



March 2022

# **EUROPEAN SOCIAL CHARTER (REVISED)**

European Committee of Social Rights

Conclusions 2021

**SERBIA**

*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 Serbia, which ratified the Revised European Social Charter on 14 September 2009. The deadline for submitting the 10<sup>th</sup> report was 31 December 2020 and Serbia submitted it on 30 August 2021.

The Committee recalls that Serbia 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).

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

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

The conclusions relating to Serbia concern 16 situations and are as follows:

– 1 conclusion of conformity: Article 12§2;

– 11 conclusions of non-conformity: Articles 3§2, 11§2, 11§3, 12§1, 12§3, 12§4, 13§1, 14§1, 14§2, 23 and 30.

In respect of the other 4 situations related to Articles 3§1, 3§3, 11§1 and 13§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 Serbia under the Revised Charter.

The next report from Serbia 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 1 - Safety and health regulations*

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

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

In its previous conclusion, the Committee found that, pending receipt of the requested information, the situation in Serbia was in conformity with Article 3§1 of the Charter (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.

#### **General objective of the policy**

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

In reply to the Committee’s question, the report states that the National Occupational Safety and Health (OSH) Policy has been assessed and developed through the adoption of the OSH Strategy in the Republic of Serbia for the period from 2018 to 2022, with the Action Plan for its implementation.

The report explains that the strategy builds on the Strategic Framework for Safety and Health at Work of the European Union for the period from 2014 to 2020, which identifies the following challenges: 1) improving the implementation of regulations, in particular improving the capacity of micro- and small enterprises to set up efficient and effective risk prevention measures; 2) improving the prevention of occupational diseases and overcoming existing, new and emerging risks; 3) overcoming demographic changes.

The report states that the general goal of the OSH Strategy is to improve safety at work and preserve the health of the working population, i.e. to improve working conditions in order to prevent injuries at work, and reduce occupational and work-related diseases to a minimum, i.e. eliminate or reduce occupational risks. According to the report, during the period of its implementation, the Strategy aims both to prevent occupational accidents and diseases, and to reduce the number of occupational accidents in the Republic of Serbia by 5% compared to the total number of occupational accident in the previous five-year period of strategy implementation. The report also states that all actors in the safety and health at work system (the competent state administration bodies, social partners and other participants in the occupational health and safety system) are involved in the implementation activities and the full integration of regulations in the field of safety and health at work.

The Committee takes note of the information provided. However, it notes that no detailed information is provided regarding either the results obtained and the progress achieved in the implementation of the OHS Strategy, or on the activities carried out in terms of research, knowledge and communication relating to psychosocial risks. The Committee, therefore,

reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Serbia is in conformity with Article 3§1 of the Charter.

### ***Organisation of occupational risk prevention***

In its previous conclusion (Conclusion 2017), the Committee asked for information on the organisation of occupational risk prevention for workers employed by public authorities and in the agricultural and forestry sectors. It also requested information about the way in which employers, particularly small and medium-sized enterprises, discharge their obligations in terms of initial assessment of the risks specific to workplaces and the adoption of targeted preventive measures in practice. The Committee also requested the next report to indicate the manner in which Serbia ensures that safety and health laws and regulations are adopted and maintained in force on the basis of an assessment of occupational risks.

The report does not contain any of the information requested. The Committee therefore reiterates its request.

### ***Improvement of occupational safety and health***

In its previous conclusion, the Committee asked for more detailed information on the involvement of public authorities in research relating to occupational health and safety, the training of qualified professionals, the design of training courses and the certification of procedures (Conclusions 2017).

The report does not contain any of the information requested. Therefore, the Committee reiterates its request that the next report provide the information requested.

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

The Committee previously asked that the next report provide information regarding the effectiveness of the Social and Economic Council and the Occupational Health and Safety Council in promoting social dialogue in the area of health and safety, notably by providing concrete examples illustrating their effectiveness (Conclusions 2017). The report does not contain the specific information required. Therefore, the Committee reiterates its request.

In its previous conclusion, the Committee also requested that the next report contain information on the activities of the health and safety representatives elected in accordance with Section 44 et seq. of the Act of 14 November 2005 in practice (Conclusions 2017).

In its reply to the Committee's question, the report states that the provisions of Articles 44 to 48 of the Law on Safety and Health at Work ("Official Gazette of RS", No. 101/05, 91/15 and 113/17) stipulate that employees have the right to choose one or more employee representatives for safety and health. The number, procedure for the election and manner of work of employee representatives on the Board, as well as their relationship with the trade union are regulated by a collective agreement or an agreement concluded between the employer and the employee representative.

According to Articles 44 et seq. of the Act of 14 November 2005, the employer is obliged to enable at least one employee representative for safety and health at work to be absent from work in the performance of the job to which he is assigned for at least five hours of work per month, with the right to salary compensation calculated and paid in the same amount as if worked on the job. Depending on the financial means and space at their disposal, employers are also obliged to provide the necessary technical conditions and facilities to enable employee representatives to perform their role.

The employer and the employee representative are obliged to cooperate with each other on issues of safety and health at work, in accordance with the Act and other regulations. The employer is obliged: to provide the employee representative with insight into all acts related

to safety and health at work and to provide to the employee representative all data related to safety and health at work; to participate in the consideration of all issues related to safety and health at work, to propose and be consulted; to acquaint the employee representative with the findings and proposals for protective and preventive measures or measures taken by the labour inspectorate and reports on occupational accidents and occupational diseases, and on measures taken for safety and health at work, as well as on measures taken to prevent imminent danger to life and health. On the other hand, the employee representative has the right: to make proposals to the employer on all issues related to safety and health at work; to require the employer to take appropriate measures to eliminate or reduce the risk that endangers the safety and health of employees; to request supervision by the labour inspectorate, if they consider that the employer has not implemented appropriate measures for safety and health at work; to attend the inspection.

The report mentions that according to the annual reports of the Labour Inspectorate, in practice, there is a small number of educated Boards for safety and health at work with employers who were supervised in the field of safety and health at work.

### **COVID-19**

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

In response to the targeted question related to Covid-19, the report informs that the Ministry of Labour, Employment, Veteran and Social Affairs (MLEVSA) has developed a Protection and Prevention Measures plan, issued over 30 instructions, orders and recommendations and organised Viber groups with all institutions, all for faster communication with heads of institutions and organisations and a faster response, where required. Priority was given to accommodation service users, vulnerable social groups and residents of non-standard settlements.

The plan includes measures such as: visiting accommodation facilities and homes where the virus was observed; supplying all social welfare institutions with the necessary protective equipment in order to protect beneficiaries and employees; cooperating with local government units by disinfecting the space within and around accommodation facilities; on a daily basis keeping a register of reports and records on potentially infected beneficiaries and employees in social protection institutions; checking the conduct of private homes for the elderly regarding the admission of new beneficiaries.

The report states that cooperation and mediation with other bodies functioned to take measures to prevent the spread of the epidemic. The report mentions that the website of the MLEVSA posted information such as important telephone numbers of competent institutions and on how to do a self-check for the corona virus. It also mentions that a contact form was established for citizens needing food, medicine or medical assistance, as well as a contact application form for volunteering. The report explains that the government established a single contact Covid-19 centre where, by means of a free telephone number, citizens could get advice and recommendations from experts in the fight against coronavirus, as well as contact the competent services throughout the country. The report also states that elderly citizens could turn for help with food, medicine and city and municipal centres where volunteers were engaged by calling a free telephone number. The report highlights that medical and non-medical staff were hired with the aim of mitigating the consequences of Covid-19 by strengthening human resources.

The report states that with regard to the Directorate for the Execution of Penal Sanctions, healthcare workers and security service workers always wear surgical masks, gloves, and visors. Persons who work with proven Covid-19 patients or with patients who have Covid-19 symptoms use appropriate personal protective equipment (PPE), and employees in all

services wear surgical masks when in contact with persons deprived of their liberty and when in their work premises. As of 11 March 2020, the body temperatures of people arriving at institutions were checked with contactless thermometers, with the aim of not allowing access to those who had a temperature. All newly admitted persons in the institutions were quarantined for a period of two weeks, under increased health supervision. Moreover, disinfection barriers were set up at the entrance to the institutions and in several places such as halls, rooms, and work surfaces, as well as at checkpoints with hand sanitizers.

Visits to inmates were banned as of 30 March 2020 and allowed again on 12 May 2020, conditional upon the prior measurement of visitors' temperatures, the passage through disinfection barriers, the disinfection of hands and the obligatory use of protective masks and gloves, the provision of visors for detainees and convicts, the respect of recommended social distancing during the visit, and the prohibition of direct physical contact between the parties.

All these measures follow the recommendations of the Institute of Public Health of Serbia "Dr Milan Jovanović Batut", which refer to enhanced hygiene measures such as washing hands as often as possible, washing floors, disinfecting equipment and work surfaces, ventilating rooms as often as possible, and prolonging the person's stay in the fresh air. Accordingly, the convicts' stay in the fresh air was extended for more than 2 hours, as prescribed by law. The report also states that all persons deprived of their liberty were provided with education about to protect themselves from Covid-19 infection.

At the end of November 2020, the administration provided 12,000 antigen tests and trained the employees in the health care Service to use them.

Regarding the measures taken by the Ministry of Trade, Tourism and Telecommunications (MTTT), the report states that PPE was procured and a plan for the organisation of work processes and preventive measures was drawn up. The report details the decisions in which the plan was initially set out and then adapted to the changing circumstances. The report also provides detailed information on the Manual on Personal Protective Equipment and Medical Devices in the Context of the Covid-19 Pandemic, an instructional material for Market Inspectors in the monitoring of the safety of PPE and for Inspectors responsible for medicines and medical devices in the control of safety of medical devices. The report also highlights that a maximum price for masks and gloves during the state of emergency was set, and that the Market Inspectors performed extraordinary inspections to verify that masks and gloves were available to all citizens and that their price did not exceed the maximum price that had been set.

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

The Committee points out that, in order to secure the rights set out in Article 3, a response to Covid-19 in terms of national law and practice should involve the immediate introduction of health and safety measures at the workplace such as adequate physical distancing, the use of personal protective equipment, strengthened hygiene and disinfection measures, as well as stricter medical supervision, where appropriate. In this respect, due account should be

taken of the fact that certain categories of workers, such as frontline health care workers, social workers, teachers, transport and delivery workers, garbage collection workers, and agro-food processing workers are exposed to heightened risks. States Parties must ensure that their national policies on occupational safety and health, and their health and safety regulations, reflect and address the hazardous agents and the particular psychosocial risks faced by different groups of workers in the Covid-19 context. The Committee also stresses that the situation requires a thorough review of occupational risk prevention, at national policy level, as well as at company level, in close consultation with the social partners as stipulated by Article 3§1 of the Charter. The national legal framework may require amendment, and risk assessments at company level must be adapted to the new circumstances.

#### *Conclusion*

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

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

#### *Paragraph 2 - Safety and health regulations*

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

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 it previously found the situation in Serbia not to be in conformity with Article 3§2 of the Charter on the grounds that it had not been established that the level of protection against ionising radiation is adequate and that domestic workers are not covered by occupational health and safety regulations (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted question.

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

In its previous conclusion, the Committee noted that the Law on Occupational Health and Safety (OG No. 91/15) did not apply to certain categories of workers, such as persons employed with an employer for carrying out duties of support staff at home and asked whether this meant that these categories of workers were left without any standard of protection or if other protective rules applied. The Committee also asked for information on the Government’s intentions to ratify the technical ILO Conventions. The Committee pointed out that there was no information in the report about whether regulations concerning health and safety at work covered work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships. Noting the latter point, the Committee considered that if the requested information was not provided in the next report, there would be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter (Conclusions 2017).

The report describes the Occupational Safety and Health Strategy 2018-2022 and states that the mission of the Strategy is to create the preconditions for better implementation of certain measures of occupational safety and health, in particular with regard to high-risk economic activities, including vulnerable groups, and to ensure the cooperation with all occupational safety and health stakeholders. The report states that the Law amending the Law on Occupational Health and Safety was adopted (OG No. 91/15) and it included a number of implementing regulations transposing directives on preventive measures for safe and healthy work for workers exposed to asbestos, electromagnetic field, workers in healthcare at risk of injuries from using sharp instruments, and for young workers. Rulebooks were adopted to ensure the implementation of the Law on Occupational Health and Safety specifying arrangements for the provision of first-aid, mandatory working equipment, training programmes for first-aid for workers and trainings for occupational safety and health officers. The report also states that the Rulebook on the method and procedure of risk assessment at workplace and in working environment (OG No. 72/06, 84/06-corrigendum, 30/10 and 102/15) defines the method and procedure of risk assessment against occupational injuries or damages to health, as well as the methods for their elimination, regulated by the employer. In accordance with this Rulebook, risk assessment should cover psychosocial risks as well as other risks.

The Committee notes that no information is provided about whether certain categories of workers are left without any standard of protection, as well as about the Government’s intentions to ratify the technical ILO Conventions and repeats this request for information.

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.

In response, the report states that under the Law on Occupational Health and Safety, the employer is required to assess the risks to occupational safety and health and to determine the manner and measures for their elimination. The Rulebook on the method and procedure of risk assessment at workplace and in working environment determines the manner and procedure of risk assessment of injuries at work or damage to health, as well as the manner and measures on their elimination. Risk assessment also refers to stress at the workplace as a risk factor. The report also states that a brochure of the International Labour Organisation "Stress prevention at work checkpoints" was published on the website of the Ministry of Labour, Employment, Veterans' Affairs and Social Affairs, this brochure provides practical guidelines for the prevention of stress at work.

The Committee takes note of this information. It notes, however, that no information is provided on the electronic monitoring of workers, the right to disconnect, right to be unavailable outside agreed working and standby time. 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 Serbia is in conformity with Article 3§2 of the Charter on this point.

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

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

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

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

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

### ***Establishment, alteration and upkeep of workplaces***

The Committee previously asked what kind of preventive measures were developed on the basis of the risk assessment and whether a schedule was provided to tackle the identified risks. It also asked whether the regulations listed in the last report also referred to the

manual handling of loads, hygiene (commerce and offices), maximum weight, safety and/or health signs at work (Conclusions 2017).

The Committee notes from the information attached to the report that the risks to health and safety at work cover manual handling of loads, however, it is not clear whether hygiene, maximum weight, safety and/or health signs at work are covered, thus the Committee repeats its request.

It can also be noted from the report that the employer identifies the preventive measures and the schedule to tackle the identified risks. The measures can identify the maintenance of means for work in usable state and their inspection and testing; ensuring the conditions necessary for safe work; organisation of trainings; provision of means for work and personal protection equipment and its maintenance; periodical medical examinations of workers. The schedule must be determined to tackle the risks.

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

The Committee previously asked the next report to provide information on the specific provisions relating to the protection of risks of exposure to benzene, it also asked whether authorities considered drawing up an inventory of all contaminated buildings and materials. It also asked the next report to indicate measures ensuring that in all workplaces where workers are exposed to asbestos, employers take all appropriate measures to prevent, or control, the release of asbestos dust in the air, and that employers comply with the prescribed exposure limits (Conclusions 2017).

The Committee also asked the next report to confirm that all forms of asbestos were prohibited. With regard to ionising radiation, the Committee repeated its questions on the transposition of certain EU legislation into national law. The Committee found that it had not been established that the level of protection against ionising radiation is adequate.

The report indicates that the measures on protection against ionising radiation are set in the Law on Radiation and Nuclear Safety and Security (OG No. 95/18 and No. 10/19). According to this law, it is prohibited to carry out activities involving sources of ionising radiation and nuclear material without prior approval of the Agency for the Protection of Ionising Radiation and Nuclear Safety of Serbia. Any research and activity for the purpose of the development, production and use of nuclear weapons, as well as the use of nuclear material for the production of nuclear weapons and other explosive devices is prohibited. The import of radioactive waste and spent nuclear fuel of foreign origin into the territory of Serbia is prohibited. The installation of radioactive lighting rods in Serbia is prohibited. The installation of ionising smoke detectors that have a source of ionising radiation in the gaseous state or a source of ionising radiation whose decomposition products are in the gaseous state is prohibited. Protection against ionising radiation in radiation, nuclear activities and radioactive waste management is based on the following principles: justification of application, optimisation of protection against ionising radiation and limitation of individual exposure.

The Committee notes in addition that the text of the Law on Radiation and Nuclear Safety and Security incorporates certain provisions of the Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation; the Council Directive 97/43/EURATOM of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure; Council Directive 2003/122/EURATOM of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources; and Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.

The Committee notes, however, that no information is provided on its questions regarding benzene and asbestos and repeats this request for information. The Committee considers that if the requested information is not provided in the next report, there will be nothing to

establish that the situation in Serbia is in conformity with Article 3§2 of the Charter on this point.

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

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

The Committee previously asked the next report to provide information on the definition of workplaces with increased risk, as well as for information on the right of temporary workers, interim workers and workers on fixed-term contracts to representation at work. It also asked for specific examples on how these workers were provided access to medical supervision and representation at work. The Committee considered that if the requested information was not provided in the next report, there would be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter (Conclusions 2017).

No information is provided on these issues. The Committee therefore concludes that it has not been established that temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration.

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

The Committee previously concluded that domestic workers were not covered by occupational health and safety legislation (Conclusions 2017).

The report states that the Law on Occupational Health and Safety excludes domestic workers from the scope of its application because it is difficult to establish the existence of work engagement performed by natural persons for the needs of their households, it is also impossible to supervise the health and safety measures without obtaining a court decision for entering private property.

The Committee reiterates that for the purposes of Article 3§2 of the Charter, all workers, including the self-employed, must be covered by health and safety at work regulations on the ground that employed and self-employed workers are normally exposed to the same risks. The Committee therefore reiterates its previous conclusion that the situation is not in conformity with the Charter as it has not been established that domestic workers are covered by occupational health and safety regulations.

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

The Committee previously asked for information on the activities of health and safety representatives elected in accordance with Section 44 et seq. of the Act of 14 November 2005 in practice and considered that if the requested information was not provided in the next report, there would be nothing to establish that the situation in Serbia is in conformity with Article 3§2 of the Charter (Conclusions 2017).

The report does not provide any information in this regard. The Committee therefore concludes that the situation is not in conformity with the Charter as it has not been established that consultation with employers' and workers' organisations is ensured.

#### ***Conclusion***

The Committee concludes that the situation in Serbia is not in conformity with Article 3§2 of the Charter on the ground that it has not been established that:

- temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration;
- domestic workers are covered by occupational health and safety regulations;
- consultation with employers' and workers' organisations is ensured.

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

#### *Paragraph 3 - Enforcement of safety and health regulations*

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

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

In its previous conclusion, the Committee found that the situation in Serbia was in conformity with Article 3§3 of the Charter.

The Committee will therefore restrict its consideration to the Government’s replies to the targeted questions.

#### ***Accidents at work and occupational diseases***

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

The report does not provide any information in response to the first targeted question on statistical data on prevalence of work-related death, injury and disability. The Committee recalls that the frequency of and trends in occupational injuries and diseases are decisive in assessing the effective implementation of the rights set out in Article 3§3. The Committee underlines the States Parties’ duty to provide precise information on developments in respect of occupational accidents and diseases.

The Committee reiterates its request for information on statistical data on prevalence of work-related death, injury and disability including as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs (cycle delivery services, including those employed or whose work is managed through digital platform, performers in the sports entertainment industry, including contact sports, jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products, new forms of high-yield, high- stress trading, military and law enforcement etc.) and also as regards the victims of harassment at work and poor management. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that accidents at work and occupational diseases are monitored effectively.

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

### ***Activities of the Labour Inspectorate***

The Committee previously concluded that the situation in Serbia was in conformity with Article 3§3 of the Charter in this regard. The targeted question with regard to the activities of the Labour Inspectorate concern the organisation of the Labour Inspectorate, and the trends in resources allocated to labour inspection services, including human resources; number of health and safety inspection visits by the Labour Inspectorate and the proportion of workers and companies covered by the inspections as well as the number of breaches to health and safety regulations and the nature and type of sanctions; whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors.

In reply to the second targeted question, the report indicates that the Labour Inspectorate has a total of 25 separate departments and sections of labour inspection in administrative districts (11 departments and 14 sections of labour inspection), 2 departments of labour inspection in the City of Belgrade, as well as one department and one department at the seat of the Labour Inspectorate (Department for the second-instance administrative procedure in the field of labour relations and safety and health at work and the Department for study-analytical affairs and supervision).

The report further indicates that currently, the Labour Inspectorate has 216 employees, including 2 appointed persons (director and assistant director), of which 208 are labour inspectors. Some 62 jobs are vacant in the Labour Inspectorate, of which 59 of these are labour inspector posts.

The Committee takes note of the information provided. It notes, nevertheless, that the information provided concerns only the year 2020 and partly 2021 which fall outside the relevant reference period. Therefore, the Committee reiterates its previous requests for information and emphasises that the information provided should concern and be limited to the relevant reference period. The Committee considers that if the next report does not provide the requested information for the correct reference period, there will be nothing to establish that the activities of the Labour Inspectorate are effective in practice.

In reply to the targeted question on whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors, the report indicates that the Labour Inspectorate carries out inspections in the field of safety and health at work at all registered entities who have employees. In accordance with the Law on Safety and Health at Work, the inspectors may enter and supervise the facilities and premises of the employer at any time when there are employees at work, excluding: the performance of specific military service, the performance of police and protection and rescue activities within the scope of the competent state body, as well as the performance of protection and rescue activities performed by other entities in accordance with a special law.

Concerning the residential premises, pursuant to the Law on Inspection Supervision, the inspection must obtain a written decision of the competent court if it intends to conduct an inspection of a residential or other premise for such purpose, except when the inspection is performed at the request or with the express written consent of the owner or user. The Committee takes note of the detailed information on the authorisation procedure provided in the report.

### ***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 Serbia 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 Serbia.

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”).

Previously, pending receipt of the information requested, the Committee deferred its conclusion (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 questions.

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

### ***Measures to ensure the highest possible standard of health***

The Committee notes that in its previous conclusion it asked for information on the death rate and the main causes of death as well as on the measures taken to combat the causes of pre-mature mortality. The Committee stated that if this information was not provided in the next report, there would be nothing to establish that the situation is in conformity with the Charter on this point (Conclusions 2017).

The Committee notes from World Bank data that life expectancy at birth was 76 years (average) in 2019 and that it increased slightly from 75.6 in 2015. According to the report, life expectancy at birth for women in 2019 was 78.3 years, which is a slight increase from 2015, when it was 77.9 and for men it was 73.1 years, which is also a slight increase from 2015, when it was 72.8. The Committee notes that there is a gender gap, with women expected to live 5 years longer than men. The report also states that the death rate per 1,000 inhabitants was 14.6 in 2019, which remained unchanged since 2015.

The Committee notes that in its previous conclusion (Conclusions 2017) it asked for information on infant and maternal mortality rate and the trends of these indicators. It stated that if this information was not provided in the next report, there would be nothing to establish that the situation is in conformity with the Charter on this point.

The report provides information on the maternal and infant mortality. Maternal mortality rate per 100,000 live births was 6.2 in 2019, a decrease compared to 12.2 in 2015. The data in the report show that the infant mortality rate per 1,000 live births decreased from 5.3 in 2015 to 4.8 in 2019 and the mortality rate for children under five years old decreased from 8.9 in 2015 to 5.3 in 2019.

The report further states that child mortality rates are still significantly higher in Roma settlements than the national average as in 2019 the estimated infant mortality rate there was 8 per 1,000 live births and the probability that a child would die before the fifth birthday was 9 per 1,000 births.

In its 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 provides statistics on life expectancy at birth in 2019 in various municipalities of Serbia. According to the report, the lowest life expectancy at birth in 2019 was in the municipality of Crna Trava (66.6) and the highest – in the municipality of Petrovaradin (78.2).

The report also states that blood vessel diseases and malignant tumours have been the main causes of death in Serbia in 2019. Also, among persons of a specific age group, more women die than men. Also, a number of violent deaths increased slightly in 2019 and the number of suicides slightly decreased.

The report does not provide information on the measures taken to combat the causes of premature mortality, thus the Committee reiterates this request for information. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Serbia is in conformity with Article 11§1 of the Charter.

The report does not provide information on life expectancy across different population groups, thus the Committee reiterates this request for information.

The report provides statistical information on HIV and states that the estimated prevalence of the HIV infection in the population aged 15 and over at the end of 2018 was less than 0.1 per cent and the ratio of HIV positive persons was 14:1, which means that the men got infected more.

### ***Access to healthcare***

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

The report provides statistical data about early motherhood and states that birth rate of adolescent girls (aged 15-19) per 1,000 women from that age group was 13.6 in 2019, which decreased from 16.3 in 2015.

The report indicates that for women and girls the following services are provided: preventive gynaecological examination once per year for women over 15 years old; preventive examination in connection with family planning for women between 15 and 49 years old; screening/early detection of cervical cancer once in three years for women between 25 and 64 years old; screening/early detection of breast cancer once in two years for women between 50 and 69 years old; examinations and treatment during pregnancy, childbirth and 12 months after giving birth.

The report states that healthcare for women at the primary level is provided by women's health services in health centres. The average number of performed check-ups in the second and third trimesters of pregnancy in Serbia averages seven check-ups and in the field of maternity health control, about 44 per cent of mothers are included in the preventive examination after 6 to 8 weeks of childbirth and 17 per cent of mothers are included in the preventive examination after 6 months of childbirth.

Health education work in primary healthcare includes 12 per cent of women over the age of 15 and is related to pregnancy and family planning, contraception methods, prevention of certain diseases. In most districts, psychophysical preparation of pregnant women for childbirth was organised in healthcare institutions, and was attended by 35 per cent of pregnant women in Serbia.

With regard to access to abortion, the report indicates that the right to abortion can be exercised independently on the basis of a written statement of a pregnant woman older than

16 (for younger women and those deprived of legal capacity, such right can only be exercised after obtaining a written consent from a parent or guardian). Abortion cannot be performed when it is determined that it would seriously impair the health of a woman or endanger her life.

The Committee asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part.

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 provides that in the healthcare of children, an average of 5 preventive examinations of newborns in their first year are carried out.

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

In its previous conclusion, the Committee wished to receive confirmation that legal gender recognition for transgender persons did not require (in law or in practice) that they undergo sterilisation or any other invasive medical treatment which could impair their health or physical integrity (Conclusions 2017).

The report indicates that in Serbia legal gender recognition for transgender people is not conditioned by any form of invasive treatment that could impair their health and physical integrity.

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

The Committee recalls that state recognition of a person's gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human rights. It also recalls that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, op. cit., §§78 and 82).

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

As 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 indicates that, in accordance with the Law on Patients' Rights (Official Gazette, No.

45/2013), the patient has the right to information about the state of his or her health, healthcare, health insurance, health professionals who carry out treatments of that patient.

### ***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 states that numerous non-pharmaceutical interventions were carried out throughout the country, surveillance measures were implemented, as well as isolation of patient and health surveillance of contacts.

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 Serbia.

Le Comité note qu'aux fins du présent rapport, il a été demandé aux États de répondre aux questions ciblées posées au titre de cette disposition (questions figurant dans l'annexe à la lettre du 3 juin 2020, dans laquelle le Comité a demandé un rapport sur l'application des dispositions de la Charte relevant du groupe thématique « Santé, sécurité sociale et protection sociale »), ainsi qu'aux précédents constats de non-conformité et aux décisions d'ajournement.

The Committee deferred its previous conclusion (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.

With regard to health education and related prevention strategies in the community and in schools, the report indicates more specifically that the Ministry of Health supports, through programmes of general interest, the implementation of activities aimed at promoting health, improving information, knowledge and behaviours in the general population and vulnerable groups regarding the major risk factors for the most common diseases, and ways to prevent them.

The report states that the Institute of Public Health of Serbia coordinates and provides professional and methodological assistance to district institutes / institutes of public health, participates in the work of national working groups and expert commissions, and cooperates with national and international organisations to strengthen the capacity for promoting health. The activities carried out within this framework include the prevention of the use of psychoactive substances and other risk factors (improper diet, physical inactivity, etc.), the implementation of programmes such as "Prevention of diseases caused by HPV infection" and "Preservation and improvement of sexual and reproductive health", as well as activities in the field of tobacco control through the Office for Smoking Prevention. The report also informs that, in addition to the work carried out by district institutes / institutes for public health, other sectors also implement actions aimed at health promotion and the prevention of risk factors. According to the report, the implementation of all activities is achieved through multisectoral cooperation.

In its previous conclusion, the Committee asked for information on concrete and specific activities, such as educational or awareness-raising campaigns and programmes, undertaken by public health services, or other bodies, to promote health and prevent diseases (Conclusions 2017). It emphasised that, if such information was not provided, nothing would enable the Committee to establish that the situation is in conformity with the Charter under this provision.

In reply, the report states that health promotion and health education activities, which vary depending on needs and priorities, are carried out at national and local levels by partners from different sectors. Some of these activities are carried out within programmes of general interest supported and funded by the Ministry of Health.

In its previous conclusion, the Committee asked for information on the concrete measures taken to implement the public health policy and the legal framework, such as programmes, action plans or projects carried out on health education (Conclusions 2017). It emphasised

that, should this information not be provided in the next report, nothing would enable the Committee to establish that the situation is in conformity with the Charter on this point.

In reply, the report states that in 2016 the Republic of Serbia adopted the Law on Public Health ("Official Gazette of the RS" No. 15/2016). This law regulates the areas of public health, competencies, planning, implementation of activities related to the preservation and improvement of public health, as well as the provision of the necessary funds. The goal of this law is to take public interest into full consideration, by creating conditions for preserving and improving public health through comprehensive community activities.

The Committee takes note of the detailed list contained in the report regarding laws, strategies, and programmes that were adopted with accompanying action plans that are being implemented. The Committee also notes the adoption by the Government of Serbia of the Public Health Strategy ("Official Gazette of RS", No. 61/18). The strategy relies on the document "Health 2020: a European policy framework that supports the actions at all levels of government and society for health and well-being", adopted on the basis of resolution EUR / RC62 / Conf.Doc. / 8 of the WHO Regional Office for Europe. The Committee also takes heed of the Strategy for the prevention and control of HIV infection and AIDS with the Action Plan for the period 2018-2021 ("Official Gazette of RS" No. 61/18), which according to the report, have been prepared in accordance with defined national priorities and international recommendations.

In its previous conclusion, the Committee asked whether health education was part of the school curricula and which subjects were covered (Conclusions 2017). The Committee asked in particular whether and how sexual and reproductive education was provided in schools in Serbia.

In reply, the report states that, with the financial support of the Ministry of Health and with the approval of the Ministry of Education, Science and Technological Development, the Institute of Public Health conducts research on schoolchildren's health behaviour. The results of the research provide guidelines for planning the content of health education activities. The report further states that in the first and second years of study in the grammar schools, the elective programme Health and Sports broaches such topics as Health and psychoactive substances, Science at the service of health and Sexuality of young people and reproductive health. The Committee refers to the detailed information provided in the report on how health education (including sexual and reproductive health education) is represented at curricular level in biology, chemistry and physical and health education programmes, and education on gender, gender identity and gender-based violence in biology, sociology and civic education.

With regard to the targeted question requesting information about awareness and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence, the Committee takes note of the contents of the new Civic and Citizen's Education programmes adopted for primary and high schools. These programmes deal with the issues of gender equality, gender perspective, gender-based violence and discrimination, among others. The report also refers to the grammar school citizens' education programmes, after which students are presumed to be able to link personal characteristics to dimensions of diversity and discrimination; argue about gender equality and gender-based violence in the world and in Serbia; differentiate situations of inclusion from those of exclusion in the social life of the community; show tolerance for diversity in their behaviour; argue the importance of opposing different types of stereotypes and prejudice; list several non-governmental organisations dealing with human rights issues and the goals of their activities; list the most important institutions and documents in Serbia and the European Union that deal with the protection of equality; and identify stereotypes and the representation of vulnerable social groups in the media (LGBT population). The Committee further takes note of the information regarding the manuals for the teachers of Civic and Citizens' Education and the different teaching materials and methods suggested.

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

In its previous conclusion, the Committee asked that the next report contained information on specific measures/activities carried out to implement the Health Insurance Act, in particular on the types of consultation and screening available to pregnant women as well as on the medical examinations performed on children at school, their frequency and the proportion of pupils covered (Conclusions 2017).

In reply, the report states that according to the Professional and Methodological Instruction for the Implementation of the Decree on the National Health Care Programme for Women, Children and Youth (SMU), systematic and control examinations are conducted to monitor growth, development, health status, adolescent behaviour, early detection of health disorders and risky behaviours, signs of neglect and abuse.

The report informs that screening pregnant women for oedema-proteinuria-hypertension gestosis and the early detection of gestational diabetes has been conducted. The Committee takes note of data on the coverage and results of the screenings for 2019. It asks that the next report contain updated information on the types of consultations and screenings available to pregnant women.

The SMU recommends that systematic screenings include at least 95% of adolescents of the appropriate age. The Rulebook on the content and scope of the right to health care screening from compulsory health insurance stipulates that a preventive-systematic (physical) examination is performed once in the eighth, tenth, twelfth, fourteenth, sixteenth, eighteenth years of age. If during preventive examinations a disorder was detected, a follow-up examination is scheduled for the next school year. The percentage of coverage of school-age children and adolescents with preventive and control examinations varies approximately between 50% and 70% in the different years and regions.

The report further states that one ophthalmological examination is also envisaged for children in their fourteenth year (VII grade of primary school). The percentage of coverage of school-age children with preventive and control examinations varies approximately between 20% and 60% in the different years and regions.

The Committee asks that the next report explain the regional differences in the coverage of preventive-systematic (physical) examinations of school-age children and adolescents, and the measures taken to eliminate them. It also asks for updated information on coverage rates and on the impact of screening programmes of school-age children and adolescents.

In its previous conclusion, the Committee also asked for information on the implementation and the impact in practice of the cancer screening programme (whether it has had an impact on reducing the mortality rate) (Conclusions 2017). In reply, the report indicates that organised cervical cancer screening is conducted in 17 health care centres; organised breast cancer screening is conducted in 36 health care centres, 35 hospitals, the Institute for Oncology and Radiology of Serbia, the Oncology Institute of Vojvodina, and the Niš Clinical Centre; and organised screening of colorectal cancer is conducted by a total of 31 health care centres, 13 general hospitals and 7 hospital clinical institutions. The entire process is monitored and reported by the Cancer Screening Office of the Ministry of Health, and the indicators are in line with internationally adopted indicators for monitoring the implementation of organised cancer screening programmes. The information given in the report on the coverage of the target population (2013-2016) and on deaths caused by cancer (2013-2018) is partially out of the reference period. Therefore, the Committee reiterates its request that the next report contain information on the implementation and the impact in practice of the cancer screening programmes (whether they have had an impact on reducing the mortality rate) during the reference period. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Serbia is in conformity with Article 11§2 of the Charter in this respect.

The Committee also asked for information on available screening programmes and initiatives for the other diseases which constitute the principal causes of death (besides cancer). It emphasised that, if the requested information was not provided in the next report, nothing would allow to establish that the situation is in conformity with the Charter on this point. The report does not contain any information on this point. Therefore, the Committee concludes that the situation in Serbia is not in conformity with Article 11§2 of the Charter on the ground that it has not been established that screening for diseases responsible for high levels of mortality (besides cancer) is available to the population as a whole.

#### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 11§2 of the Charter on the ground that it has not been established that screening for diseases responsible for high levels of mortality (besides cancer) is available to the population as a whole.

## **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 Serbia.

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 deferred its conclusion (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 notes that prisons employ sufficient medical personnel, screening arrangements are adequate, and inmates have access to medical care within the penitentiary system or in external facilities, depending on individual needs.

The Committee refers to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Serbia in 2017, which documented insufficient medical healthcare staffing levels in large prisons across the country.

The Committee asks for information about healthcare staffing and equipment levels in prisons and measures taken to address any shortages.

### ***Community-based mental health services***

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

The report notes that the Mental Health Protection Program 2019-2026 and a joint action plan have been adopted in 2019, and that the implementation thereof is underway. Five mental health centres have already been opened, and 15 additional centres will be opened over the lifetime of the program. The opening of a forensic psychiatry department, as part of

the Clinic of Psychiatric Diseases 'Dr. Laza Lazarevic', is imminent. The process of renewing the licence of all large psychiatric institutions, which should result in better overall standards of care, is ongoing.

The report provides an overview of community-based services for people with intellectual and psychosocial disabilities, such as assessment and planning services, daily community-based services, support services for independent living, therapeutic counselling and social-educational services or accommodation services. The report also notes that 6 million € yearly have been allocated for supporting the development of community-based services.

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.

While the commitments regarding the deinstitutionalisation of persons with disabilities fall to be examined under Article 15§3 of the Charter, the Committee notes that, according to the Committee on the Rights of Persons with Disabilities, Serbia lacks any mechanisms to combat compounded harmful stereotypes and widespread discrimination against persons with disabilities (Concluding Observations 2016).

The Committee asks for information about the results achieved under the Mental Health Protection Program 2019-2026, as well as about the measures taken to reduce stigma and harmful stereotypes around mental health.

### ***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).

In its previous conclusions, the Committee additionally asked for information on the levels and trends with regard to drugs consumption, as well as the measures taken to reduce and prevent consumption (Conclusions 2017). The Committee pointed out that if the requested information was not provided in the following report, there would be nothing to demonstrate that the situation was in conformity with the Charter.

The report provides information on the transmission of infectious diseases that reveals broadly decreasing trends during the reference period. For example, 1% of all newly diagnosed HIV-positive cases recorded in 2018 were people who inject drugs, compared to 7% in 2011, and 70% in 1991. Most preventive activities implemented during the reference period were carried out in the school environment, in the family and in the community. Comprehensive harm reduction services for injecting drug users include opioid substitution

therapy (OST), needle and syringe exchange programs, and voluntary counselling and testing for drug-related infectious diseases.

### ***Healthy environment***

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

In its previous conclusions, the Committee noted that no information on the environment had been provided, and asked for information on the concrete measures taken, as well as on the levels and trends with regard to air pollution, water contamination, waste management, asbestos and food safety during the reference period (Conclusions 2017). The Committee pointed out that if the requested information was not provided in the following report, there would be nothing to demonstrate that the situation was in conformity with the Charter. The Committee recalls that in 2013, it also noted the lack of any information provided on the environment and deferred its conclusion (Conclusions 2013).

The report provides an outline of the air quality management arrangements set out in the Law on Air Protection. In addition, the report provides a detailed outline of the Rulebook on the treatment of waste containing asbestos, which prescribes the manner of packaging, criteria and manner of final disposal of waste containing asbestos and other measures to prevent the spread of asbestos fibres and dust in the environment. Both regulations were adopted outside the reference period.

The Committee refers to the 2021 European Union Commission Report, noting that Serbia has varying levels of alignment with the European Union acquis in the area of environment, and that it generally needs to strengthen administrative capacities for implementation at central and local level. Serbia's annual air quality report for 2019 lists 13 agglomerations with air pollution above the limits: Belgrade, Niš, Smederevo, Pančevo, Novi Sad, Užice, Bor, Kraljevo, Subotica, Požarevac, Zaječar, Beočin, and Kosjerić. The Serbian Kostolac B thermal power plant is Europe's biggest sulphur dioxide polluter. Serbia needs to redouble its efforts to close its non-compliant landfills and invest in waste reduction, separation and recycling. Untreated sewage and wastewaters are still the main source of water pollution. Non-compliance with water quality standards remains a big concern in some areas, such as those where arsenic is present.

The Committee notes that not all the information requested is provided, namely that related to the concrete measures taken, as well as on the levels and trends with regard to air pollution, water contamination, waste management, and food safety during the reference period, as well as on the measures taken to address the health problems of the populations affected, and about measures taken to inform the public about general and local environmental problems. The Committee asks for the information to be provided in the next report. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

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

In its previous conclusions, the Committee asked for information on concrete measures taken to ensure the surveillance and prevention on communicable diseases, including AIDS (Conclusions 2017). It also asked for figures on the vaccination coverage rates for the main vaccines, and for information on concrete measures taken to implement the 2016 Law on Protection of the Population from Communicable Diseases in practice. The Committee

emphasised that, if this information was not provided in the following report, there would be nothing to establish that the situation was in conformity with the Charter on this point.

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that efficient immunisation and epidemiological monitoring programmes are in place;

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

The report does not address this question.

### ***Tobacco and alcohol***

In its previous conclusions, the Committee noted that no information on tobacco and alcohol consumption had been provided (Conclusions 2017). Accordingly, it asked for information on the levels and trends with regard to tobacco and alcohol consumption, as well as the measures taken to reduce and prevent the consumption. The Committee further emphasised that, if this information was not provided in the following report, there would be nothing to establish that the situation was in conformity with the Charter on this point.

The report provides information about a number of legislative measures on tobacco control enacted during the reference period: the Law on Ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products (2017), the Law on Advertising (2016 and 2019), and the Law on Consumer Protection (2016 and 2018). The report also notes that measures were taken to strengthen enforcement of existing tobacco control legislation.

The Committee refers to the European Commission Report 2021, which made the following observations. The tobacco control legislation is partly aligned with European Union standards. However, the rules on the use of tobacco in public places are not aligned with European Union standards. Additional changes are required with regard to adopting a strategy on tobacco control, the implementation of pictorial warnings on cigarette packets, smoke-free environments and increases in the price of cigarettes, in order to achieve compliance with European Union standards.

The Committee recalls that anti-smoking measures are particularly relevant for the compliance with Article 11§3 of the Charter since smoking is a major cause of avoidable death in developed countries. To be effective, any prevention policy must restrict the supply of tobacco through controls on production, distribution, advertising and pricing (Conclusions XVII-2 (2005), Malta). In particular, the sale of tobacco to young persons must be banned (Conclusions XV-2 (2001), Portugal), as must smoking in public places (Conclusions 2013, Andorra), including transport, and advertising on posters and in the press (Conclusions XV-2 (2001), Greece). The effectiveness of such policies is assessed on the basis of statistics on tobacco consumption (Conclusions XVII-2 (2005), Malta). This approach also applies *mutatis mutandis* to anti-alcoholism.

The Committee notes that the report does not provide any information on alcohol consumption and that information regarding tobacco consumption is insufficient. The Committee asks for it to be provided in the next report. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to prevent tobacco and alcohol consumption.

### ***Accidents***

In its previous conclusions, the Committee asked for information on measures/policies taken to reduce and prevent the number of accidents (including road accidents, domestic

accidents, accidents at school and accidents during leisure time) and trends in this field (whether the number of accidents increased or decreased) (Conclusions 2017). The Committee emphasised that, if this information was not provided in the next report, there would be nothing to establish that the situation was in conformity with the Charter on this point.

The report provides information regarding the number of road accidents recorded during the reference period, divided by year and type of accident (accidents with fatalities, with injuries and total road accidents respectively). The data shows an overall decrease during the reference period: for example, there have been 551 fatalities in 2016, and 494 in 2019. The report also describes some of the awareness raising activities conducted during the reference period for the purposes of preventing road accidents.

The Committee asks for updates on the number of road accidents during the reference period, as well for information on measures/policies and trends regarding accidents at school and accidents during leisure time.

### ***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 provides a list of legislative measures taken to combat the spread of Covid-19.

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

### ***Conclusion***

The Committee concludes that the situation in Serbia is not in conformity with Article 11§3 of the Charter on the grounds that it has not been established that:

- adequate measures were taken to overcome environmental pollution;
- efficient immunisation and epidemiological monitoring programmes are in place;
- adequate measures were taken to prevent tobacco and alcohol consumption.

## **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 Serbia.

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

In its previous conclusion (Conclusions 2017) the Committee asked for updated information concerning the personal coverage of social security risks.

As regards the personal coverage of healthcare, according to the report a total of 6,810,045 insured persons were registered by the Health Insurance Fund. The Committee notes that the population of Serbia in 2019 stood at 6,9 million and the total active population at 3,2 million.

A total of 2,278,736 persons were insured against unemployment, of which 2,029,723 persons from the category of insured employees (employees in companies or entrepreneurs, professionals and civilians in the army, engaged in temporary and occasional jobs, citizens of the Republic of Serbia sent to work abroad and foreign citizens employed by domestic or foreign business entities, elected and appointed persons, employed in temporary employment agencies), and 249,013 persons from the category of self-employed insured persons (entrepreneurs, founders of companies, farmers with the status of entrepreneurs). The Committee notes that around 70% of active population was ensured against unemployment risk.

As regards wage compensation (sickness benefit), according to the report 1,974,975 insured persons had the right to wage compensation during temporary incapacity to work in accordance with Article 72 of the Law on Health Insurance. The Committee notes that this represents around 60% of the active population.

As regards old-age benefit, the Committee noted in its previous conclusion (Conclusions 2017) that the number of persons covered by the compulsory Pension and Disability insurance (which covers in fact **old-age, disability, survivors**, disability resulting from **work accidents and occupational diseases** and care giver's assistance) was 2 508 384 in 2015, i.e. 80% of the active population. The Committee asks each national report to provide information about personal coverage of each social security risks. For healthcare and child benefit, the report should provide the percentage of population covered. For income-replacement benefits, it should provide the percentage of active population covered. In the meantime, the Committee reserves its position as to the adequacy of coverage.

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

According to Eurostat data, the poverty level, defined as 50% of the median equivalised income, was € 137 per month in 2019. 40% of the median equivalised income corresponded to €109 monthly. The minimum wage was €308.

The Committee notes that the report does not provide information concerning the minimum levels of income-replacement benefits.

As regards unemployment benefit, according to MISSCEO in 2019 the minimum level of this benefit was fixed at 22,838 RSD (€ 205). The Committee considers that this amount is adequate. As regards the duration of the benefit, in its previous conclusion the Committee considered that 3 months for the insurance period of up to five years was not adequate. The Committee notes that the situation has not changed and therefore it reiterates its previous finding of non-conformity on this point.

Concerning the unemployment benefit, the Committee recalls that the adequacy of this benefit is, *inter alia*, also established by considering whether there is a reasonable initial

period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefits. The Committee asks whether the legislation provides for such a reasonable period. It considers that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

As regards the adequacy of sickness benefit, according to MISSCEO the basis for calculation of the compensation is 65% of the average wage of the employee and 100% in case of work injuries and occupational diseases. Compensation cannot be lower than the national minimum wage. The Committee considers that this amount is adequate.

As regards disability benefit, According to MISSCEO the minimum level of disability benefit is the same as that of old age benefit. The insurance based minimum pension paid for retired employees, army officers and self-employed in January 2019 amounted to 14,339 RSD (€ 114) (26% of net average wage). The Committee asks the next report to indicate whether there are any additional benefits paid to persons receiving the minimum amount of disability benefit. In the meantime, the Committee reserves its position as to the adequacy of the disability benefit.

As regards **old-age** pensions, the Committee refers to its assessment under Article 23.

#### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 12§1 of the Charter on the ground that the duration of unemployment benefit for the insurance period of up to 5 years 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 Serbia.

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 Serbia 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 Serbia has ratified ILO Convention No. 102 and accepted Parts II to VI, VIII and X, which cover medical care (II), sickness benefit (III), unemployment benefit (IV), old-age benefit (V), employment injury benefit (VI), maternity benefit (VIII) and survivors' benefit (X). Part VI ceased to apply, however, following the ratification by Serbia of 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 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 receipt of information.

As for the level of benefits, the Committee recalls that it reserved its position on the adequacy of invalidity benefits (Conclusion 2021 on Article 12§1) and maternity benefits (Conclusion 2019 on Article 8§1), pending receipt of information.

However, the Committee considered the following benefits to be adequate: sickness benefit and work accidents/occupational diseases benefits (Conclusion 2021 on Article 12§1), old-age pensions (Conclusion 2021 on Article 23) and family benefits (Conclusion 2019 on Article 16). It also considered the amounts of unemployment benefits to be adequate (with the proviso that these benefits were paid for too short a time for persons who had paid contributions for up to five years, cf. Conclusion 2021 on Article 12§1).

### *Conclusion*

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

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”).

The Committee deferred its previous conclusion pending receipt of information on any relevant change to the social security system during the reference period, as well as the effects of these changes on the personal scope and the minimum level of income replacement benefits (Conclusions 2017). The Committee’s assessment will therefore relate to the information provided by the Government in response to the deferral conclusion and the two targeted questions with regard to Article 12§3 of the Charter, 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 targeted 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.

### ***Development of the social security system***

The Committee refers to its conclusions on Article 12§1 for a description of the Serbian social security system (Conclusions 2017 and 2021). With regard to maternity benefits and family benefits, it refers to its conclusions concerning Article 8§1 and Article 16 respectively (Conclusions 2019).

The Committee recalls that Article 12§3 requires States to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 12§2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks or an increase in the level of benefits are all examples of improvement. A partly restrictive development in the social security system is not automatically in breach of Article 12§3. It should be assessed in the light of Article 31 of the 1961 Charter or Article G of the revised Charter. The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);
- the extent of the changes (categories and numbers of people concerned, levels of allowances before and after alteration);
- the reasons given for the changes (aims pursued) and the social and economic policy context in which the changes arise;
- the necessity of the reform;
- the existence of social assistance measures for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);
- the results obtained by such changes.

The Committee notes that the Government’s report provides information concerning family and maternity benefits. In particular, it states that the law on financial support to families with

children was amended in 2018 and that, under the law, mothers of foreign nationality are entitled to parental allowance under certain conditions. It also gives details of the beneficiaries of the daily allowances paid in the case of maternity leave and childcare leave, as well as the way in which the amount of these allowances is calculated and the period for which they are paid. The Committee points out that this information concerns Articles 8§1 and 16 of the Charter, which are in the “Children, families and migrants” thematic group and are therefore not assessed in this evaluation cycle. The Committee notes that the report does not provide any information on any improvements as regards the other branches of social security during the reference period.

In the light of the above, the Committee considers that it has not been established that measures have been taken to progressively raise the system of social security to a higher level.

### ***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 Law on Pension and Disability Insurance covers three categories of insured persons: employees, self-employed and farmers. Persons who are employed without formally concluding a contract are regarded as self-employed if they are not insured on another basis (cf. Article 12§1(3) of the Law on Pension and Disability Insurance). The same applies to a) people who do work and are paid for the work performed, regardless of the type of contract and b) people who work in Serbia for foreign employers who do not have registered offices in Serbia and who are paid for their work (cf. Article 12§1(3a) of the Law on Pension and Disability Insurance).

The pension and disability insurance system provides the following benefits: retirement and early retirement pensions; disability pensions; survivor’s pensions; cash compensation for bodily impairment; cash compensation for assistance and care for other persons.

The payment of benefits and pensions under the system depends on the payment of contributions among other conditions. Contributions must be paid for income from all jobs/employment. Accordingly, if individuals hold several jobs (e.g. they are employed and also work for a platform), they must pay contributions on their income from both. The level of pensions is proportionate to the length of the insurance period and to the contributions base; as a result, higher income from work and hence higher contributions bases result in higher pensions.

The Committee takes note of this information, which is useful but does not give it a full picture of the social security coverage of digital platform workers. The Committee asks for detailed and updated 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).

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

In response to the second targeted question, the Government mentions the measures taken in 2020 to alleviate the negative impact of the Covid-19 crisis. In particular, these included:

- the automatic extension of social benefits for beneficiaries whose entitlement expired during the first wave of the pandemic;
- the payment of financial support of €100 to all adult citizens (automatic payment to pensioners and cash social assistance beneficiaries; payment upon application to other citizens);
- the conclusion of agreements with certain foreign countries' retirement pension organisations to prevent the suspension of payment of foreign retirement pensions to beneficiaries residing in Serbia on account of failure to submit certificates of life (e.g. easing of time-limits).

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 12§3 of the Charter on the ground that it has not been established that steps have been taken to raise progressively the system of social security to a higher level.

## **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 Serbia.

### ***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.

In its previous conclusion (Conclusions 2017) the Committee observed that as regards access to social security, as a matter of principle, nationals of other States Parties legally working in Serbia are treated on an equal footing with nationals. The Committee asks whether equal treatment as regards conditions for entitlement to social security benefits is also guaranteed.

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.

In its previous conclusion (Conclusions 2017) the Committee observed that parental allowance is granted to the mother (and in exceptional circumstances, to the father) of a child provided that she is a citizen of the Republic of Serbia residing in the Republic of Serbia in accordance with Article 14 of the Financial Support to Families with Children Act. Under Article 17 of the same Act, child allowance is granted to one of the parents, custodian or foster parent provided that the child is a citizen of Serbia residing in Serbia as well as his/her parent, custodian or foster parent. The Committee observed that foreign nationals who legally work in the territory of the Republic of Serbia shall be entitled to child allowance if so prescribed by an international agreement, and asked the next report to provide more comprehensive information in this matter. In its Conclusion on Article 16 (Conclusions 2019) the Committee also observed that for eligibility to child benefit, one of the parents, custodians or foster parents must be a citizen of Serbia residing in Serbia or a foreigner with a status of permanently settled in Serbia or a foreigner working in Serbia if it is regulated by an international agreement. The Committee therefore asked what were the conditions for obtaining a permanent resident status.

The Committee notes from the report that according to the Law on Financial Support to Families with Children, which has been in force since 1 July 2018, the **parental allowance** is realised by the mother for the first, second, third and fourth child, provided that she is a citizen of the Republic of Serbia and has a permanent residence in the Republic of Serbia. This right can also be exercised by a mother who is a foreign citizen and has the status of a permanent resident foreigner, provided that the child was born in the territory of the Republic of Serbia (Article 22). The Committee considers that the Law on Financial Support to Families with Children does not guarantee equal access to parental allowance for all resident children, irrespective of the status of the parent. Therefore, the situation is not in conformity with the Charter.

The report also mentions the right to **child allowance which** is exercised by one of the parents, or the guardian, who are citizens of the Republic of Serbia or foreign citizens who have the status of a permanent resident foreigner in the territory of the Republic of Serbia. The right to child allowance can also be exercised in accordance with the concluded agreements on social insurance between the Republic of Serbia and a certain state. However, according to the report, foreign nationals rarely show up with a request to exercise the right to child allowance because the census applied is low and the income they earn is higher than that. The Committee asks whether parental allowance and child allowance are the same benefits.

### ***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.

In its previous conclusion the Committee asked how the retention of accrued benefits was guaranteed. In the absence of the reply, the Committee considers that it has not been established that the retention and export of accrued benefits (old-age, disability and survivor's) is guaranteed for nationals of other States Parties.

The Committee asks the next report to indicate what is the legal basis for exportability of old age, disability and survivor's benefits and the international coordination in the social security field with non-EEA States.

### ***Maintenance of accruing rights***

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.

In its previous conclusion the Committee asked what measures were taken to ensure the maintenance of accruing rights. In the absence of this information, the Committee considers that it has not been established that the maintenance of accruing rights is ensured.

#### *Conclusion*

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

- equal access to family benefit is not guaranteed for all resident children;
- it has not been established that the retention and export of accrued benefits is ensured;
- it has not been established that the maintenance of accruing rights is ensured.

## **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 Serbia.

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 Serbia was not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources was not adequate.

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

The Committee takes note that the Law on Social Protection stipulates that the base for determining cash social assistance is harmonized with the consumer price index in the previous six months, based on statistical data, twice a year, in April and October. Nominal amounts of cash social assistance, rounded in dinars, are determined by the minister in charge of social protection, by a decision which is published in the "Official Gazette of the Republic of Serbia".

The Committee asked in its previous conclusions several questions: one concerning whether in case of refusal of an offered employment, hiring for temporary, casual or seasonal term, vocational training, re-training, additional training or elementary school education shall have for a consequence termination of eligibility to social cash assistance in its entirety and may amount to the deprivation of all means of subsistence for the person concerned. The second question concerned whether the social assistance is given for a limited period of time and whether it can be renewed if the person concerned continues to meet the eligibility criteria.

The report states that the right to cash social assistance is recognised only to a person who is unable to work, under the conditions determined by the Law on Social Protection. The Law on Social Protection provides for a one-time cash assistance that is provided to a person who suddenly or currently finds themselves in a state of social need, and it is implemented by the local self-government. The procedure for obtaining and payment of one-time cash assistance is carried out by the centre for social work. Article 80, paragraph 3 of the said Law stipulates that the centre for social work may conclude an agreement with the beneficiary of material support on active overcoming of his/her unfavourable situation, which contains activities and obligations of the beneficiary, as well as the possibility of reducing and terminating the right to material support in case of unjustified non-fulfilment of obligations and activities from the agreement on the individual activation plan.

Furthermore, pursuant to Article 80, paragraph 5 of the Law on Social Protection, an agreement on an "individual activation plan" may be concluded with a beneficiary who is able to work and "agrees to be activated". It does not provide for an immediate termination of

rights for all beneficiaries who are able to work in one family, if they refuse the offered employment, temporary employment, seasonal jobs, vocational training, retraining, additional training or basic education. Instead, the agreement envisages consequences only in case of unjustified non-fulfilment of voluntarily assumed obligations, i.e. agreed activities from the individual activation plan, by reducing the monthly amount of determined cash social assistance to the beneficiary who is able to work and who concluded the agreement. Only if even after the reduction he/she continues to fail to perform the undertaken obligations and agreed activities, his/her right ceases. The Committee notes from this information that even if the right to social assistance may not be terminated immediately, access to it for a person able to work may be quite limited, leaving a person in need without resources.

The Committee notes from MISSCEO that social assistance is paid for as long as the claimant remains entitled and up to 9 months per calendar year. Rights are revised yearly, but if there is any family member able to work then revision takes place every six months.

The Committee considers that the situation is not in conformity with Article 13§1 of the Charter on the ground that access to social assistance for a person able to work may be quite limited, leaving a person in need without resources.

### ***Levels of benefits***

To assess the situation during the reference period, the Committee takes into account that the report does not provide information concerning the minimum levels of income-replacement benefits. The Committee requests the next report to provide information on this point.

- Basic benefit: the Committee notes from MISSCEO that the base of calculation of the financial assistance benefit is 150% of the net average wage. In 31 December 2019 (data published on 1 January 2020) it stood at RSD 8,465 (€ 72).
- Additional benefits: according to MISSCEO cash benefit beneficiaries, depending on the number of family members are entitled to reduced electricity, water and other utility bills. This reduction fall within the responsibility of the city-municipality Governments. The Committee asks the next report to indicate the average amount of assistance provided for a single person without resources, in receipt of the financial assistance. It also asks the next report to indicate the average amount of other additional benefits (i.e. one-off cash allowance, benefit-in-kind) that such person would be entitled to.
- According to Eurostat data, the poverty level, defined as 50% of the median equivalised income, was € 137 per month in 2019. The minimum wage was €308.

The report does not produce the needed information on the amount of benefits available for a single person without resources in need. According to the MISSCEO data, the basic benefit falls well below the poverty threshold and there is no data on the amounts of additional benefits. Therefore, the Committee considers that it has not been established that the amount of benefits is adequate and that the situation is not in conformity with Article 13§1 of the Charter.

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

In its previous conclusion the Committee reiterated its question whether the review bodies of appeals concerning the entitlements and benefits under the social care system have the power to judge the cases on their merits. The report does not provide for any information in this respect. Due to the repeated lack of information, the Committee concludes that it is not established that the right to appeal and legal aid in social assistance cases is guaranteed, and therefore the situation is not in conformity with the Charter.

### ***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 resident in the territory

In its previous conclusion the Committee asked whether the legislation and practice in Serbia comply with the Charter requirements and particularly, whether the country's authorities are authorised to withdraw a residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of his/her family. On this point, there is no information of the report and the Committee reiterates its question. If the information is not provided, the Committee holds that there will be nothing to establish that the situation is in conformity with the Charter in this regard.

The Committee also asked whether nationals of States Parties lawfully resident in the territory either with permanent or with temporary residence permits, are treated on an equal footing with nationals as regards access to social assistance, without any length of residence requirement.

The Committee recalls that under Article 13§1, foreigners who are nationals of the States Parties and are lawfully resident or working regularly in the territory of another State Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals. Equality of treatment means that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners and that the criteria applied in practice for the granting of benefits do not differ by reason of nationality. Equality of treatment also implies that additional conditions such as the length of residence, or conditions which are harder for foreigners to meet, may not be imposed.

The Committee notes from MISSCEO that foreigners and stateless persons may become beneficiaries in accordance with international agreements. The report only refers to access to emergency medical assistance to foreign citizens during their temporary stay in Serbia. The report does not provide any information on medical social assistance despite reiterated requests for information. The Committee considers that therefore it is not established that a condition of length of residency is not imposed on foreign nationals and therefore the situation is not 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).

In its previous conclusion the Committee asked the next report to confirm that any foreign national in a situation of need is entitled, in law and in practice, to receive emergency medical care free of charge, as well as emergency social assistance (accommodation, food, clothing etc.). For medical care, the report states that foreign citizens have the right to emergency medical care. Insured persons of countries with which an international agreement on health insurance has been concluded, exercise the right to emergency medical care in Serbia on the basis of a certificate of their health insurance. They are entitled to emergency medical care on the basis of certain forms (if they are prescribed), the European Health Insurance Card (EHIC) or on the basis of a document proving that they are insured in their country.

No information is provided as regards emergency social assistance. The Committee therefore reiterates its question. If the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

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

The report refers to the measures adopted by the Ministry in supplying all social protection institutions for accommodation of beneficiaries of social welfare with the necessary protective equipment. Cooperation has been established with all local self-government units, in order to prevent the spread of the epidemic, by providing continuous support to home care providers in their local communities, in the form of disinfection of space inside and around accommodation facilities, as well as by establishing cooperation between them and local health care centres. A register of reports and records on potentially infected beneficiaries and employees in social protection institutions was kept on a daily basis. Information was provided for citizens who needed food, medicine or medical assistance, and a contact form has been set up for applying for volunteering.

The Committee asks the next report to provide specific information about measures taken to guarantee access to medical and social assistance during the Covid-19 pandemic.

### ***Conclusion***

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

- means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer;
- it is not established that the level of social assistance paid to a single person without resources is adequate;
- it is not established that the right to appeal concerning access and entitlement to social assistance benefits is guaranteed;
- it is not established that foreigners lawfully resident in Serbia are not subject to an excessive length of residence requirement to be entitled 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 Serbia.

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 on how these requirements have been met in legislation and practice.

The report provided in response states that the issue of the lack of funds for providing counselling services has been partially resolved by a mechanism of earmarked transfers. This enables funds for day-to-day services in the community to be transferred from the national budget to those local self-government units that are below the national level of development, allowing them to establish or further develop community-based services, support services, as well as counselling and therapeutic services. Advice and assistance in the field of social protection is provided free of charge in the social work centres. The network of social work centres covers the entire territory of the Republic of Serbia. The Committee recalls that in order to comprehensively assess the situation, it needs more precise information on mechanisms to ensure that those in need can benefit from free personal assistance and counselling services and on the adequate geographical distribution of these services and. The information provided, although positive, is rather general and does not yet provide a full picture of the situation. The Committee therefore reiterates its request for a full description of the situation, including more precise information on geographical distribution. Exceptionally, pending receipt of this information, it defers its conclusion once again and underlines that if the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 13§3 of the Charter.

*Conclusion*

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

**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.

## **Article 14 - Right to benefit from social welfare services**

### *Paragraph 1 - Promotion or provision of social services*

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

The Committee recalls that Article 14§1 guarantees the right to benefit from general social welfare services. It 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 how and to what extent the operation of social services was maintained during the COVID-19 crisis and whether specific measures were taken in view of possible similar crises arising in the future. 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 Committee has deferred its previous conclusions (Conclusions 2017) pending receipt of information on following aspects:

1. what legal remedies were available to users, such as a right to appeal to an independent body, in urgent cases of discrimination and violations against human dignity.
2. whether nationals of other States Parties lawfully resident or regularly working in Serbia had the same entitlement of access to social services as citizens of Serbia, and if not, what restrictions are applied.
3. information on the total amount of the public spending on the social protection services.
4. having noted that there still been insufficient staffing and constant need for knowledge and skill upgrade and trainings for staff, coupled with insufficient means at their disposal, the Committee asked if this situation in public services has had repercussion on the quality of services and if the Government envisaged taking specific measures to improve the situation.

The report provides that pursuant to the Law on Social Protection, a beneficiary who is not satisfied with the provided service, procedure or behaviour of the service provider may file a complaint to the competent authority. Social protection institutions have mandatory prescribed procedures for filing beneficiary complaints. A complaint about alleged discrimination may be submitted to the Commissioner for the Protection of Equality. In case of discrimination against a group of persons, a human rights organisation may lodge a complaint on its own behalf, without the consent of the person considered to have suffered discrimination. The Committee asks the next report to provide more comprehensive description of the operation of the remedy, in particular, on the follow-up or sanctions, whether there exist a right to appeal to an independent body or courts, whether beneficiaries are well informed of the remedy and how often they statistically resort to it. It also requests statistics on complaints dealt with by the Commissioner for the Protection of Equality and on any sanctions imposed.

As regards the entitlement of access to social services for non-citizens, the report states that beneficiaries of social protection can be both foreign citizens and stateless persons in accordance with the law and international agreements. The Committee notes that the information provided does not suffice to demonstrate that nationals of other States Parties

lawfully resident or regularly working in Serbia have the same entitlement of access to social services as citizens of Serbia, and if not, what restrictions are applied, such as, for instance length of residence. Accordingly, it considers that it has not been established that the situation is in conformity with the Charter in this respect.

The report does not reply to the questions 3 and 4. The Committee therefore concludes that it has not been established that the quality of social services is adequate, as regards funding, as well as the number and the quality of staff.

In reply to targeted questions concerning provision of social services during the COVID-19 pandemic, the report provides that the provision of some social services continued, in particular as regards accommodation facilities/homes. It states that since the pandemic's outbreak, representatives of the Ministry of Labour, Employment, Veteran and Social Affairs have visited all accommodation facilities/homes, and on several occasions those where the existence of the virus had been reported. Meetings were organized with the employees and the management in order to examine the current situation and needs in those institutions. The Ministry has ensured that social protection institutions were additionally strengthened through the work engagement of medical and non-medical staff in order to prevent and mitigate the consequences caused by the virus. Furthermore, the Ministry's website contains information about important telephone numbers of competent institutions, how to do a self-check for the coronavirus, a contact form has been established for citizens who need food, medicine or medical assistance, and a contact form has been set up for applying for volunteering. The government has also established a single telephone contact centre for the elderly. Advisory telephone support services for children, women and parents have been continuously in operation, as national counselling services. World Health Organization in Serbia provided printed health-educational and communication material, in the form of posters, leaflets and flyers, to be distributed to social protection institutions. Of particular importance for the social protection system were the measures taken to mitigate the consequences of COVID-19 which were aimed at strengthening human resources. The report does not indicate whether specific measures have been taken in anticipation of possible crises of such type in the future.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 14§1 of the Charter on the grounds that it has not been established that:

- equal access to social services is guaranteed to nationals of all States Parties lawfully residing on Serbian territory;
- the quality of social services meets users' needs.

## **Article 14 - Right to benefit from social welfare services**

### *Paragraph 2 - Public participation in the establishment and maintenance of social services*

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

The Committee recalls that Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services. The “individuals and voluntary or other organisations” referred to in paragraph 2 include the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms.

The Committee further notes that for the purposes of the current examination, States were asked to reply to the specific targeted questions posed to States in relation to this provision (questions included in the appendix to the letter of 3 June 2020, in which 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”) as well as previous conclusions of non-conformity or deferrals. States were therefore requested to provide information on user involvement in social services (“co-production”), in particular on how such involvement is ensured and promoted in legislation, in budget allocations and decision-making at all levels, as well as in the design and delivery of services in practice. Co-production is understood here to mean that social services work together with users of the services on the basis of fundamental principles, such as equality, diversity, accessibility and reciprocity.

The Committee deferred its two previous conclusions (Conclusions 2013 and 2017). It considered that it lacked the information necessary to assess the public participation in the establishment and maintenance of social services, namely:

1. statistical data on any subsidies paid by the Government and the local authorities to voluntary organisations, which provide social services. It also requested information on any other types of support that may exist for the voluntary organisations, such as tax incentives
2. how the dialogue with the civil society in respect of the social welfare services is ensured
3. how the Government ensures that the services managed by the private sector are effective and accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The Committee stipulated that if the requested information was not provided, there would be nothing to establish that the situation is in conformity with the Charter.

The report provides extensive information on the dialog with the civil society in respect of the social welfare services. In particular, during the reference period, the Office for Cooperation with Civil Society, as a government service in charge of improving cooperation between the two sectors, actively worked on establishing cooperation with civil society organizations, including organizations active in the field of social protection services and encouraged state bodies to enable the widest possible participation of the civil society organizations in decision-making processes. The Office has regularly published calls on its website and social networks for the involvement of civil society organizations in the consultation process for a large number of regulations concerning social protection. Its surveys and studies indicate that the number of of services for which civil society organizations are licensed service providers is growing. Furthermore, the Government adopted a Guideline for the inclusion of civil society organizations with the aim of directing and encouraging administrative bodies to include civil society in working groups and other working and advisory bodies from the earliest stage of preparation of regulations and policy documents. The Committee considers that the dialogue with the civil society is ensured in compliance with Article 14§2 of the Charter.

The report fails, however, to provide data on any subsidies paid by the Government and the local authorities or on other types of support to voluntary organisations, which provide social services. It states solely that large number of civil society organizations is financed through the mechanism of earmarked transfers through which the state helps the development of services in areas that are below the national level of development. The Committee requests the next report to contain exhaustive information on the financial support to civil society organisation which provide welfare services. Pending receipt of this information, it considers that it has not been established that the situation is in conformity with the Charter on this point.

As regards equal access to services managed by the private sector, the report states that one of the basic principles in social protection is the principle of non-discrimination. Article 25 of the Law on Social Protection stipulates that discrimination against beneficiaries of social protection on the grounds of race, sex, age, nationality, social origin, sexual orientation, religion, political, trade union or other affiliation, property status, culture, language, disability, the nature of social exclusion, or other personal characteristics is prohibited. The Committee considers that such regulation as a whole may meet the requirements of Article 14§2, however, it needs a comprehensive description of the pertinent procedures and their effectiveness in practice, in order to be able to reach a conclusion to this end. It thus requests the next report to provide it with exhaustive information in this respect. Meanwhile it considers that is has not been established that the situation is in conformity with the Charter on this point.

The report does not provide comprehensive information in reply to the targeted question on how social services work together with persons who use the services and how such user involvement is promoted. It refers solely to the Tax Administration tables, which, however, are not provided in the annex. Still, such tables might not have presented all the necessary data, such as regarding promotion of user involvement through legislation or in the design and practical realisation of services. The Committee thus reiterates its requests for information and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter in this respect.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 14§2 of the Charter on the grounds that it has not been established that:

- voluntary organisations are adequately supported by subsidies or tax incentives for the creation or maintenance of social services;
- services managed by the private sector are effective and accessible to all.

## **Article 23 - Right of the elderly to social protection**

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

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 social and economic rights of older persons are respected and 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.

The previous Conclusion found the situation not to be in conformity on the grounds that adequate resources were not guaranteed to those not in receipt of a pension (Conclusions 2017).

### ***Autonomy, inclusion and active citizenship***

#### ***Legislative framework***

The Committee recalls that Article 23 of the Charter requires State Parties to undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular to enable older persons to remain full members of society for as long as possible. The expression “full members of society” used in Article 23 requires that older persons must suffer no ostracism on account of their age. The right to take part in society’s various fields of activity should be ensured to everyone active or retired, living in an institution or not.

The Committee takes due account of contemporaneous definitions of ageism which refer to the stereotypes, prejudices and discrimination directed towards other or oneself based on age (see for example WHO report on Ageism, 2021, p. XIX) As the World Health Organisation has noted, “... ageism has serious and far-reaching consequences for people’s health, well-being and human rights“(WHO report on Ageism, 2021, p. XVI).

The Covid-19 crisis has exposed and exacerbated a lack of equal treatment of older persons. This has included in the healthcare context, where there have been instances of rationing of scarce resources (e.g. ventilators) based on stereotyped perceptions of quality of life, vulnerability and decline in old age.

Equal treatment calls for an approach based on the equal recognition of the value of older persons’ lives in all the areas addressed by the Charter.

Article 23 of the Charter requires the existence of an adequate legal framework for combating age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, such as insurance and banking products, allocation of resources and facilities. Discrimination against older persons in terms of social rights enjoyment, is also contrary to Article E.

The overall emphasis in the Charter on using social rights to underpin personal autonomy and respect the dignity of older persons and their right to flourish in the community requires a commitment to identifying and eliminating ageist attitudes and those laws, policies and

other measures which reflect or reinforce ageism. The Committee considers that States Parties, in addition to adopting comprehensive legislation prohibiting discrimination on grounds of age, must take a wide range of measures to combat ageism in society. Such measures should include reviewing (and as necessary amending) legislation and policy for discrimination on grounds of age, adopting action plans to ensure the equality of older persons, promoting positive attitudes towards ageing through activities such as society-wide awareness campaigns, and promoting inter generational solidarity.

Article 23 further requires that States parties provide for a procedure of assisted decision making.

The Committee previously noted that legislation prohibits discrimination on grounds of age including in access to goods, services and facilities (Conclusions 2017). The Committee asks the next report to provide information on any case law relating to discrimination on grounds of age.

With regard to assisted decision-making for older persons, the Committee previously asked whether such a procedure exists and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision-making (Conclusions 2017).

The report provides information on deprivation of legal capacity which may be a complete or partial deprivation of capacity. It states that the centre for social work must consult and obtain the opinion of a person who has been deprived of legal capacity prior to making decisions on their behalf. Further the guardianship authority provides support and assists a person deprived of capacity to act as independently as possible. The Committee notes that the report states that the legislation on deprivation of legal capacity is not compatible with the UN Convention on the Rights of persons with disabilities and therefore amendments to the relevant legislation are planned in order to bring it into line with the Convention.

The Committee recalls that there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves. Older persons must not be assumed to be incapable of making their own decisions just because they have a particular medical condition or disability.

States Parties must take measures to replace regimes of substituted decision-making by supported decision-making, which respects the person's autonomy, will and preferences. These may be formal or informal.

Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons. It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights (Statement of Interpretation 2013).

The Committee asks the next report to provide information on changes to the legislation on legal capacity .

### ***Prevention of abuse of older persons***

The Committee previously noted that the National Strategy on older persons envisaged introducing measures to prevent neglect, discrimination and violence against the elderly and to protect them from abuse of this kind. The Committee wished to be informed of the measures and projects implemented in this connection, as well as of their results (Conclusions 2017).

The report states that an information system was established in 2019 to improve the system for collecting data on domestic violence and monitoring abuse of older persons. The report provides data on detected cases of abuse in residential institutions and the number of older

persons removed from their families due to abuse. Further it states that educational training programmes for professionals employed in centres for social works and residential institutions on abuse and neglect of older persons have been established.

The Committee asks for updated information to be provided in the next report, on measures taken to combat abuse of older persons including measures to raise awareness of the need to eradicate older abuse and neglect (beyond the institutional care context), and any legislative or other measures. It also asks whether data has been collected which would indicate the prevalence of older abuse.

### **Independent living and long-term care**

The Committee asks whether steps have been taken to move away from the institutionalisation of older persons and adopt a long term care and support in the community model. The Committee recalls that Article 23 provides that measures should be taken to enable older persons to lead independent lives in their familiar surroundings therefore it considers that older persons requiring long term care should be able to choose their living arrangements. In particular, this requires states to make adequate provision for independent living, including housing suited to their needs and state of health, as well as the necessary resources and supports needed to make independent living possible.

Institutionalisation is a form of segregation, often resulting in a loss of autonomy, choice and independence. The Covid-19 pandemic has put the spotlight on the shortcomings of institutionalised care. The Committee refers in this respect to its Statement on Covid-19 and social rights (adopted March 2021) where it stated that enabling older persons to remain in their familiar surroundings as required by Article 23 of the Charter has become even more important in view of the heightened risk of contagion in the congregated settings of nursing homes and other long-term institutional and residential facilities and to the human rights-based argument for investment in the community to give reality to the right to community living is now added a public health argument in favour of moving away from residential institutions as an answer to long term care needs.

The Committee asks the next report to provide updated information on the progress made in providing care in the community, it asks in particular how many older persons reside in institutions -residential facilities and trends in the area.

### **Services and facilities**

The Committee previously noted that many social services were not available to older persons living in rural areas if any measures have been taken or are envisaged to remedy this situation. It asked for further information on the licensing and inspections of social service providers.

The Committee asked the next report to provide further information on the number of licences delivered, the status of these inspectors, the number of their inspections as well as the measures they are entitled to take in cases of established breaches or abuse. It also wishes to find in the next report information on the organisation of the monitoring mechanisms at the national and municipal level, and particularly, the powers of each of them in this regard.

The Committee also asked if some of these services were subject to fees and if so, how the fees were calculated.

Lastly the Committee asked for additional information on support services for families caring for older persons, in particular whether these services are provided across the entire country (Conclusions 2017).

According to the report the Law on Social Protection provides that service providers can be all legal entities and natural persons from the public, private and civil sector if they meet the

conditions and standards prescribed by the Law on Social Protection for providing social protection services, and obtain a required license from the competent authority.

The system of licensing, takes place on two levels: licensing of professional workers and licensing of social protection organizations, i.e. service providers. Licensing of social protection organizations is the responsibility of the ministry in charge of social issues, and this process is currently carried out by the organizational unit of this ministry – the Department for Inspection Supervision (revocation and suspension of licenses is also under the jurisdiction of this department). About 600 licenses have been issued to service providers so far.

Licensing of professional workers is within the competence of the Chamber of Social Protection as an independent association of professional workers in social protection.

The Committee understands that the inspection system for social services and institutions is the same and therefore refers to its conclusion under institutional care for a description of the inspection system.

According to the Law on Social protection beneficiaries of services may complain about services, including to the inspectorate body.

The Committee notes no information was provided on the availability of services in rural areas. It asks the next report to provide this information, should this not be provided there will be nothing to establish that the situation is in conformity in this respect. It also asks for updated information on the range of services and facilities available to older persons, including long term care, in particular those enabling them to remain active members of their community and to remain in their home. It further asks for information on the costs of such services, whether there is an adequate supply of care services, including long term care services and whether there are waiting lists for services.

The Committee asks what support is available for informal carers.

The Committee notes that many services (and information about services) are increasingly accessible online. Digitalisation provides opportunities for older persons. However older persons may have more limited access to the internet than other groups and may lack the necessary skills to use it. Therefore, the Committee asks what measures have been taken to improve the digital skills of older persons, ensure the accessibility of digital services for older persons, and ensure non-digital services are maintained.

### ***Housing***

The Committee previously requested further information on the provision of social housing in protected conditions in particular on the number of buildings constructed as well as on the housing services offered to the elderly and whether there is financial assistance to adapt/renovate elderly persons' private dwellings. It also asked how many older people live in their own dwellings, if other types of alternative housing (social housing and housing in small communities) have been built, and if so, how many and in which regions.

The Committee also asked whether that older persons living in social housing are systematically granted a discount on their electricity, gas and heating bills. It also wished to receive more detailed information on the level of the costs of social housing and on what happens when the individuals concerned or their families are unable to meet the relevant costs. (Conclusions 2017).

The report mentions the programme Social Housing in Sheltered Conditions, however the Committee notes that data on the number of constructed facilities provided in a link to the Housing Center website is only available in Serbian. It asks that the next report provide this information in an official language of the Council of Europe. The report states that traditionally older persons live with their families or alternatively in private appartements.

According to the report subsidies for utilities are regulated exclusively at the level of local self governing units as are rent subsidies.

The Committee asks the next report to provide more complete information on how the needs of older persons are taken into account in national or local housing policies and strategies as well as information on the supply of sheltered/supported housing and the range of accommodation options for older persons.

### ***Health care***

The Committee previously noted that large numbers of older persons do not have access to primary health care. The capacity for long term health care is limited and often badly organised. The Committee wished to know what measures were envisaged to remedy this situation (Conclusions 2017).

The report provides no information on the provision of primary health care to older persons. Information is only provided on access to long term residential care (see below). Therefore the Committee reiterates its question as to whether all older persons have access to primary healthcare, and what barriers have been identified in practice preventing access.

The Committee asks that the next report provide information on healthcare programmes specifically designed for older persons.

The Committee recalls the pandemic has had devastating effects on older persons' rights, in particular their right to protection of health (Article 11 of the Charter), with consequences in many cases for their rights to autonomy and to make their own decisions and life-choices, their right to continue to live in the community with adequate and resilient supports to enable them to do so, as well as their right to equal treatment in terms of Article E when it comes to the allocation of health care services including life-saving treatments (e.g., triage and ventilators). Whether still living independently or not, many older persons have had their services removed or drastically reduced. This has served to heighten the risk of isolation, loneliness, hunger and lack of ready access to medication.

Further the Covid-19 crisis has exposed examples of a lack of equal treatment of older persons, too much space was allowed for implicit judgments about the 'quality of life' or 'worth' of lives of older persons when setting the boundaries for such triage policies.

The Committee asks whether decisions around the allocation of medical resources may be made solely on the basis of age and asks whether triage protocols have been developed and followed to ensure that such decisions are based on medical needs and the best scientific evidence available.

### ***Institutional care***

The Committee previously requested further information on the inspections of residential institutions (Conclusions 2017).

According to the report the Ministry of Labour, Employment, Veteran and Social Affairs keeps a register of licensed social protection service providers, and an extract from the Register with data on service providers is published on the Ministry's website.

Pursuant to Article 168 of the Law on Social protection, supervision of social protection institutions and providers of social protection services is performed by the ministry in charge of social protection, through social protection inspectors. Supervision takes place at three levels national, provisional and at the level of Belgrade. Article 170 of the Law on Social Protection prescribes the powers of social security inspectors.

Social protection inspectors are, inter alia authorized to review general and individual acts of the social protection institution and the social protection service provider, to inspect the documentation of the social protection institution and the social protection service provider

on the basis of which the social protection services are provided, to perform a direct inspection of the services, warn of observed irregularities and determine measures and deadlines for their elimination, which may not be shorter than 15 days or longer than six months, and, in urgent cases, order the elimination of identified irregularities and deficiencies immediately. In addition inspectors are entitled to request reports and data on the work of the social protection institution and the social protection service provider and to entertain complaints related to the services provided by the institution or service provider.

Since the entry into force of the Law on Inspection Oversight, the Social Protection Inspectorate has introduced the practice of ordering service providers to perform self-assessment of the quality of services according to checklists.

The Committee notes from the report that the number of inspections since 2013 has increased significantly but has decreased since 2017. The Committee asks the reasons for this decrease.

According to the report in 2017 there was an average of 6,393 persons accommodated in state residential institutions for adults and older persons, this figure increased to 7,883 in 2019. In addition during the reference in order to reduce waiting times for admission to residential period private residential homes were permitted to operate, as of the end of 2019 185 homes were licenced.

The Committee refers to its statement above on the importance of moving away from institutional care and towards care in the community.

The Committee considers that the overall emphasis in the Charter on personal autonomy and respect for the dignity of older persons, results in a pressing need to re-invest in community-based supports as an alternative to institutions. Where, in the transition period, institutionalisation is unavoidable, Article 23 requires that living conditions and care be adequate and that the following basic rights are respected: the right to autonomy, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact (including through internet access) with persons close to the older person and the right to complain about treatment and care in institutions. This also applies in the Covid-19 context.

Due to the specific Covid-19 related risks and needs in nursing homes, States Parties must urgently allocate sufficient additional financial means towards them, organise and resource necessary personal protective equipment and ensure that nursing homes have at their disposal sufficient additional qualified staff in terms of qualified health and social workers and other staff in order to be able to adequately respond to Covid-19 and to ensure that the above mentioned rights of older people in nursing homes are fully respected.

### ***Adequate resources***

When assessing the adequacy of the resources of older persons under Article 23, the Committee takes into account all social protection measures guaranteed to older persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to older persons. These resources are then compared with median equivalised income. The Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee previously concluded the situation was not in conformity with the Charter on the grounds that adequate resources were not guaranteed to those who had no pension (Conclusions 2017).

The report states that the Government plans to carry out an in depth examination of the situation of persons living below the poverty line. Following this a social card system will be

introduced with the aim of improving social protection. The Committee asks the next report to provide further information on this.

The report provides no other information on social assistance, Therefore the Committee reiterates its previous conclusion.

The report fails to provide up to date information on pensions. According to Eurostat data, the poverty level, defined as 50% of the median equivalised income, was € 137 per month. 40% of the median equivalised income corresponded to €109 monthly.

According to MISSEO the insurance based minimum pension paid for retired employees, army officers and self-employed in January 2019 amounted to 14,339 RSD (€121.86) (26% of net average wage). The insurance based minimum pension for retired farmers amounted to 11,273 RSD (€95.80) in January 2019 (21% of net average wage). The Committee finds that these amounts are adequate. It asks the next report to provide up to date information on minimum pensions.

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

The Committee asked a targeted question on measures taken to protect the health and well-being of older persons in the context of a pandemic crisis such as Covid-19.

According to the report at the outset of the pandemic the state took measures to monitor the situation in residential institutions. Protective equipment, tests and vaccines were distributed. Technical assistance was provided to enable residents in institutions could video call with families members while there were restrictions on visits.

The Committee refers to the section on older persons in its statement on Covid-19 and Social Rights (March 2021) (and to sections cited above). It recalls Article 23 requires that older persons and their organisations be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis. Planning for the recovery after the pandemic must take into account the views and specific needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 23 of the Charter on the ground that adequate resources are not guaranteed to older persons not in receipt of a pension.

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

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions related to 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.

Therefore, it will focus on the Government's replies to the targeted questions, namely about measures (legal, practical and proactive, including some concerning supervision and inspection) taken to ensure that no person falls below the poverty threshold, during or after the Covid-19 crisis, the impact of these measures 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 which relates to developments outside the reference period (namely, after 31 December 2019) for information purposes only. In other words, the information referred to in this section – "Poverty and social exclusion in times of the Covid-19 crisis" – will not be assessed for the purposes of Charter compliance in the current reporting cycle.

In its previous conclusion, the Committee found that the situation in Serbia was not in conformity with Article 30 of the Charter on the ground that there was no adequate overall and coordinated approach to combating poverty and social exclusion (Conclusions 2017).

#### ***Measuring poverty and social exclusion***

The Committee recalls that, under Article 30, States Parties must provide detailed information on how they measure poverty and social exclusion. The main indicator used by the Committee to measure poverty is the relative poverty rate. This corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income.

The Committee notes that the national report provides no data on the poverty indicators. The Committee will therefore refer to the Eurostat data.

The Committee notes that the at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) decreased during the reference period, from 25.9% in 2016 to 23.2% in 2019. The Committee also observes that the difference in the at-risk-of-poverty rate (after social transfers) between the sexes was only slight, amounting to 2.5% in 2017, 1% in 2018, and 1.4% in 2019.

The Committee also notes that the unemployed (between 16 and 64 years old) are a particularly vulnerable group: almost half of all the unemployed in Serbia (49.6% in 2016 and 47.5% in 2019) were at risk of poverty during the reference period, while this figure was much lower for the employed (11.6% in 2016 and 9.1% in 2019).

The at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) among persons over 65 slightly increased from 20.5% in 2016 to 21.1% in 2019 (compared to 19.4% in 2013). As regards children (younger than 16), the at-risk-of-poverty rate decreased slightly during the reference period, from 29.3% in 2016 to 28.5% in 2019.

Concerning the risk of poverty and social exclusion (AROPE) which, according to Eurostat methodology, corresponds to the sum of the persons who are (1) at risk of poverty; and/or (2) face severe material deprivation; and/or (3) live in a household with very low work

intensity, the Committee observes that 38.5% of the Serbian population was at risk of poverty and social exclusion in 2016, and 31.7% in 2019.

As regards children (younger than 16), the risk of poverty and social exclusion decreased during the reference period, from 38.4% in 2016 to 34.7% in 2019.

The Committee observes that the at-risk-of-poverty rate has slightly decreased but a significant part of the Serbian population is at risk of poverty and social exclusion.

### ***Approach to combating poverty and social exclusion***

In its previous conclusion, the Committee found that the situation in Serbia was not in conformity with Article 30 of the Charter on the ground that there was no adequate overall and coordinated approach to combating poverty and social exclusion (Conclusions 2017).

The report provides information on the legislative framework in the field of social protection. According to Article 69§1 of the Constitution, persons and families who need social assistance to overcome social and life difficulties and to create conditions for meeting basic living needs, have the right to social protection, the provision of which is based on the principles of social justice, humanism and respect for human dignity. The Committee requests that the next report reflect the practical implementation of these principles.

The Law on Social Protection (Official Gazette of the Republic of Serbia, No. 24/11) introduces mechanisms for expanding assistance to persons living in poverty by means of higher benefits and ensuring the inclusion of the most vulnerable groups who have difficulty in using the existing schemes within the social protection network. This law also sets out strategic goals relating to the reform of the social services, and provides a framework for entitlement, types of services, competent organisations and service providers, beneficiary groups, quality control mechanisms, and responsibilities for the provision and funding of social services. The Committee requests that the next report contain information on the practical implementation of this law.

The Law on Social Insurance Cards (Official Gazette of the Republic of Serbia, No. 14/21) establishes a single register of social insurance cards. The register contains data on the socio-economic status of individuals and their relatives, and aims to enable them to exercise their rights to social protection more effectively and to take better advantage of the services available to them. The Committee asks that the next report provide information on the practical implementation of this law.

The Law on Financial Support for Families with Children (Official Gazette of the Republic of Serbia, Nos. 113/17 and 50/2018) provides for additional protection for children from particularly vulnerable groups (children with mental and physical disabilities, children without parental care, and children receiving monetary social assistance). This law lists the various benefits available: maternity pay, leave-of-absence from work for childcare and the care of children with special needs; other benefits related to birth, childcare and the care of children with special needs; parental allowances; children's allowances; the reimbursement of the costs of preschool educational institutions for children neglected by their parents, the children of beneficiaries of monetary social assistance, and children from deprived families. The Committee asks that the next report provide information on the practical implementation of this law.

The report also mentions rules on the licensing of service providers and other professional workers, as well as minimum standards for social services provision. In March 2016, the Government adopted the Regulation on transfers for social protection, which determines the amount of these transfers, the criteria for their distribution and the criteria for the participation of local government. These specific transfers from the national budget complement the financing of social protection services under the jurisdiction of local government. The report also mentions the adoption of a regulation on the integration of recipients of social assistance in cash, a text which provides for various measures to facilitate their access to

formal and non-formal education, the labour market, medical care and community service, among others. The Committee asks that the next report provide information on the practical implementation of these regulations.

The Committee notes that it asked in its previous conclusion for the next report to contain information about the coordination mechanisms in place for the measures to combat poverty and social exclusion, including their delivery (i.e. what this coordination means for the individual beneficiaries of assistance and services), what resources are allocated to them and the number of beneficiaries for every year of the reference period (Conclusions 2017). None of the information requested has been provided. Moreover, none of the requested data are provided in response to its targeted question.

The Committee also refers to its conclusions of non-conformity regarding other relevant provisions of the Charter for an assessment of conformity with Article 30 (see Conclusions 2013 and the Statement of interpretation on Article 30). It refers in particular to:

- Article 7§5 and its conclusion that young workers' wages are not fair (Conclusions 2019);
- Article 12§1 and its conclusion that the duration of unemployment benefit for the insurance period of up to 5 years is too short (Conclusions 2021);
- Article 13§1 and its conclusion that means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer (Conclusions 2021);
- Article 14§1 and its conclusion that it has not been established that equal access to social services is guaranteed to nationals of all States Parties lawfully residing on Serbian territory and that the quality of social services meets users' needs (Conclusions 2021);
- Article 23 and its conclusion that adequate resources are not guaranteed to older persons not in receipt of a pension (Conclusions 2021).

The Committee considers that, in view of the lack of information and in light of the above considerations, the situation in Serbia is not in conformity with Article 30 on the ground that there is no adequate overall and coordinated approach in place to combat poverty and social exclusion.

### ***Monitoring and evaluation***

In its previous conclusion, the Committee asked for comprehensive information on monitoring mechanisms covering all sectors and areas of the combat against poverty and social exclusion (Conclusions 2017).

In response, the report states that there are two basic concepts for monitoring and reporting on poverty in Serbia: absolute and relative poverty. The report also indicates which population groups are the most vulnerable and the main risk factors.

The Committee notes that none of the information requested has been provided on monitoring mechanisms covering all sectors and areas of intervention in the fight against poverty and social exclusion. Therefore, the Committee reiterates its request. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Serbia is in conformity with Article 30 of the Charter in this respect.

### ***Poverty and social exclusion in times of the Covid-19 crisis***

The report indicates that after the outbreak of the Covid-19 pandemic and the introduction of the state of emergency in Serbia, the country automatically extended continued to pay social benefits to beneficiaries whose entitlements had expired during the first wave of the crisis. All adult citizens received aid of €100. This sum was paid automatically to pensioners and

beneficiaries of monetary social assistance, while other citizens had to apply to the relevant authorities to receive it.

The report adds that some local authorities distributed aid packages and, with the help of UNICEF, humanitarian aid to a number of Roma settlements. Several local authorities approved the deferred payment of utility bills and debt collection proceedings relating to late payments were frozen during the state of emergency. The Serbian electricity provider announced that it would not charge any interest to customers who were late paying their electricity bills.

#### *Conclusion*

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