in three other clinical hospitals) and 60 additional beds in the Institute for Tuberculosis. A new modular hospital with 70 beds was built from assembled containers; this Covid-19 Medical Emergency Centre was connected to the University Clinic for Infectious Diseases and Febrile Conditions in Skopje in order to upgrade its capacity. It is also reported that the number of respirators was increased from 120 to 285, of which 20 are mobile respirators, which expanded the capacity of the Intensive Care Units as well.

The report indicates that the work of health workers was organised in two-week shifts. The Ministry of Health decided to mobilise all medical staff in the country wherever necessary, which enabled to call on medical teams from other hospitals (specialists in internal medicine, pulmonologists, nurses, etc.) to assist in Covid-19 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 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*

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

## **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 North Macedonia.

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, the Committee found that the situation in North Macedonia was in conformity with Article 11§2 of the Charter (Conclusions 2017).

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

In its targeted questions, the Committee asked for information about health education (including sexual and reproductive health education) and related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a lifelong or ongoing basis, and in schools.

The report indicates that within the framework of the National Public Health Programme, Public Health Centres regularly hold lectures and forums for target groups (children, youth) on the prevention of chronic non-communicable diseases, addictions, on proper nutrition and the need for physical activity, etc.

Sexual and reproductive health counselling centres, HIV/AIDS prevention and smoking cessation counselling centres have been established and are in operation. Counselling centres advise young people, distribute promotional materials and hold educational lectures.

The report indicates that the Action Plan for Sexual and Reproductive Health 2018 – 2020 includes activities related to the sexual and reproductive health of adolescents and young people. In addition, other measures have been taken in order to improve adolescents’ and young people’s access to information and education on sexual and reproductive health, such as the preparation of a health education plan in this field for parents and school staff, the training of teachers and expert services in schools on sexual and reproductive health topics, including family planning, sexually transmitted infections, HIV, gender-based violence and diversity.

The Committee asks that more detailed information be provided in the next report about health education and related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a life-long or ongoing basis.

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. In response, the report indicates that specific activities have been conducted within the framework of the Annual Programme on HIV/AIDS which concerned various topics related, *inter alia*, to sexual orientation and gender identity (SOGI). Training sessions for primary health care workers on preventing and combatting gender-based violence have been held annually since 2017. A new training programme on gender-based violence against people with disabilities has been prepared as a follow-up to previous activities.

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

In its previous conclusion, the Committee found that the situation in North Macedonia was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions 2017).

#### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in North Macedonia is in conformity with Article 11§2 of the Charter.

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

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

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

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 concluded that the situation in North Macedonia was in conformity with Article 11§3 of the Charter (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 information about the process of transferring the responsibility for prison health-care services to the Ministry of Health, completed during the reference period. The report further describes the healthcare staffing complement available in prisons and notes that a number of recruitment procedures are ongoing. The report also provides an overview of initial and regular screening and testing arrangements and of mental healthcare provision in prisons.

The Committee refers to the latest country report on North Macedonia by the European Committee for the Prevention of *Torture* and Inhuman or Degrading Treatment or Punishment (CPT, 2020), which reiterated longstanding concerns of that body regarding the “enormous challenges” facing healthcare in prison, including a woeful lack of staff, inadequate screening of new arrivals in prison or inadequate dental and psychiatric care.

In light of the foregoing, the Committee asks for information regarding the measures taken to address healthcare staffing shortages, inadequate screening arrangements and lack of access to mental healthcare.

### ***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 mental healthcare is provided predominantly in institutional settings, including three psychiatric hospitals with a total capacity of over 1,200 beds. The report also notes a process of decentralising mental healthcare took place between 2000 and 2007, outside the reference period, which included opening seven Community Mental Health Centres, but that there has been no further progress in that respect since then.

The Committee refers to the latest Concluding Observations by the Committee on the Rights of Persons with Disabilities (CRPD 2018), noting the weakness of the deinstitutionalization process and the emphasis placed on the resettlement of persons with disabilities in small group homes instead of independent living arrangements. It was also noted that the State spent more on institutions than community-based services. Furthermore, during its 2019 country visit, the CPT found psychiatric hospitals holding a significant number of patients suffering from a chronic mental disorder who were no longer in need of inpatient care, due to the lack of appropriate community-based structures.

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 the report does not address all issues raised in the targeted question. The Committee further notes that Article 15§3 of the Charter ordinarily provides an opportunity to examine the process of deinstitutionalization of persons with disabilities. As North Macedonia 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 report provides information about to the National Drug Strategy of the Republic of North Macedonia 2014-2020, that had already been noted in the previous conclusions (Conclusions 2017). The preparation of the National Drug Strategy 2021-2025 is underway. The report notes that screening for infectious diseases among drug users is sporadic and data obtained unreliable. Treatment and harm reduction measures funded by the State are dispensed through a network of 14 prevention and treatment centres, the Clinic of Toxicology and Emergency Medicine, and prisons. Lastly, the report provides the following figures for drug-related deaths: 17 in 2017, 15 in 2017, 26 in 2018, and 21 in 2019.

The Committee refers to the CPT country visit report of 2019, expressing concern about the drug treatment practices encountered in Macedonian prisons. The CPT noted the lack of systematic screening for transmissible diseases upon admission to prison, and consequently the lack of official information on the number of Hepatitis B and C and HIV-positive prisoners. The CPT further noted the absence of a comprehensive approach including harm reduction education and needle exchange programmes. While opioid agonist treatment is notionally available, its administration is often unsupervised, giving rise to serious problems of medication trading and the risk of overdose. Some of these findings are confirmed by a detailed independent study supported by the United Nations Office on Drugs and Crime (UNODC) – WHO Drug Dependence Treatment and Care Programme (Liljana Ignjatova, Report on the Assessment of Drug Dependence Treatment Quality Standards for Drug Dependence Treatment Programs in the former Yugoslav Republic of Macedonia, 2017).

The Committee reiterates its request for information regarding the management of drug addiction in prisons, including through dissuasion, education, and public health-based harm reduction approaches.

### ***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 measures taken to address the health problems of the populations affected, and about measures taken to inform the public, including pupils and students, about general and local environmental problems.

The report sets out the emergency procedures that apply whenever air pollution exceeds legal levels.

The Committee refers to a World Bank study published in 2019 (World Bank, Air Pollution Management in North Macedonia, 2019), and based on measurements taken between 2013 and 2017, which documented ambient concentrations of fine particulate matter with a diameter of 2.5, and respectively 10, micrometres or less (PM2.5 and PM10) that vastly exceeded European Union/WHO air quality guidelines, throughout the country and year-round. The study suggested that ambient air pollution in urban areas was caused by household sources, vehicles, road dust, and transport of emissions from other locations. The

study further estimated that about 1,600 people died prematurely every year as a result of exposure to PM2.5 in North Macedonia.

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates the 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 North Macedonia is in conformity with Article 11§3 of the Charter.

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

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.

### ***Covid-19***

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 a range of preventive measures and activities taken in the context of the Covid-19 pandemic, including monitoring, testing, physical distancing, isolation and mask mandates or movement restrictions.

### ***Conclusion***

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

## **Article 12 - Right to social security**

### *Paragraph 1 - Existence of a social security system*

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

### ***Risks covered, financing of benefits and personal coverage***

In its previous conclusion (Conclusions 2017) the Committee asked for updated data concerning the percentage of population covered respectively in respect of healthcare and the percentage of active population covered for sickness, work accidents and occupational diseases, old age, disability and unemployment. The Committee notes from the report in this respect that the total coverage of health insurance in 2019 stood at 90% of the population. The total active population in 2019 stood at 964,014 persons. According to the report, under the compulsory health insurance, the insured persons are entitled to cash benefits during temporary incapacity for work due to illness and injury. As regards pension and disability insurance, according to the report of the Pension and Disability Insurance Fund in 2019 28% of the total population was insured against this risk, which represents 60% of the active population. The Committee asks what percentage of active population is insured against temporary incapacity and unemployment risks. In the meantime, it reserves its position on this point.

### ***Adequacy of benefits***

According to Eurostat data, in 2019, the poverty level, defined as 50% of the median equivalised income, was €1363 per year, or €114 per month. 40% of the median equivalised income corresponded to €91 monthly. The report indicates that the minimum (net) wage was in 2019 stood at 14.500 MD or € 237.

In its previous conclusion the Committee considered that the minimum level of sickness benefit was adequate. It notes from the report that 70% or 80% of the salary is paid in sickness benefit and 100% in case of occupational diseases. The Committee considers that these amounts are adequate. As regards the minimum amounts of pension benefit, according to the report the lowest amounts paid to different groups of pensioners, depending on the length of service, ranges between 9,000 and 11,500 denars, or € 147-188. The Committee considers that these amounts are adequate. The Committee asks what amounts are paid as disability pensions.

As regards unemployment benefit, in its previous conclusion the Committee considered that the minimum amount of unemployment benefit paid after first 12 months was inadequate. It notes from the report that the 50% of the average net wage of the worker is paid for the period of unemployment in the first 12 months and 40% afterwards. The Committee notes in this regard that in case of a worker earning the minimum wage 40% of the unemployment benefit amounted to € 95. As this amount falls between 50% and 40% of the median equivalised income, the Committee asks whether the worker in question would be entitled to any additional benefits.

As regards the duration of unemployment benefit, the Committee has previously found that the situation was not in conformity with the Charter as persons satisfying the minimum requirements for entitlement (9 months of uninterrupted employment or 12 months employment insurance out of the last 18 months) were only entitled to one month unemployment benefit. The Committee notes from the report that the compliance of the legislation (namely Law on Employment and Insurance in case of unemployment) will be reviewed in 2021. The Committee asks the next report to provide information in this respect. In the meantime, the Committee considers that the situation has not changed and therefore, it reiterates its previous finding of non-conformity.

In its previous conclusion the Committee noted that the payment of unemployment benefits can be suspended for one year, inter alia, in case of refusal of a job offer. The Committee asked the next report to clarify whether this sanction was applied only in case of refusal of a job offer which is considered to be adequate, whether the law defined what constituted an "adequate" job offer, and after what period a jobseeker could be requested to accept a job offer not corresponding to his/her qualifications. It notes in this respect from the report that according to Article 57 of the Law on Employment and Insurance in case of Unemployment, the job is considered as appropriate if it is in accordance with the type and level of completed education of the person concerned and the acquired skills and if the workplace is not more than 50 km away from the residence of this person. According to Article 59, the person concerned is removed from the unemployment registry if, among others, he/she refuses appropriate or suitable employment twice in two years and does not show up for a job interview. The Committee asks whether there is an initial period during which an unemployed person can refuse a non-suitable job without losing unemployment benefit.

#### *Conclusion*

The Committee concludes that the situation in North Macedonia is not in conformity with Article 12§1 of the Charter on the ground that the duration of unemployment benefit in some cases is too short.

## **Article 12 - Right to social security**

### *Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

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

The Committee recalls that Article 12§2 obliges States to maintain a social security system at a level at least equal to that necessary for ratifying the European Code of Social Security. The Code requires the acceptance of more parts than ILO Convention No. 102 on social security (minimum standards), i.e. at least six of Parts II to X (on the understanding that Part II, Medical care, counts as two parts and Part V, Old-age benefit, counts as three parts).

The Committee notes that North Macedonia has not ratified the European Code of Social Security. Therefore, the Committee cannot take into consideration the Committee of Ministers' resolutions on the application of the Code by States which are bound by it, and must make its own assessment.

The Committee notes that North Macedonia has ratified ILO Convention No. 102 and accepted Parts II to VI, VIII and X, which concern medical care (II), sickness benefit (III), unemployment benefit (IV), old-age benefit (V), employment injury benefit (VI), maternity benefit (VIII) and survivors' benefit (X). However, Part VI ceased to apply after North Macedonia ratified ILO Convention No. 121 on employment injury benefits.

The Committee recalls that to assess whether a social security system is maintained at a level at least equal to that which is necessary for ratifying the European Code of Social Security, it assesses the information relating to the branches covered (risks covered), to the personal scope and to the level of the benefits paid.

In this respect, the Committee refers to its previous conclusion on Article 12§1 (Conclusions 2017), in which it had noted that the social security system continued to cover all the traditional branches (medical care, sickness, unemployment, old age, work accidents and occupational diseases, family, maternity, invalidity and survivors).

Concerning the personal scope, the Committee refers to its conclusion in this evaluation cycle relating to Article 12§1, in which it reserved its position pending information on the percentage of the active population insured against temporary incapacity and unemployment.

As for the level of benefits, the Committee recalls that it found that the length of time during which unemployment benefits were paid was too short in some cases (Conclusion 2021 on Article 12§1) and that the family benefits system did not ensure economic protection for a significant number of families through appropriate means (Conclusion 2019 on Article 16). It further recalls that it did not rule on the adequacy of disability pensions, pending information on their amounts (Conclusion 2021 on Article 12§1).

The Committee also takes into account its Conclusion 2021 on Article 12§1, which showed that the minimum amounts of sickness, pension, and work accidents and occupational diseases benefits were adequate. It refers in addition to its Conclusion 2019 on Article 8§1, in which it considered that the amounts of maternity benefits were in conformity (pending information).

Moreover, the Committee notes that during the reference period, the Committee of Experts on the Application of ILO Conventions and Recommendations made no observation or direct request to the Government of North Macedonia concerning Conventions Nos. 102 or 121.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in North Macedonia is in conformity with Article 12§2 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 3 - Development of the social security system*

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

The Committee recalls that States were asked to reply to two targeted questions for Article 12§3 of the Charter as well as, where applicable, the previous conclusions of non-conformity or deferral (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 found that the situation in North Macedonia was in conformity with Article 12§3 of the Charter (Conclusions 2017). It will therefore restrict its consideration to the Government’s replies to the two targeted questions, namely:

- social security coverage, and its modalities, provided to persons employed by digital platforms or whose work is managed via such platforms; and
- any impact of the Covid-19 crisis on social security coverage, and any specific measures taken to compensate for or alleviate any possible negative impact.

The Committee wishes to point out that it will take note of the reply to the second question for information purposes only, as it relates to developments that occurred 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.

### **Platform workers**

The Committee recalls that it has posed a targeted question to all States on social security cover for persons employed or whose work is managed by digital platforms. The emergence of these new forms of employment has had a negative impact on certain rights of these workers, as explained in the General Introduction. In matters of social security, compliance with Article 12§3 of the Charter requires that the existing social security systems be adapted to the specific situation and needs of the workers concerned, in order to guarantee that they enjoy the social benefits included within the scope of Article 12§1. The Committee is keenly aware that there are significant gaps in the social coverage of workers in new forms of employment such as platform workers. It considers that the States Parties are under an obligation to take all the necessary measures to address these shortcomings.

In particular States Parties must take steps to ensure that all workers in new forms of employment have an appropriate legal status (employee, self-employed or other category) and that this status is in line with the actual situation thus avoiding abuse (such as the use of “bogus” or “false” self-employed status to circumvent the applicable social security regulations) and conferring adequate social security rights as guaranteed by Article 12 of the Charter on the platform workers.

In its report, the Government states that the Pension and Disability Insurance Act, the Health Insurance Act and the Employment and Unemployment Insurance Act list the persons who are obliged to have these forms of insurance, and provides the lists of these persons. They include:

- employees and persons classed as employees by law, self-employed persons and citizens of North Macedonia who work for an employer operating abroad (Pension and Disability Insurance Act);
- employees, self-employed persons, retired persons, unemployed persons and persons in receipt of social assistance (Health Insurance Act);
- employees (Employment and Unemployment Insurance Act).

However, the Government has not provided any information about the social security coverage of digital platform workers. The Committee therefore reiterates its question. It asks for information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status). In the meantime, the Committee reserves its position on this point.

### ***Covid-19***

In response to the second question, the Government mentions the measures taken in 2020 to alleviate the negative impact of the Covid-19 crisis on social security coverage. These measures include:

- free access to healthcare services for the diagnosis and treatment of Covid-19 – for any person, including insured persons who are not up to date in paying their contributions, citizens of North Macedonia who are not subject to mandatory health insurance and foreign nationals;
- temporary suspension of the time-limits for initiating certain actions under the Pension and Disability Insurance Act, the Mandatory Fully Funded Pension Insurance Act, the Payment of Retirement Pensions and Pension Benefits through Fully Funded Pension Insurance Act and the Employment of Disabled Persons Act;
- the conclusion of bilateral agreements with certain countries to make it possible to extend the time-limit for submitting certificates of life and continuing to pay pensions;
- extending the registration time-limits for unemployed persons;
- paying unemployment benefits for two months to persons whose employment ended between 11 March and 30 April 2020, including where the employee ended the employment and irrespective of the duration of this employment.

### ***Conclusion***

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

## **Article 12 - Right to social security**

### *Paragraph 4 - Social security of persons moving between States*

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

### ***Equality of treatment and retention of accrued benefits (Article 12§4)***

#### ***Right to equal treatment***

The Committee recalls that the guarantee of equal treatment within the meaning of Article 12§4 requires States Parties to remove all forms of discrimination against nationals of other States Parties from their social security legislation (Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4). Both direct and indirect discrimination should be eliminated. National legislation cannot reserve a social security benefit to nationals only or impose extra or more restrictive conditions on foreigners. Nor may national legislation stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with than nationals, and therefore affect them to a greater degree. However, pursuant to the Charter's Appendix legislation may require the completion of a period of residence for non-contributory benefits. In this respect, Article 12§4a requires that any such prescribed period of residence be reasonable. The Committee considers that the right to equal treatment covers both equal access to the social security system and equal conditions for entitlement to social security benefits.

The Committee notes from the report that the Ministry of Labour and Social Policy has launched initiatives through the Ministry of Foreign Affairs for concluding social security agreements with the following countries: Malta, Latvia, Estonia, Lithuania, Greece, France, Spain, Portugal, United Kingdom, Norway, Finland and Sweden. According to the report, the conclusion of a bilateral agreement requires mutual interest, as bilateral agreements typically involve equal obligations and the involvement of both parties.

The report further states that the Ministry of Labour and Social Policy intends to make an appropriate analysis to determine which categories of foreigners with regulated residence in the territory of North Macedonia, under which conditions and criteria could have access to certain social protection rights in accordance with the Law on Social Protection. The Committee understands that in the reference period equal treatment of nationals of States Parties lawfully resident in North Macedonia was not ensured as regards access to the social security system as well as equal conditions for entitlement to social security benefits was not ensured. Therefore, the situation is not in conformity with the Charter on this point.

As regards equal treatment in respect of family benefits, the Committee recalls that the purpose of child benefits is to compensate the costs of maintenance, care and education of children. Such costs primarily occur in the State where the child actually resides.

The Committee further recalls that child benefits are covered by different provisions of the Charter, and in particular by Article 12§1 and Article 16 of the Charter. Under Article 12§1 States Parties have an obligation to establish and maintain a social security system including a family benefits branch. Under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be child benefits provided as part of social security, available either universally or subject to a means-test. States Parties have a unilateral obligation to pay child benefits in respect of all children resident in their territory on an equal footing, whether they are nationals or have moved from another State Party.

The Committee is aware that States Parties that are also EU Member States, on the basis of the EU legislation on coordination of the social security system are obliged to apply coordination rules which to a large extent prescribe exportability of child benefits and family

allowances. When the situation is covered by the Charter, and the EU legislation does not apply, the Committee has regard to its interpretation according to which the payment of child benefits to all residing children, as a starting point, is a unilateral obligation for all States Parties. The Committee decides no longer to examine the issue of exportability of child benefits under Article 12§4a.

Under Article 12§4a of the Charter the Committee will only examine whether child benefits are paid to children, having moved from another State Party, on an equal footing with nationals, thus ensuring equal treatment of all resident children. Under Article 16 the Committee will examine equal treatment of families as regards access to family benefits and whether the legislation imposes length of residence requirement on families for entitlement to child benefit.

According to the report, pursuant to the Law on Child Protection, the right to child allowance is exercised depending on the financial situation of the household and is provided to a child up to 18 years of age. A foreign national who has a place of residence and a regulated permanent residence in North Macedonia can exercise the right to a child allowance for a child if he/she meets the following conditions:-

- the child is a citizen of North Macedonia, with a permanent place of residence in North Macedonia;
- the household should not possess property and have property rights from which it can be supported;
- the total average monthly income realized in the last three months prior to the submission of the request and during the exercise of the right on all grounds of all household member should be up to the threshold for access to the right to child allowance, in accordance with the Law on Child Protection and
- the parent should not use this right in another country.

Additionally, in order for a foreign national to be able to exercise the right to child allowance in the Republic of North Macedonia, it is necessary for it to be provided by a ratified international agreement between the Republic of North Macedonia and the country of which the person is a citizen.

According to the data available to the Ministry of Labour and Social Policy, in the Republic of North Macedonia, as of August 2020, 25 foreign nationals are child allowance beneficiaries.

The Committee notes that access to child benefit is made conditional on child's nationality and not only his/her residence in North Macedonia. Therefore, there the situation is not in conformity with the Charter.

### ***Right to retain accrued rights***

The Committee recalls that old-age benefit, disability benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one State according to the eligibility criteria laid down under national legislation should be maintained (exported) irrespective of whether the beneficiary moves between the territories.

As regards the right to retention and maintenance of the acquired benefits, the report states that the application of the agreements regulates the relations in the field of social security between North Macedonia and the other contracting country and the exercise of the insurance rights for the citizens of both contracting countries. According to the report these agreements belong to the category of so-called open agreements, that is modern European agreements, as they refer to persons, and not to citizens of both contracting parties.

The Committee asks whether retention and export of old-age, disability and survivor's benefits are envisaged in these agreements. In the meantime, it reserves its position on this point.

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

The Committee recalls that under Article 12§4b there should be no disadvantage in terms of accrual of rights for persons who move to another State for employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory for the purposes of the opening, calculation and payment of benefits. In the case of long-term benefits, the pro-rata approach should also be employed. States may choose between the following means in order to ensure maintenance of accruing rights: bilateral or multilateral agreement or, unilateral, legislative or administrative measures. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights. The Committee asks whether bilateral agreements regulate maintenance of accruing rights and accumulation of insurance periods. In the meantime, it reserves its position on this issue.

#### *Conclusion*

The Committee concludes that the situation in North Macedonia is not in conformity with Article 12§4 of the Charter on the grounds that:

- equal treatment of nationals of other States Parties is not guaranteed as regards access to the social security system;
- equal treatment of all resident children is not guaranteed as regards entitlement to child benefit.

### **Article 13 - Right to social and medical assistance**

#### *Paragraph 1 - Adequate assistance for every person in need*

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

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 measures taken to ensure that the right to social and medical assistance is ensured 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 (i.e. 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.

The previous conclusion considered that the situation in North Macedonia was not in conformity with Article 13§1 of the Charter on the grounds that: the level of social assistance paid to a single person without resources is not adequate; nationals of States Parties lawfully resident are subject to a length of residence requirement of five years for entitlement to social assistance.

#### ***General legal framework, types of benefits and eligibility criteria***

The Committee notes from the report that the design of the reform of the social protection system started in 2018. In this regard, the measures were implemented by a Working Group in the Ministry of Labour and Social Policy, with expert support. The primary goals of the reform of the rights to financial assistance arising from social protection are: increase of the effectiveness of the financial assistance arising from social protection on reducing income poverty; reduction of child poverty; destigmatization of the beneficiaries of financial assistance.

The Laws on Social Protection, as well as on Social Security of Elderly, were adopted in May 2019 (Law 104/19 of 23 May 2019). They provide for a radical reform of the support system for the most vulnerable categories of citizens, including children and the elderly. The system of cash benefits arising from social protection was redesigned by integrating the benefits in generic cash benefits and the combination of the rights to financial assistance is allowed. More specifically, a guaranteed minimum assistance (GMA), as well as an amount of MKD 1000 per month was introduced for the financially insecure households in the course of the six winter months to cover the heating costs.

At the same time, there were actions to strengthen the activation of the beneficiaries of guaranteed minimum assistance on the labour market. The beneficiaries of guaranteed minimum assistance exercised for the first time the right to child allowance and education allowance (for primary and secondary education), thus implementing a family package, that is, providing funds for reducing the poverty of financially insecure households. The new Law on Social Security of Elderly aims to increase the effectiveness of cash benefits in reducing poverty among the elderly over the age of 65, who cannot provide a means of subsistence on other grounds. From the beginning of the reform until December 2019, 4,704 people over the age of 65 acquired the right to use the social allowance of MKD 6,000 per month.

The report also shows that the data on the payments and the number of beneficiaries of the right to child allowance according to the amendments to the Law on Child Protection of May 2019, compared to the old law, show a significant increase. The total payment, but also the total number of beneficiaries under the new law in May 2019 is several times higher compared to the old law. In December 2019, 15,248 families with children used a child allowance, compared to 2,956 families in April 2019 (an increase of 415%), and the number of children in those families is 33,037 in December 2019, compared to 6,924 children in April 2019 (an increase of 377%).

Preparations are underway for the introduction of services and measures to help those receiving the guaranteed minimum assistance to find work and employment. A bylaw was adopted (Rulebook on the manner of cooperation for inclusion of the beneficiary of GMA in the active employment measures), which created a legal basis for cooperation between the employment and social protection services in order to support the beneficiaries in their search for work.

### **Level of benefits**

To assess the situation during the reference period the Committee takes note of the following information:

- Basic benefit: the Committee takes note of the evolution of the basic guaranteed minimum financial assistance. It notes that in 2019 the amount was increased: it stood at MKD 2,696 (€ 43) for a single person in 2015 and in 2019 it stood at 4000 MKD per person (€ 62). The amount of permanent financial assistance was also increased and stood at MKD 5,445 in 2019 (€ 90). The minimum guaranteed income is, according to MISCCEO, a 27.8% of the minimum wage.
- Additional benefits: the Committee notes from MISSCEO that the right to financial assistance for social housing is granted to persons who are considered in social risk and who do not have a home. Financial assistance for social housing is funded by the State budget and the amount of the benefit depends on the material and family status of the beneficiary. According to MISSCEO there is an energy allowance of MKD 1008 during the six winter months (€ 16). There are also other supplements for those receiving the guaranteed minimum income: up to MKD 4,000 (€ 65) for rent of a housing facility are covered for an individual. The costs for utilities (electricity, heating, water and waste) are covered in the amount of up to MKD 1,500 (€ 24) for an individual. These allowances are not integral part of Guaranteed minimum assistance and they need to be claimed separately. The Committee asks the next report to provide an estimate of an average *monthly* amount of all additional benefits that would be paid to a single persons, recipient of social assistance.
- Poverty threshold defined as 50% of median equivalised income and calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at € 114 in 2019.

The Committee notes that the level of social assistance benefits has increased steadily during the reference period. However, their amounts, both as regards financial assistance and permanent financial assistance fall below the Eurostat poverty indicator and are, therefore, not adequate. The Committee reiterates its previous finding of non-conformity on this ground.

### **Right of appeal and legal aid**

The Committee notes that no targeted questions were asked as regards the right of appeal and legal aid. The Committee asks that the next report provide for information about number of complaints filed relating to the right to financial assistance, permanent financial assistance as well as one-time financial assistance.

### ***Personal scope***

The specific questions asked in relation to Article 13§1 this year do not include an assessment of assistance to nationals of States parties lawfully resident in the territory. Therefore, this particular issue will only be assessed if there was a request of information or a non-conformity in previous cycle.

#### **Foreign nationals lawfully present in the territory**

In its previous conclusion the Committee found that the situation was not in conformity with the Charter on the ground that social financial assistance and permanent financial assistance were granted to nationals of States Parties only subject to an excessive length of residence requirement (five years).

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing..

The Committee notes from the report in this respect that there is a reference to accessing social assistance beneficiaries for nationals as well as nationals of States Parties, holders of permanent residence. The latter requires five years of residence in the territory. The Committee notes therefore that there has not been any changes to the situation which the Committee has previously found not to be in conformity with the Charter.

#### **Foreign nationals unlawfully present in the territory**

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The Committee notes from the report that migrants transiting through the Republic of North Macedonia to Western European countries are provided with the necessary medical assistance in the clinics in the transit camps in Gevgelija and Tabanovce, where teams of health professionals are present. The clinic provides basic health services/first aid, selective supervision of migrants (pregnancy, young children under the age of 6, persons with pronounced clinical manifestations of infectious diseases), as well as transport to a medical institution according to a priority at the secondary level of health care, that is, to the General Hospital in Gevgelija, or the General Hospital Kumanovo, and if necessary, at the tertiary level (University Clinics). Migrants are also provided with vaccinations against measles, mumps and polio. Separate rooms are provided in the transit camps for isolation of persons infected with Covid-19 who do not need hospitalization.

The Committee had previously asked whether there were situations where this category of persons could receive emergency social assistance outside the reception centre and had recalled the need to provide such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The report does not give any specific information on this. The Committee therefore requests to explain further whether the legislation and practice comply with these requirements. If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.

### ***Medical and social assistance during the Covid-19 pandemic***

The Committee takes note that the report refers to a number of steps taken to ensure social and medical assistance during the Covid-19 pandemic. Following the declaration of a state of emergency, the Government adopted a Regulation with the force of law on amending the Regulation on the application of the Law on Social Protection (No. 198/20), which provided

access to the right to guaranteed minimum assistance for persons whose employment was terminated during the pandemic, in order to exercise it in an easier manner from April to December 2020. The financial insecurity of the household was determined by calculating the amount of all incomes of all members of the household on all grounds in the month before the submission of the application for exercising the right to the guaranteed minimum income. The right to GMA did not cease if the beneficiary did not register in the competent employment center and does not regularly fulfil the obligations for registration in accordance with the regulations on employment and insurance in case of unemployment. The cash benefit for covering part of the costs for energy consumption was provided continuously on a monthly basis in the course of 2020. Given that the situation with the Covid-19 pandemic continued in 2021, Law 302/20 was adopted, which guaranteed again easier access to the right to guaranteed minimum assistance in a state of emergency. As a result of the facilitated access to this right, at the end of 2020 the number of beneficiary households increased by 15% to 33,175 households, compared to the number of beneficiaries before the introduction of the benefits.

The Committee asks the next report to produce further information on social assistance and specific measures taken during the Covid-19 pandemic.

#### *Conclusion*

The Committee concludes that the situation in North Macedonia is not in conformity with Article 13§1 of the Charter on the grounds that:

- the level of social assistance paid to a single person without resources is not adequate;
- nationals of States Parties lawfully resident are subject to a length of residence requirement of five years for entitlement to social assistance.

**Article 13 - Right to social and medical assistance**

*Paragraph 2 - Non-discrimination in the exercise of social and political rights*

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.

### **Article 13 - Right to social and medical assistance**

#### *Paragraph 3 - Prevention, abolition or alleviation of need*

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

The Committee recalls that Article 13§3 concerns services offering free personal assistance and counselling as may be required to prevent, to remove, or to alleviate personal or family want. It further 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 scope of the thematic group “Health, social security and social protection”). However, no targeted questions were posed in respect of Article 13§3 of the 1961 Charter. The Committee deferred its previous conclusion (Conclusions 2017). It will therefore limit its examination to the Government’s replies to its previous request for relevant complementary information.

The Committee has previously recalled that, when assessing national situations in the light of this provision, it specifically examines whether there are mechanisms in place to ensure that persons in need receive help and personal advice services free of charge and whether the relevant services and institutions are sufficiently well distributed on a geographical basis. The Committee requested updated information regarding the activities of the centres for social services (the term ‘centres for social work’ is used in the report and further on in this conclusion) as regards advice and personal help provided to persons without resources in order to prevent, abolish or alleviate their need.

In response, the report states that the Law on Social Protection provides for the following social services: information and referral services, professional help and support services, counselling services, home services, community services and out-of-home care services. The information and referral services inform citizens about social protection rights and the social services available, and provide initial assessment and referral to other institutions so as to ensure unimpeded access to the rights and services to be provided. Counselling services include counselling to prevent, mitigate and overcome the consequences of social problems experienced by individuals and families. The services provided in the social action centres are free of charge for beneficiaries. In addition, the Law on Social Protection envisages professionals in the social action centres, together with those in the Employment Service Agency, working together with all household members capable of working to acquire and improve their vocational skills and their occupations depending on their capabilities and the needs of the labour market, with a view to including them in active measures and employment programmes.

As regards the geographical distribution, the report states that there are 30 centres for social work operating in the social protection system, which cover and are responsible for all municipalities in the Republic of North Macedonia. In order to provide citizens with easier access to information and to exercise their social protection rights, 50 regional offices were opened in local authorities.

According to the report, the 2019 Law on Social Protection introduced the case-management model in centres for social work and changed the way of working with beneficiaries in the centres for social work, i.e. the beneficiary and his/her family are the focus of attention and individual needs are the basis for providing rights and services. New categories of professionals were introduced, in particular a ‘case manager’, a ‘supervisor’ and a ‘case registrar’. The last category is a professional in a centre for social work in charge of the initial admission, assessment and referral of beneficiaries who enables them to exercise their rights to financial assistance and/or services.

*Conclusion*

The Committee concludes that the situation in North Macedonia is in conformity with Article 13§3 of the Charter.

**Article 13 - Right to social and medical assistance**

*Paragraph 4 - Specific emergency assistance for non-residents*

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.