



March 2022

EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

TURKEY

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 Turkey, which ratified the Revised European Social Charter on 27 June 2007. The deadline for submitting the 13th report was 31 December 2020 and Turkey submitted it on 29 April 2021.

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

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

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

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

Turkey 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 Turkey concern 17 situations and are as follows:

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

In respect of the other 5 situations related to Articles 3§2, 11§2, 11§3, 12§1 and 12§4, 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 Turkey under the Revised Charter.

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

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

- the right to information and consultation in collective redundancy procedures (Article 29).
The deadline for submitting that report was 31 December 2021.

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

Article 3 - Right to safe and healthy working conditions
Paragraph 1 - Safety and health regulations

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

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 deferred its conclusion pending information on the periodical review of the occupational health and safety policy strategies, as well as on the activities implemented and the results obtained by the Action Plan 2014-2018 (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response to the deferral and to the targeted questions.

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

General objective of the policy

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

In reply to the targeted question, the report states that, with the aim of regulating the procedures and principles for medical examinations to be carried out by Joint Health and Safety Units, Health and Safety Units in Workplaces and Employee Health Centres affiliated to the Provincial Directorates of Health to monitor the health of employees in workplaces covered by the Occupational Health and Safety (OHS) Law No. 6331, the Ministry of Health, together with the Ministry of Family, Labour and Social Security, prepared the "Regulation on the Procedures and Principles on Medical Examinations for Health Monitoring of Employees" in the field of OHS.

The report adds that the General Directorate for Occupational Health and Safety (GD OHS) has conducted consultations with social partners and other institutions and organisations with a view to creating a healthier and safer working environment at the workplace, and to develop solutions for aspects that may arise in the future and give rise to problems. This process has been carried out in a tripartite manner (state, employee and employer) and on condition that the existing rights and gains of workers and their representatives are not taken back.

The Committee notes that, according to the report, subject-oriented meetings, seminars and workshops have been held with the parties in order to evaluate and improve the effectiveness of existing regulations, and national policies have been guided by using various platforms and research methods. The Committee also notes that, with the aim of developing preventive strategies, the data collection process specific to various employer obligations, sectors and regions has also begun, the first of these obligations being to provide OHS training for employees.

The report states that, because of joint work with the GD OHS, Social Security Institution (SSI) and the Ministry of Treasury and Finance, the incentive and support mechanism

financed by the SSI has been activated. In this context, and in accordance with Article 7 of Law No. 6331, the report mentions that there are approximately 587,000 workplaces and 1,664,000 employees that benefit from the fact that the costs of OHS services for dangerous and very dangerous workplaces with less than 10 employees are covered by the State. In the same vein, the report notes that, in accordance with Annex 4 of the Unemployment Insurance Law No. 4447, there are approximately 60,000 workplaces with more than 10 employees and classified as very dangerous with 2,250,000 employees, which are covered by the decision whereby the employer's share of unemployment insurance premium is paid at 1% instead of 2% for 3 years, if there has been no work accident resulting in fatal or permanent incapacity in the previous 3 years.

The report describes the legislative arrangement that will be introduced to prevent employees' exposure to electromagnetic fields and optical radiation in the workplace. The report also discusses the guidance studies carried out by the GD OHS to rearrange working life under COVID-19 conditions and on the problems experienced in providing OHS services during the pandemic, which were evaluated and resolved in cooperation with public institutions/organisations and social partners.

The report also states that the National Occupational Health and Safety Council, a platform that has developed policies in the field of occupational health and safety at the national level, with the participation of government, employee and employer representatives, will continue functioning under the auspices of the Presidency in the future.

In its previous conclusion, the Committee noted that there is a legislative framework which provides for an overall approach to occupational health and safety policy (Conclusions 2017).

In its previous conclusion, the Committee reiterated its request that the report provide information on the activities carried out by Turkey in terms of research, knowledge and communication relating to psychosocial risks (Conclusions 2017). 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 Turkey is in conformity with Article 3§1 of the Charter.

In reply to the request for information on the activities carried out by Turkey in terms of research, knowledge and communication relating to psychosocial risks, the report details the activities performed by the General Directorate of Occupational Health and Safety (GD OHS), on the subject, such as research, study, seminar, symposium, training and preparation of guides. These activities concern both psychosocial risks in general (e.g. the psychosocial risk factors information guide) and in specific areas (e.g. a survey on bullying in the public sector, and an assessment of psychosocial risk factors of emergency service workers).

In its previous conclusion the Committee also asked the next report to provide information on the activities implemented and the results obtained by the OHS Policy Document II (2009-2013) and the Action Plan 2014-2018 on OHS (Conclusions 2017). 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 Turkey is in conformity with Article 3§1 of the Charter.

In reply to the request for information on the activities implemented and the results obtained by the OHS Policy Document II (2009-2013) and the Action Plan 2014-2018 on OHS, the report states that the National Occupational Health and Safety Council consists of 26 members, 13 of whom are from public institutions and organisations and 13 from the social partners. It convenes twice a year and is tasked with publishing the national occupational health and safety policy document and following up the practices in line with this document. The First and Second National Occupational Health and Safety Policy documents covering the years 2006-2008 and 2009-2013 and the Third National OHS Policy Document and

Action Plan have been published and put into effect. Work on the Fourth National OHS Policy Document and Action Plan started in 2018. The report reveals that paragraphs 2, 3, 4, 5, 6 and 7 of Article 21 of the OHS Law No. 6331, which regulates the National OHS Council, have been removed from the text of the Law, and that the references to the National OHS Council are deemed to have been made to the board and authority to be determined by the President.

The Committee takes note of the detailed information regarding the goals and achievements included in the Third National OHS Policy Document (Action Plan 2014-2018 on OHS) provided in the report. The Committee asks that the next report provide information regarding the goals and implementation of the Fourth National OHS Policy Document and Action Plan, which started in 2018.

In its previous conclusion (Conclusions 2017), the Committee also invited the authorities to comment on the observation raised by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted in 2015 (105th ILC session) on Occupational Safety and Health Convention No. 155 (1981) that the National Occupational Health and Safety (OHS) Policy Document II for 2009-2013 and National OHS Policy Document III for 2014-2018 are merely a repetition of previous plans that have not been implemented.

In reply to the invitation, the report states that a major overhaul of the OSH system in Turkey took place in 2012 with the enactment of the OHS Law which, according to the report, was prepared in close consultation with the social partners and taking into consideration the relevant ILO Conventions No.155 and 161 and EU Directives. The report also states that, as part of secondary legislation, a total of 36 regulations and 6 communiqués were issued to strengthen the implementation of this law. The report remarks that the new legislation on OSH applies to all activities and workplaces in both the public and private sectors. The report explains that the Labour Inspection Board monitors and inspects the compliance with the OSH legislation by conducting scheduled and non-scheduled inspections with an increasing number of inspectors. The report also explains that the National Occupational Health and Safety Policy Document has set the objective of improving the recording system and statistics on work accidents and occupational diseases.

Organisation of occupational risk prevention

The Committee previously noted the existence, at national and territorial level, of measures for the prevention of occupational risks suited to the nature of the risks, together with measures of information and training for workers (Conclusions 2017).

Improvement of occupational safety and health

The Committee previously noted the existence of a system aimed at improving occupational health and safety through scientific and applied research, development and training, in which public authorities were involved (Conclusions 2017).

Consultation with employers' and workers' organisations

The Committee previously noted that the situation was in conformity on this point (Conclusions 2017).

COVID-19

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

The Committee takes note of the information contained in the report regarding measures taken to prevent the spread of the disease in health facilities, such as the updating of the Covid-19 guidelines, the triage of outpatients who are admitted to primary healthcare facilities, the maintaining of social distancing within healthcare facilities/premises, the frequent ventilation and disinfection of all areas of healthcare facilities and the distribution of personal protective equipment to the staff.

With reference to children's homes and nursing homes for elderly persons, the report details the measures taken in accordance with the OHS Law No. 6331: basic measures such as masks, disinfectants, social distancing; special hygiene measures applied in kitchens; bans on staff with symptoms entering or staying in the workplace and isolation during 14 days of staff who did not show symptoms but had been potentially exposed to the virus; selection of staff accompanying the elderly showing signs of illness in the establishment and psychosocial support of the staff; allocation, where possible, of single rooms with toilet and bathroom to staff staying on-site at the organisations; rearrangement of shifts into periods of 7-10 and 14 days; testing of staff coming from outside at the point of the 14-day shift system changes; in-service training sessions to increase the qualifications and numbers of staff working in care services; access to updated information by means of a website link created within the Ministry of Family, Labour and Social Services.

The report also quotes the work undertaken by the Ministry of Internal Affairs (General Directorate of Provincial Administration, General Directorate of Security, General Command of the Gendarmerie) and the documents, posters, brochures and videos prepared and published by the Ministry of Family, Labour and Social Services. The report highlights the importance of the website on Combating Covid-19 in the Workplace, which was set up in order to provide information, raise awareness, provide training, share experience and provide advice to employers, employees, OHS professionals and the public regarding the fight against Covid-19.

The report also explains that unemployment benefits and short-term work allowance practices were effectively implemented with the aim of protecting employment and reducing the effects of the COVID-19 pandemic on the labour market. In the same vein, the report also refers to the implementation of a cash wage support for workers who are given unpaid leave by the employers and cannot benefit from short-term work allowance and workers whose employment contract was terminated after 15 March 2020 but could not qualify for unemployment benefits. The report further refers to the implementation of a normalization premium support for workplaces that resumed work normally.

The report finally quotes the precautions taken regarding social distancing and the courses and programs organized in workplaces that had started before the epidemic and whose continuation was considered harmful for public health.

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

The Committee concludes that the situation in Turkey is in conformity with Article 3§1 of the Charter.

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 Turkey.

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 deferred its conclusion (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the deferrals and to the targeted question.

Content of the regulations on health and safety at work

In its previous conclusion, the Committee noted that the Turkish Armed Forces, the Police Department and specific activities in civil defence services were not covered by the Occupational Health and Safety Act and asked whether this would mean that these categories of workers were left without any standard of protection or if other protective rules applied. The Committee also reiterated its question on 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 (Conclusions 2017).

The report states that the legislation excludes from its coverage very few categories of workers, i.e. armed forces and the police, disaster and emergency activities, domestic services, self-employed who do not employ any workers and training activities under the rehabilitation programmes for prisoners. The report states that other protective rules apply to these workers. Those who work independently and who pay taxes are subject to regulations on accidents at work, occupational diseases, sickness and maternity insurance.

The Committee takes note of this information and asks the next report to state what specific protective rules apply to those excluded from the scope of the Occupational Health and Safety Act (No. 6331/2013).

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.

The report states that according to Turkish legislation, the employer is obliged to protect the worker with whom they have an employment relationship, to respect the worker, to take measures to prevent the workers from being subjected to psychological and sexual harassment and to prevent further harm to those who have been subjected to such harassment. Compensation for damages caused to the health of the worker is calculated in accordance with the provisions on liability arising from the breach of contract. The report further states that Occupational Health and Safety Act prohibits using addictive substances at the workplace. In accordance with the Regulation on Occupational Health and Safety Risk Assessment (No. 28512/2012), psychosocial dimension of work should be considered when carrying out the risk assessment. The report also states that recently a survey was conducted and workers' burnout levels were examined, the results of the survey were

shared with the regulatory agency of the sector at issue, and two seminars were held for bank employees regarding the measures to be taken.

The Committee notes that the report provides no information requested in response to the targeted question. 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 Turkey 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 found the situation to be in conformity in this respect (Conclusions 2017).

Protection against hazardous substances and agents

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

Personal scope of the regulations

The Committee previously concluded that the Occupational Health and Safety Act did not apply to domestic services, persons producing goods and services in their own name and on their own account without employing workers. The Committee asked whether it meant that these categories of workers were left without any standard of protection or if other protective rules applied (Conclusions 2017).

The report states that domestic workers and those who work on their own are excluded from the scope of the Occupational Health and Safety Act. Since a person working on his or her own is self-responsible and there is not employer-employee relationship, such persons are excluded from the scope of the said Act. However, those who are taxpayers, exempt from income tax due to their commercial earnings, those exempt from income tax but registered

as tradesmen or craftsmen, members of the board of directors of corporations, partners of other companies and those engaged in agricultural activities are considered insured for work accidents, occupational diseases, for sickness and maternity benefits.

As for domestic workers, the report states that their occupational health and safety issues are regulated by the Code of Obligations (No. 6098/2011), which provides that the employer takes necessary measures to ensure occupational health and safety at the workplace, and the workers are obliged to comply with measures taken regarding occupational health and safety. Compensation for damages can be applied in accordance with the provisions on liability arising from the breach of contract.

Consultation with employers' and workers' organisations

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

Conclusion

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

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 Turkey.

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

In its previous conclusion, the Committee concluded that the situation in Turkey was not in conformity with Article 3§3 of the Charter on the ground that measures taken to reduce the number of accidents at work were insufficient and that the labour inspection system did not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation (Conclusions 2017).

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

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

Accidents at work and occupational diseases

The Committee previously examined the situation regarding accidents at work and occupational diseases (Conclusions 2017). It considered that the number of accidents at work remained at a high level and the standardized incidence rate remained very high, especially in the mining and construction sectors. It therefore considered that the figures provided do not establish that accidents at work and occupational diseases are monitored effectively. It concluded that the situation in Turkey was not in conformity with Article 3§3 of the Charter on the ground that measures taken to reduce the number of accidents at work were insufficient. It requested information/explanation concerning: – the most frequent causes of accidents at work and the preventive and enforcement activities undertaken to prevent them.- activities implemented and the results obtained according to the National OHS Policy Document’s objective to develop occupational accident and diseases statistics and a recording system. – legal definition of occupational diseases; the mechanism for recognising, reviewing and revising of occupational diseases (or the list of occupational diseases); the incidence rate and the number of recognised and reported occupational diseases during the reference period (broken down by sector of activity and year), including cases of fatal occupational diseases, and the measures taken and/or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases; the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged. The targeted questions with regard to accidents at work and occupational diseases concern statistical data on prevalence of work-related death, injury and disability as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs and also as regards the victims of harassment at work and poor management.

In reply, the report indicates that the number of fatal accidents at work remained stable during the first three years of the reference period (1,405 in 2016, 1,636 in 2017 and 1,542 in 2018) and decreased in 2019 (1,149). There is also a decrease in the incidence rate of fatal accidents at work during the reference period and in particular in 2019 (9.2 in 2016, 8.5

in 2017, 8.2 in 2018 and 6.1 in 2019). However, those figures remain very high. The Committee notes that the incidence rates of fatal accidents at work in the EU-27 during the reference period were 2.29 in 2016, 2.25 in 2017 and 2.21 in 2018.

The Committee takes note of the distribution of fatal accidents at work per activity branch in 2016-2016. It notes that in 2019, the highest number of fatal accidents occurred in the construction sector (368 cases), the transport and storage sector (216 cases), the manufacturing sector (205 cases) and the mining and quarrying sector (48 cases).

The report indicates that the number of non-fatal accidents at work significantly increased during the reference period, from 286,068 in 2016 and 359,866 in 2017 to 431,276 in 2018 and 422,837 in 2019. It takes note of the information provided in the report that the highest number of non-fatal accidents at work in 2019 arose, as in the previous years, in the manufacturing sector (182,723), the construction sector (47,742), accommodation and food service activities (43,440), administrative and support service activities (30,996) and wholesale and retail trade, repair of motor vehicles sector (25,888). The Committee requests that the next report provide information on the standardised incidence rates of non-fatal accidents at work for each year of the reference period.

The report explains that there are human, machine, working environment and management-based factors in the occurrence of work accidents. In the construction and mining sector, accidents caused by falling from height, collapse, explosion, compression and other similar risks are more common.

The report provides information on activities carried out by the Ministry of Family, Labour and Social Services during the reference period, in the construction industry and mining sector. The Committee takes note, concerning the construction sector, of the entry into force of the "Occupational Health and Safety Management System – for Small and Medium-Sized Enterprises" standard prepared for construction workplaces, following its adoption on 6 February 2017 by the technical board of the Ministry. The Committee asks that the next report provide information on the implementation and concrete results of this standard. The Committee also takes note of the important number of informative seminars and field visits, safe construction symposiums organised in different cities with the participation of the officials of the Ministry of Labour and Social Services, employers, OHS professionals and different chambers of commerce and industry, as well as of the entry into force of the Regulation amending the Regulation of Occupational Health and Safety in Construction Works which regulated temporary edge regulating systems, pillared working platforms, safety nets and minimum health and safety conditions regarding installation, etc.

The Committee also takes note that, concerning the mining sector, different training regarding occupational hygiene and health and periodic controls of work equipment has been organised and the "Occupational Health and Safety Information Management System" have been initiated to guide the operations by creating the OHS risk map in Turkey.

As to occupational diseases, the report indicates that an "occupational disease", according to the Social Insurance and Universal Health Insurance, is "the temporary or permanent disease, physical or mental disability of the worker caused by a repetitive reason or the conditions of the work execution." In addition, occupational disease is described as "the disease that occurs as a result of exposure to occupational risks" in the Occupational Health and Safety Law . The list of occupational diseases is included in Annex 2 of the "Regulation on Determination of the Loss of Working Power and the Loss of the Earning Capacity in the Profession". The determination of the occupational disease is made by the Social Security Institute's Health Board. The Social Insurance Supreme Health Council has the authority to decide whether any disease that is not specified in the Regulation can be considered as an occupational disease or not in accordance with the provisions of Law. In addition, if any disease is confirmed to be an occupational disease as of clinical findings, but the liability period listed in the list is exceeded, the disease in question can be considered an occupational disease with the decision of the Supreme Health Council. The calculation

regarding what extent the employee's earning power will decrease in the profession as a result of occupational disease, is made according to the table in Annex 3 of the said Regulation.

The report explains that, the diagnosis of an occupational disease can be made by all physicians serving in the 1st and 2nd level health units. After the diagnosis of an occupational disease, the patient should be referred to hospitals authorized to issue a medical board report by the Ministry of Health. A health board report should be issued in order to transfer the information to the social security system and to determine whether the disease causes loss of earning power in the profession.

According to the information provided by the report, there is an increase in the number of occupational diseases during the reference period: from 597 cases in 2016, 693 cases in 2017, 1,047 cases in 2018 to 1,091 cases in 2019. It appears from the report that the highest number of occupational diseases occurred in the following sectors: manufacture of other non-metallic mineral products (188 cases in 2019), base metal industry (95 cases in 2019), manufacture of motor vehicles (59 cases in 2019), manufacture of fabricated metal products except machines and coal and lignite mining (50 cases 2019). The incidence rate of occupational diseases also increased during the reference period from 0.04 in 2016 and 2017 to 0.06 in 2018 and 2019. According to the report, no fatal occupational disease cases occurred during the reference period.

Concerning the measures to counter insufficiency in the declaration and recognition of cases of occupational diseases, the report explains that the "Occupational Exposure Data Package" software, prepared in 2017, aims at ensuring early detection of occupational exposures and increase occupational disease awareness. It is integrated into "Family Physicians Information System" and "Hospital Information Management System". This ensures, according to the report, that employees who are exposed to occupational risk factors and have symptoms related to those diseases, are diagnosed at an early stage before an occupational disease occurs and recorded by the physicians in case they apply to a physician. The Committee also takes note of the information provided by the report on the activities carried out by the Ministry of Health to reduce the frequency of pneumoconiosis and silicosis, which develops because of exposure to silica dust, and which is the most frequent occupational disease in Turkey. It also takes note of the trainings, publications and congresses on occupational diseases organised by the Directorate General for Occupational Health and Safety of the Ministry of Family, Labour and Social Services during the reference period.

The report does not provide any information concerning the targeted question on work-related suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders. Nor does the report provide information 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 as regards the victims of harassment at work and poor management. The Committee reiterates its request in this regard. It considers that if the next report does not provide the requested information, there will be nothing to establish that work accident and occupational diseases are monitored effectively.

The Committee considers that despite the decrease in the number of fatal accidents at work during the reference period, the standardised incidence rates of such accidents remain extremely high. The Committee also notes the significant increase in the number of non-fatal accidents (an increase of almost 48% between 2016 and 2019). The Committee therefore finds that the situation in Turkey is not in conformity with Article 3§3 of the Charter on the ground that accidents at work and occupational diseases are not monitored effectively.

Activities of the Labour Inspectorate

The Committee previously examined, the activities of the Labour Inspectorate and concluded that due to the low level of human resources in the inspectorate service responsible for monitoring compliance with occupational health and safety legislation, the labour inspection system cannot be considered efficient with regard to Article 3§3 of the Charter (Conclusions 2017). The Committee requested information on the reason why the figures concerning workplace inspections/labour inspectors which are stated in the report and those published by ILOSTAT are different; measures to focus labour inspection on small and medium-sized enterprises; the measures taken to increase staffing levels in the labour inspectorate and the proportion of workers who are covered by inspections and the percentage of companies which underwent a health and safety inspection in the years covered by the reference period; the application of the legislation and the regulations on the Labour Inspectorate throughout the country in practice; details, by category, of administrative measures that labour inspectors are entitled to take and, for each category, the number of such measures actually taken; the outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings; and figures for each year of the reference period. The targeted questions 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, the report provides that labour inspection activities are carried out by the Directorate of Inspection and Guidance Board under the Ministry of Family, Labour and Social Services. Labour inspection activities are carried out by a total of 959 labour inspectors (578 in terms of occupational health and safety, 381 in terms of execution of the work) working in 5 Group Presidencies established in Adana, Ankara, Bursa, Istanbul and İzmir provinces together with the Presidency at the Headquarters.

According to the report, a total of 443,889,000 TL (approximately 66,550,774 € as of 31 December 2019) was allocated to the Directorate of Inspection and Guidance Board regarding the inspection activities for the period of 01.01.2016- 31.12.2019.

The report explains that the inspections are carried out as scheduled and non-scheduled manner by the Directorate of Inspection and Guidance Board. A number of 40,828 inspections were carried out in terms of occupational health and safety in the period of 01 January 2016 – 31 December 2019, reaching 3,595,606 workers. As a result of the inspections carried out, the work in 1,834 workplaces has been suspended and administrative fines of total amount of 136,969,231 TL (approximately 20,353,117 € as of 31 December 2019) have been imposed on 10,530 workplaces. The majority of those inspections (63%) took place in the construction, mining, and metal sector.

In reply to the question raised by the Committee on whether inspectors are entitled all workplaces, including residential premises, in all economic sectors, the report indicates that according to Article 2 of the Occupational Health and Safety Law concerning the scope of inspections carried out by labour inspectors, the provision applies to all jobs and workplaces belonging to the public and private sector, employers and employer representatives of these workplaces, all employees, including apprentices and interns, regardless of their field of activity. However, the report states that the provisions of the Law on Occupational Health and Safety will not apply to the following activities and persons: – activities of the armed forces – general law enforcement and the Undersecretariat of the National Intelligence Organisation – response activities of disaster and emergency units, – domestic work, – those who produce goods and services on their own behalf and account, without employing

any employees, – during the execution services for convicts and detainees, within the scope of improvement of prison workshop, education, security and vocational training activities.

According to the report, procedures regarding the subject of supervision and inspection of military workplaces and workplaces producing the necessary materials for homeland security and their results are carried out by the inspectors of the Ministry of National Defense in accordance with the regulation prepared by the Ministry of National Defense and the Ministry of Family, Labour and Social Services.

The Committee requests that the next report provide information on the inspections carried out concerning domestic works and production of goods and services on one's own behalf and account without employing employees.

The Committee notes that according to figures published by ILOSTAT, the number of labour inspectors decreased slightly from 1,019 in 2017 to 969 in 2019. The average number of labour inspectors per 10,000 employees was 0.4 in 2017 and 0.3 in 2019. The number of inspection visits significantly decreased from 18,812 in 2017 to 7,298 in 2019, whereas, according to the figures published by the World Bank, the total labour force in Turkey increased from 31,962,763 in 2017 to 33,318,941 in 2019. In addition, the average of labour inspection visits per inspector was 24.9 in 2017 and 10.5 in 2019. The Committee maintains its previous assessment that the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

The report does not provide information in response to the targeted question on the proportion of workers and companies covered by the inspections. The Committee reiterates therefore its requests for information in this respect. It considers that if the requested information is not provided in the next report, there will be nothing to establish that activities of the labour inspectorate are effective in practice.

It asks that the next report provide information and figures concerning the activities of the Labour Inspectorate for each year of the reference period. It also requests updated information on figures of administrative measures that labour inspectors are entitled to take and information concerning the outcome of cases referred to prosecution authorities with a view to initiating criminal proceedings for each year of the reference period.

Covid-19

The report indicates that notices that workplace employees are sick due to the Covid-19 are reported to the relevant units of the Ministry of Health. When there are claims and requests by the employees that occupational health and safety measures are not being taken by the employer against the pandemic in the workplace, the employer and/or employer representatives, occupational safety specialists, workplace physicians or relevant persons are contacted and informed about the necessary measures that need to be taken. The essential warnings are made in writing by reminding of the mandatory provisions.

The report also provide information concerning the activities of the Ministry of Family, Labour and Social Service in the context of combatting Covid-19 pandemic, such as the distribution of informative documents, posters, videos, preparation of websites and guides on the risks of the COVID-19 at workplaces. Employers are requested to inform the Ministry about the measures they have taken. In this context, following the notices and complaints about COVID-19, some 4,092 workplaces were inspected in 2020 (as of 31 October 2020). During the Covid-19 pandemic, field inspections in terms of occupational health and safety were not interrupted, and occupational health and safety inspections continued uninterrupted within the scope of labour inspections. In terms of occupational health and safety in 2020 (as of 31 October 2020), a total of 3,055 inspections were carried out, including 1,784 scheduled inspections, and 1,271 non-scheduled inspections. As a result of the inspections carried out during this period, it was decided to halt work in 37 workplaces, and administrative fines of a total amount of 9,420,168 TL was imposed on 587 workplaces.

Conclusion

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

- accidents at work and occupational diseases are not monitored effectively;
- the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

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

The Committee previously examined Turkey’s framework on occupational health services and, pending receipt of the information requested, deferred its conclusions (Conclusions 2017). The Committee will therefore restrict its consideration to the Government’s replies to the previous conclusion of deferral.

In the previous conclusions, the Committee reiterated its previous questions, for detailed information in the next report on the tasks of occupational health services; the proportion of undertakings equipped with such services, and the number of workers monitored by such as compared to the previous reference period (Conclusions 2017). It also asked the next report to provide more detailed information on duties and responsibilities of a workplace physician and of the occupational safety expert and to explain how the functions performed by them are adapted in practice to all undertakings, especially in small and medium-sized enterprises. It further requested information clarifying the manner in which access to occupational health services takes place in practice for temporary workers or workers on fixed-term contracts, self-employed workers and domestic workers. It reserved in the meantime its position on these points.

The report indicates that under Article 13 of the Regulation of Occupational Health and Safety Services (2012) determines the establishment of workplace health and safety units to carry out occupational health and safety services. Accordingly, in order to contribute to creating a safe and healthy working environment in the workplaces, Workplace Health and Safety Units (WHSU) and Joint Health And Safety Units (JHSU) are in charge of guiding the employer about the supervision of the work environment, implementation of health examinations to protect and improve the health of employees, planning the occupational health and safety trainings and informing of the employees and in the determination of situations requiring emergency intervention, etc.

The report also indicates that the number of Joint Health and Safety Units has increased from 2013 to 2020 (outside of reference period) at a rate of 139%. The report provides figures concerning the number and rate of employees who received occupational health and safety (OHS) services during the reference period. The number of employees who received OHS services increased from 6,641,821 in 2016 to 6,947,109 in 2019. The rate, however, decreased during the same period from 66.35 to 61.08. The report indicates an increase of this rate to 70.98 in 2020 with 6,895,255 employees who received the service (outside the reference period).

The Committee takes note of the detailed information provided in the report in response to the question previously raised by the Committee, concerning the duties of Occupational Safety Expert, of guidance, risk assessment, supervision of work environment, training, informing and registration, and the duties and responsibilities of workplace physicians, such as health monitoring, training, briefing, registration, etc. The Committee notes in particular that the OHS experts and workplace physicians have the power to apply to the employer for suspending the work in case of life-threatening danger, access the necessary information and documents and meet with the employees, and to cooperate with relevant organisations and institutions.

In response to the question concerning OSH services in small and medium-sized enterprises, the report indicates that alternative regulations are enacted in terms of the implementation of these services in these enterprises. The report explains that in order to provide occupational health and safety services in the workplace in accordance with the provision of Article 6 of Law No. 6331 on Safety and Health at Work, the employer him/herself can undertake the performance of this service if s/he has the specified qualifications and the necessary certificate taking into account the hazard class and the number of employees. The employers or employer representatives who do not have the specified qualifications and the required certificate but have less than 50 employees in less hazardous type workplace can carry out OHS services, except for recruitment and periodic health examinations, provided that they complete and achieve the necessary training programs announced by the Ministry, limited to their own workplace.

The Committee recalls that in the previous conclusion, it noted that the entry into force of Articles 6 (occupational health and safety services), 7 (State subsidies to occupational health and safety services) and 8 (occupational physicians and occupational safety specialists) of the Act on Safety and Health at Work was postponed to 1st July 2017 as regards the public institutions and enterprises where less than 50 workers are employed, and which are classified as less hazardous (Conclusion 2017). The Committee notes that according to Article 38 of the Law No. 6331 as amended in July 2020, the entry into force of Articles 6 and 7 of the Law referred to by the report concerning the safety and health services in SMEs classified as less hazardous, is now set to 31 December 2023. The Committee takes note of the information provided in the report that the postponement of the entry into force of the above-mentioned provisions is not an obstacle to the appointment of OHS professionals by the enterprise or institution if needed. However, the Committee considers that in the absence of legal provision, there is nothing to establish that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy. It reiterates its request for information/explanation on how the functions performed by workplace physician and of the occupational safety expert are adapted in practice to all undertakings, especially in small and medium-sized enterprises.

As to temporary workers or workers with fixed-term contracts, the report indicates that according to the provisions of the Regulation on Occupational Safety and Health in Temporary or Fixed Term Employment, the employer shall ensure special health surveillance required for the job for the employees working with fixed or temporary labour contracts. This surveillance is continued after the employee's contract term expires. Employees who work in daily tasks such as cooking, cleaning, laundry, childcare, disabled and patient care and older person care in household services are also covered by occupational health and safety services. According to the provisions of the Turkish Code of Obligations, employers who recruit domestic workers should take all necessary measures to ensure occupational health and safety at the workplace, and to maintain tools and equipment in full.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

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 Turkey.

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

In its previous conclusion, the Committee concluded that the situation in Turkey was not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates had been insufficient (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted questions.

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

Measures to ensure the highest possible standard of health

The Committee notes that in its previous conclusion it considered that the situation in Turkey was not in conformity with the Charter because the measures taken to reduce infant and maternal mortality rates had been insufficient (Conclusions 2017).

The report provides information on the maternal and infant mortality. Maternal mortality rate per 100,000 live births was 13.1 in 2019, a decrease compared to 14.6 in 2015. The report states that infant mortality rate per 1,000 live births decreased from 11.1 in 2014 to 9.3 in 2018. According to World Bank data, in 2019 the infant mortality rate per 1,000 live births was 9.1.

The report further states that many studies are carried out by the Ministry of Health to reduce preventable maternal deaths. It states that the Ministry of Health continues its efforts to reduce diseases and deaths by updating the health system so that everyone benefits from reproductive health services in a way that minimises inter-regional and rural-urban differences, and by making services equal, accessible and qualified. A programme “Guest Mother Programme” has been initiated in order to reduce preventable mother and infant deaths by monitoring and transporting women residing in settlements where weather and transportation conditions are unfavourable to safer centres when their possible birth dates approach.

The Committee takes note of the measures taken to reduce maternal and infant mortality. The Committee asks to be kept informed on the implementation of such measures, their effect on reducing the maternal and infant mortality rate, updated data regarding the trends of the mortality rates and on any developments in this field. However, the Committee notes that the maternal and infant mortality rate remains high and well above the average in the European Union (maternal mortality rate per 100,000 live births was 6 in 2017 in the EU and infant mortality rate per 1,000 live births was 3.4 in 2019). In view of the high rates of maternal and infant mortality, as well as the still low life expectancy, the Committee reiterates its conclusion of non-conformity on this point.

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.).

In reply to the Committee's targeted question on statistical data on life expectancy across the country and different population groups, the report provides statistical information on the average life expectancy in Turkey. In 2019 life expectancy at birth was 77.7 years on average (for example, the EU-27 average of 81.3 in 2019), 80.6 years for women (79.5 in 2015) and 74.7 years for men (73.5 in 2015). The report states that the province with the highest life expectancy at birth in 2015-2017 was Tunceli (80.7 years on average) and the province with the lowest life expectancy at birth was Kilis (76.1 years on average). According to World Bank data, the death rate in Turkey increased slightly from 5.4 deaths per 1,000 inhabitants in 2015 to 5.44 deaths per 1,000 inhabitants in 2019.

The Committee notes that there is a gender gap, with women expected to live about 6 years longer than men. The report states that main cause of death remain circulatory diseases, neoplasms and respiratory system diseases.

The report further provides statistics of the number of cases of the infectious diseases by years and according to the report, the incidence per 100,000 of population of AIDS decreased from 0.15 in 2015 to 0.13 in 2018 and the incidence per 100,000 of population of tuberculosis decreased from 15.9 in 2015 to 14.1 in 2018. The incidence of cancer increased from 212.6 in 2015 to 221.6 in 2016.

The report does not provide information on life expectancy across distinct ethnic groups and minorities, longer term homeless or unemployed, as well as information on prevalence of particular diseases among relevant groups, such as new cases HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison, thus the Committee reiterates this request for information.

Access to healthcare

The Committee recalls that the right of access to healthcare also requires that arrangements for access to care must not lead to unnecessary delays in its provision (Conclusions XX-2 (2013), Poland). The Committee repeatedly asked for specific information on the average waiting time for care in hospitals, as well as for a first consultation in primary care and pointed out that if such 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 2009, Conclusions 2013, Conclusions 2017).

In reply, the report states that people can easily make an appointment with their desired hospitals over the phone and through applications on smart devices. The report states that by doing so the long queues are avoided. The report provides statistical information on the number of hospitals, hospital beds, primary healthcare facilities, visits to physicians, inpatients and the bed occupancy rate. However, the report does not reply to the Committee's request for statistical information on the actual waiting times for inpatient/outpatient care as well as for primary care and surgeries. In the absence of such information in the report, the Committee concludes that the situation is not in conformity with the Charter on the ground that it has not been established that the provision of healthcare is not subject to long waiting times.

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 states that information and counselling services play a very important role in reproductive healthcare services. Medical personnel providing reproductive healthcare services receives trainings. Special studies are carried out for seasonal agricultural workers to access reproductive healthcare services. All women between 15 and 49 receive reproductive healthcare services, pregnancy follow-ups and pregnant women and women after childbirth receive iron and vitamin D supplements free of charge.

The report states that contraceptive methods are offered free of charge in relevant health institutions.

The Committee 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 information about the proportion of induced abortion in 100 gestation and it appears that the proportion increased from 4.7 in 2013 to 5.9 in 2018.

The Committee notes from CEDAW's concluding observations on the seventh periodic report of Turkey of 25 July 2016 that the policy of free contraceptives and the legal framework on abortion are at risk of being jeopardized by repeated criticism from high-level representatives of the Government, and a large number of public hospitals refuse to perform abortions even though the termination of pregnancy is legal up to the tenth week of pregnancy.

The report provides no information on abortion. The Committee thus asks the next report to provide information on access to abortion, the costs of abortion and whether they are reimbursed by the State in total or in part.

The report states that in 2019 there were 17 births per 1,000 women in the 15-19 age group.

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

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

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

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

In its targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). In reply, the report states that in Turkey all health-related interventions or treatment have to be carried out with informed consent. Before any medical intervention or treatment patients or responsible relatives have to be informed about the procedure and possible risks. After this information is provided, the patient or responsible relatives have to sign the documents by declaring that they understand the medical interventions or treatments and the possible risks.

Covid-19

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

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

The report provides information on the measures taken in primary healthcare facilities, penitentiary institutions, social security organisations, temporary accommodation centres to treat those who are ill.

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

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

- the measures taken to reduce infant and maternal mortality rates have been insufficient;
- it has not been established that the provision of healthcare is not subject to long waiting times.

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 Turkey.

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

In its previous conclusion, the Committee found that the situation in Turkey was in conformity with Article 11§2 of the Charter (Conclusions 2017).

Education and awareness raising

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

In reply, the report states that efforts to prevent the use of addictive substances such as tobacco, alcohol and drugs are carried out. The report refers to the “Addiction Fighting Training Programme”, which consists of training modules adapted to education and adult life. The report adds that intervention training sessions are provided to occupational professionals working in the field of addiction. Moreover, counselling services regarding addiction are provided to citizens who apply to the Addiction Counselling Centres of Healthy Life Centres and to their relatives when necessary.

The Committee notes that the report does not contain detailed information on sexual and reproductive health education and prevention strategies relating to health education in addressing self-harm conducts and eating disorders in the community and in schools. 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 Turkey is in conformity with Article 11§2 of the Charter in this respect.

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

Counselling and screening

In its previous conclusion, the Committee found that Turkey had adopted a systematic approach to cancer screening producing results in terms of earlier detection, more successful treatment and ultimately, reducing cancer mortality (Conclusion 2017). It asked for updated information on the proportion of women and children covered by preventive health services that comprise health controls, screening and vaccination, as well as on access to such screening for women living in rural areas. It also asked for updated information on the coverage rate of cancer screening, including its frequency. The report does not provide any information on counselling and screening. Therefore, the Committee reiterates its questions.

Conclusion

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

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 Turkey.

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 describes the arrangements in place for providing healthcare in prison, which involve general practitioners ensuring primary care or referring patients for more specialised treatment onsite or in external inpatient facilities. The State covers the costs of medical treatment for prison inmates. The report provides a list of preventive, data collection, screening, treatment, and rehabilitation activities carried out in prisons. The report further provides data regarding the healthcare staffing levels in prisons, showing an improvement during the reference period. Lastly, the report provides an outline of regulations concerning the postponement of custodial penalties due to illness.

The Committee refers to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reports on the visits to Turkey carried out in 2017 and 2019, which expressed concerns around the severe shortage of doctors and nurses, a situation aggravated with the rise in the prison population, as well as the major shortcomings regarding the medical screening of newly arrived prisoners. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, who visited Turkey in 2016, also notes that the overcrowding prevalent in most detention facilities had a negative impact on prompt and adequate access to medical care, and that there was a shortage of healthcare professionals, particularly general practitioners, dentists, psychiatrists and psychologists.

The Committee asks for information about the measures taken to improve prison healthcare staffing levels and to ensure adequate medical screening of all new prison arrivals, in particular in light of the above-mentioned observations of international monitoring bodies.

Community-based mental health services

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

The report notes that a network of 177 community mental health services covering the whole country has been developed over the past ten years, within the scope of a broader reform of the mental health sector. The network aims to increase independent living skills by using methods such as rehabilitation, psychoeducation, occupation therapy and group or individual therapy. 2000 professionals in different fields have received specific training and are employed in these services. The report also provides information about a project implemented since 2018 by the Ministry of Family, Labour, and Social Services with technical support from the World Health Organisation (WHO), to enhance workforce skills in providing healthcare services to people with mental disabilities and to improve community-based healthcare services at a national scale.

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

The Committee notes that the report provides limited information in relation to the targeted question. Accordingly, the Committee reiterates its request for information about the measures taken to close down/downscale long-stay psychiatric hospitals, and to strengthen and further develop the existing network of community mental health services. The Committee also asks for information about current and planned awareness-raising activities aimed at reducing stigmatisation 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).

The report provides data indicating that the prevalence of infectious diseases among people who inject drugs is relatively low. The number of drug-related deaths has peaked in 2017, followed by a significant decrease (920 deaths in 2016, 941 in 2017, 657 in 2018 and 342 in 2019). The Regulation on Addiction Counselling, Purification and Rehabilitation Centres adopted in 2019 specifies the principles guiding the opening and operation of facilities providing drug users and/or their families with counselling and information services, outpatient or inpatient pharmacological and psychosocial treatments, as well as rehabilitation. A non-stop hotline has been opened that provides counselling on matters related to drug use and treatment options, on a confidential basis. Treatment for drug addiction is free for the person in question.

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) Turkey Drug Report 2019 notes that drug treatment programmes focus on detoxification, complemented by other interventions consisting of motivational interviewing techniques and cognitive therapies that aim to prevent relapse. Harm reduction interventions such as needle and syringe programmes or supervised injection facilities are not available in Turkey. Drug treatment in prisons focuses on motivational interventions, information awareness and the management of withdrawal symptoms through relaxation techniques.

The Committee notes that the report provides limited information in relation to the targeted question. Accordingly, the Committee reiterates its request for an overview of prevention and harm reduction services available in Turkey, including opioid agonist treatment, estimated coverage and/or number of users, the amount of funding allocated, with information disaggregated for custodial and community settings respectively.

Healthy environment

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

In its previous conclusion, the Committee asked for information on the concrete measures taken, including environmental legislation and regulations on the prevention of avoidable risks (Conclusions 2017). The Committee further asked for information on the levels of water contamination, on the measures taken with regard to industrial pollution control and risk management and on the levels of air pollution, contamination of drinking water and food intoxication during the reference period, namely whether trends in such levels increased or decreased. Lastly, the Committee asked for information on the noise pollution, waste management, and risks related to asbestos. In the meantime, the Committee reserved its position on these points.

The report notes that significant progress has been achieved with adopting River Basin Management Plans and Basin Protection Action Plans, that are described in some detail. The implementation of a plan to collect marine litter from the country's coastlines and waters is ongoing. Sewerage and wastewater treatment coverage has increased significantly during the reference period. National monitoring systems for contaminated sites and nitrate pollution from agriculture have become functional. The report provides data about waste management systems introduced at municipal level and on waste levels processed during the reference period, disaggregated by type (packaging, hazardous waste, mineral oil, vegetable oil, tires, electrical and electronic equipment, vehicles, medical waste, mine waste, etc.). A strategy promoting a zero-waste management approach has been adopted in 2017. The report also provides information about the number of notifications logged under the

Regulation on Classification, Labelling and Packaging of Substances and Mixtures. The report provides further information about education and awareness rising activities conducted within the scope of the Zero Waste Project, as well as those addressing the general public.

The report describes the improvements in the air quality monitoring network that have been implemented during the reference period, including with respect to measuring exhaust gas emissions, and presents information denoting positive trends over the same period – for example PM10 emissions have decreased by 16% between 2015 and 2019, and SO2 by 37%. The report further provides an outline of the procedures in place for measuring food safety (responsible authorities, monitoring and reporting arrangements, applicable regulations etc.). A Regulation on the Quality of Surface Water from which Drinking Water is Obtained has been adopted in 2019, to strengthen regulatory and monitoring arrangements with regard to drinking water. Lastly, the report lists the water management projects carried out during the reference period.

The European Union Progress Report 2021 notes among others that the enforcement and implementation of existing standards in the field of environment remained weak. Notably, severe air pollution in some cities was reported on an annual basis.

The Committee asks for information on the measures taken to strengthen the enforcement of existing standards on air, water or other forms of environmental pollution, including the various plans and regulations mentioned above. The Committee also asks for information on the levels of air pollution, contamination of drinking water and food intoxication during the reference period, namely whether trends in such levels increased or decreased; on the noise pollution and risks related to asbestos; on the measures taken to address the health problems of the populations affected by environmental pollution. Lastly, the Committee asks for information on the measures taken to reduce air pollution in urban agglomerations. 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 Turkey is in conformity with Article 11§3 of the Charter.

Immunisation and epidemiological monitoring

In its previous conclusion, the Committee asked for updated information on national immunisation programmes, as well as on measures to prevent epidemic diseases (Conclusions 2017). The Committee pointed out that if such 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 about the Extended Immunization Program implemented in Turkey since 2018. Vaccination services are provided for the control and complete elimination of Pertussis, Diphtheria, Tetanus, Measles, Rubella, Mumps, Tuberculosis, Polio, Chickenpox, Hepatitis A, Hepatitis B, and invasive diseases caused by Streptococcus Pneumoniae and Haemophilus Influenzae Type B. Currently, all children are vaccinated free of charge. The report provides additional information about vaccination targeting adults and people under temporary protection, as well as about the Zoonotic Diseases Action Plan 2019-2023. The Committee asks for information and figures in the next report on the vaccination coverage rates.

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 provides information about vaccine production capacity in Turkey.

Tobacco and alcohol

In its previous conclusion, the Committee asked for updated data and information on trends in consumption of tobacco and alcohol, and in the meantime reserved its position on these points (Conclusions 2017).

The report presents detailed data on tobacco and alcohol consumption during the reference period, disaggregated by sex and age. The data shows slight increases with regard to tobacco (from 26.5% daily smokers in 2016 to 28% in 2019), as well as alcohol (from 12.2% in 2016 to 14.9% in 2019). The Tobacco Control Strategy Document and Action Plan 2018-2023 adopted in 2018 focuses on reducing demand, reducing accessibility, and coordination monitoring and evaluation in tobacco control.

Accidents

In its previous conclusion, the Committee asked for information on the measures taken to reduce the number of traffic accidents, as well as on the measures taken to prevent domestic accidents, accidents at school and accidents during leisure time (Conclusions 2017). The Committee pointed out that if such 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 notes that the Traffic Safety Implementation Document published in 2017, is a comprehensive roadmap on reducing traffic accidents that includes measures on supervision, social awareness, capacity building and education. Some of the measures envisaged had an immediate impact, in that, for example, between 2018 and 2019 there was a 20.3% decrease in the number of accidents and a 12% decrease in the number of fatal accidents on the highways. The report indicates that the Highway Traffic Safety Strategic Plan 2011-2020 has achieved its objectives, as for example the loss of life cause of traffic accidents fell from 9.6 per 100,000 people in 2015 to 6.5 by the end of 2019, well below international averages. New road safety plans for the period 2021-2030 have recently entered into force, outside the reference period, including measures such as building safer roads, creating safer signing and signalisation systems, promoting the use of safer vehicles, safer and functional speed limits and upgrading post-accident response equipment and methods. The report also provides an outline of the activities of the Directorate General of Highways operating the supervision of the Ministry of Transport and Infrastructure during the reference period. Lastly, the report lists the activities aimed at preventing school accidents during the reference period.

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 information about measures taken to limit the spread of the virus in primary healthcare facilities, penitentiaries, temporary accommodation centres and schools.

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

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

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

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

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions 2017) the Committee considered that it had not been established that the existing social security schemes covered a significant percentage of the population. The Committee notes from the report that as regards healthcare, in reply to the Committee's question, the report states that universal health insurance covers individuals who are considered as the universal health insurance holders by Law No.5510. The report lists the categories of persons who are not covered by universal scheme and who are covered by their own corporate health insurance. The Committee notes that 85% of the population was covered by insurance in 2019. As regards sickness insurance, according to the report in 2019 69% of the active population was insured. As regards the total coverage, the Committee notes that 76,80% were insured, including those who pay contribution premiums on their account.

As regards pension benefit, the Committee notes from Turkey's report to the European Code of Social Security that 85% of the population was covered by the contributory system. As regards unemployment insurance, the scope of application of this insurance is governed by Article 46 of Law No.4447. The Committee notes that the total coverage of active population against this risk stood at 65.7% in 2019. According to the report, civil servants and those working on their own behalf and account are excluded from the coverage. The Committee notes that civil servants are not covered by unemployment insurance as they can be dismissed from the civil service only in line with their own wishes or faults determined by the law. In this respect, according to the report, civil servants are protected against unemployment. The Committee asks the next report to provide more detailed information concerning the situation of civil servants as regards their coverage against unemployment risk. It also asks the next report to provide information about the personal coverage of each branch of social security: for healthcare the percentage of population covered and for income-replacement benefits the percentage of active population covered. In the meantime, it reserves its position on this issue.

Adequacy of the benefits

The Committee notes from the report that the average gross earnings stood at 3,891.30 TL (€ 374) in 2019. The gross minimum wage stood at 2,558.40 TL (€ 248). The Committee notes from Eurostat that 50% of the median equivalised income in 2019 stood at € 126 and 40% at € 110.

In its previous conclusion the Committee found that the minimum level of sickness benefit was adequate. It notes from MISSCEO that civil servants receive their full salary as sickness benefit. In the private sector, workers receive 2/3 of their previous daily earnings for outpatient treatment and 1/2 of the previous daily earnings for inpatient treatment. Earnings subject to contribution has to be between gross minimum wage and 7.5 times this amount. The Committee asks the next report to indicate what is the minimum monthly amount of sickness benefit. In the meantime, it reserves its position on this issue.

As regards unemployment benefit, in its previous conclusion the Committee noted that its minimum amount fell between 40% and 50% of the median income. It accordingly asked the next report to clarify what additional (contributory or non contributory) benefits, if any, could be paid to persons who receive the minimum amount of benefit. The Committee notes from the report that the daily amount of unemployment allowance is calculated as 40% of the daily average gross earning and cannot exceed 80% of the monthly minimum wage. Based on the

minimum wage for 2019, according to the report, the lowest unemployment benefit amounted to 1,155 TL (€ 112). The Committee notes from the report that according to Law on Social Assistance and Solidarity Encouragement No. 3294 individuals may apply for social assistance in their place of residence.

The adequacy of benefits is in principle assessed in respect of contributory benefits, however in certain cases the non-contributory benefits are also taken into account, in particular where the level of contributory benefits is comprised between 40% and 50% of the median equivalised income. The Committee asks whether persons in receipt of the minimum level of unemployment and sickness benefits can also apply for social assistance. In the meantime, the Committee reserves its position as to the adequacy of this benefit.

In response to the Committee's question, the report indicates that the payment of unemployment benefits can be suspended if the recipient refuses, without a valid reason, a job offer which is professionally appropriate, close to the wage and working conditions of his/her previous job and within the municipal adjacent area where the person resides. The Committee notes from the report in this regard that the rejection of jobs offered by ISKUR to the insured unemployed in accordance with their previous jobs without a justified reason or refusal of vocational training are regulated by Article 52 of the Unemployment Insurance Law No. 4447. It lists the justified reasons for rejection of a job offer, such as when the job offered is not suitable for the educational status, age, physical and health status of the insured.

The Committee recalls that under Article 12§1 unemployment benefits must also meet specific conditions in order to be in conformity with Article 12§1. In particular, there must be a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his previous skills without losing his/her unemployment benefits. The Committee asks whether the legislation envisages such an initial period.

As regards old age benefit, the Committee refers to its conclusion under Article 23 of the Charter.

Conclusion

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

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 Turkey.

The Committee recalls that Turkey ratified the European Code of Social Security on 7 March 1980 and has accepted Parts II, III, V, VI, VIII, IX and X.

The Committee notes from Resolution CM/ResCSS(2020)20 of the Committee of Ministers on the application of the European Code of Social Security by Turkey (period from 1 July 2018 to 30 June 2019) that the law and practice in Turkey continue to give full effect to all the Parts of the Code that have been accepted, subject to bringing the conditions for entitlement to invalidity benefits in line with the Code.

Conclusion

The Committee concludes that the situation in Turkey 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 Turkey.

The Committee recalls that States were asked to reply to two targeted questions for Article 12§3 of the Charter as well as, where applicable, the previous conclusions of non-conformity or deferral (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee found that the situation in Turkey was in conformity with Article 12§3 of the Charter (Conclusions 2017). It will therefore restrict its consideration to the Government’s replies to the two targeted questions, namely:

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

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

Platform workers

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

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

In its report, the Government states that, in accordance with the Social Insurance and Universal Health Insurance Law No. 5510, the social insurance scheme covers people employed on service contracts by one or more employers, self-employed workers, public-sector employees and people who are affiliated by choice (among other categories). Commercial taxi and minibus drivers, artists and domestic workers may also be covered under certain conditions. The Government further states that there is no special provision for people whose work is managed through digital platforms; such persons are subject to the provisions governing those working on service contracts. It adds that, as the pandemic has revealed the importance of teleworking, consultations have begun in 2020 (outside the reference period) with a view to drafting new regulations on teleworking procedures and principles.

The Committee notes that the Government has not provided any detailed information on social cover for digital platform workers. The Committee therefore reiterates its request in this respect. It asks for information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status). In this context, the Committee would like to stress that working via digital platforms is not equivalent to working from home (or teleworking).

Covid-19

In response to the second question, the Government refers to various measures that have been put in place to alleviate the impact of the Covid-19 pandemic on the labour market, employment and social security coverage. In particular, the conditions for paying short-term work benefits (flexible furlough scheme) have been relaxed when working hours have decreased as a result of the Covid-19 pandemic. In addition, two new support schemes have been introduced: cash wage support and back-to-work support (“normalisation premium support”). Cash wage support is paid to workers who are forced to take unpaid leave due to the pandemic and who are not eligible for short-term work benefits, and to workers whose employment contract was terminated after 15 March 2020 and are not eligible for unemployment benefits. The back-to-work support scheme aims to act as an incentive for returning to normal working conditions; in this context, the government pays employers’ share of social security contributions for up to six months. According to data for March 2021, since the beginning of the pandemic, almost 3.8 million people have received short-term work benefits (totalling about TRY 27.7 billion, i.e. approximately €2.8 billion), almost 2.5 million people have had cash wage support (totalling about TRY 8.3 billion, i.e. approximately €851 million) and about TRY 3.5 billion (i.e. approximately €359 million) has been paid in back-to-work bonuses for nearly 3.2 million workers (exchange rate of 31 March 2021).

These measures were coupled with the introduction of online benefits (to limit physical contact and, consequently, Covid-19 infection risks), including bank transfer payments of Turkish Employment Agency (İŞKUR) benefits, e.g. unemployment benefits, short-term work benefits and cash wage support.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey is in conformity with Article 12§3 of the Charter.

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 Turkey.

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

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 noted that Law No. 5510 on Social and Health Insurance imposed a residence condition of one year for foreign nationals to be covered by universal health insurance. It asked the next report to clarify whether this also concerned emergency healthcare. It notes from the report that emergency health services are provided in the emergency services of health service providers licensed by the Ministry of Health. Emergency health services are offered following the evaluation made by the physician. Emergency is defined as situations requiring medical intervention within the first 24 hours and situations in which there is a risk of losing life and/or health integrity in the absence of immediate medical intervention. In these situations, the health services provided are considered emergency health services and no fees are charged. There is a provision in the Presidency Circular, which provides that all public and private health institutions responsible for providing emergency health care are obliged to take care of patients whose conditions meet the definition of an emergency. Health institutions will admit emergency patients and provide necessary medical treatment.

The Committee asks the next report to provide information concerning other social security benefits, such as old age, unemployment, occupational injury and disability. It asks in particular whether the law requires a completion of a period of residence for entitlement to these benefits. In the meantime, it reserves its position on this point.

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 principle of retention of accrued benefits was guaranteed since the reform in 2006.

The Committee notes from the report in this respect that social security agreements with 32 countries have already been signed and are in effect. This number will increase even more with 3 social security agreements, all of which have been completed and are at the signing stage. According to the report, these agreements ensure that a person who completes the

conditions for entitlement to old age pension will receive this benefit even if he changes his resident to another country. According to the report, survivor's pension is also exportable. The Committee asks whether disability benefits are exportable.

The Committee asks what is the legal basis for exportability of old age, disability and survivor's benefits and the international coordination in the social security field.

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

The Committee recalls that under Article 12§4b there should be no disadvantage in terms of accrual of rights for persons who move to another State for employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory for the purposes of the opening, calculation and payment of benefits. In the case of long-term benefits, the pro-rata approach should also be employed.

States may choose between the following means in order to ensure maintenance of accruing rights: bilateral or multilateral agreement or, unilateral, legislative or administrative measures. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.

The Committee has previously considered that the situation was in conformity with the Charter as Turkey had ratified the European Convention on Social Security. The Committee asks the next report to indicate how the maintenance of accruing rights is ensured for nationals of those States Parties with which no relevant bilateral agreements have been concluded.

Conclusion

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

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 Turkey.

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 Turkey 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. It will therefore focus its consideration to the Government’s replies to the targeted questions, as well as to the developments concerning the previous non-conformity and the questions asked in the former conclusions.

General legal framework, types of benefits and eligibility criteria

The Committee takes note of the reforms developed during the reference period. The report provides figures on income inequalities and states that during the reference period the poverty rate has decreased from 13.7% to 13%.

The report does not refer to any new legal development in regards social assistance. The Committee recalls that in its Conclusions 2013, it found that the situation in Turkey was not in conformity with the Charter on the ground that during the reference period there was no legally established general assistance scheme that would ensure that everyone in need had a subjective, enforceable right to social assistance. In its Conclusions issued in 2017, the Committee asked which legal provision guarantees the subjective right to a basic benefit (e.g. regular aid), for any person in need, subject to a means-test, as well as additional benefits (e.g. periodic aids, such as housing and heating allowances). In the meantime, the Committee reserves its position as to whether the legislation provides for a legally recognised enforceable right to social assistance for any person in need. The Committee had also previously asked (Conclusions 2017) whether all persons in receipt of social assistance are included in the universal health insurance and whether the latter goes beyond emergency assistance.

The report states that those who receive a pension for old age, for a disability or anyone benefitting from the social security system is not eligible for social assistance. In-kind benefits such as food, fuel, shelter, etc. are available to those who do not have a social security and are considered to be in need by the Social Assistance and Solidarity Foundation Board of Trustees, or those with a household income of less than 1/3 of the monthly net minimum wage, even if there is a person with social security in the household. In order to benefit from the assistance, it is necessary to apply to the Social Assistance and Solidarity Foundation at the place of residence.

The report also refers to the fact that social assistance programs in Turkey are carried out in accordance with the provisions of the Social Assistance and Solidarity Promotion Law (Law No. 3294) and Law on Paying Salary to Needy, Weak and orphans Turkish Citizens over 65 years of age (Law No. 2022). In Article 2 of Law No. 3294, it is stated under which conditions are required to benefit from social assistance programs. Conditional Cash Transfer Programmes are regular social assistance programs that are pre-determined and benefited as long as the conditions are met. In order to benefit from the related assistance program, there are basic requirements: families should be in need and children should attend school. The amount of aid to be given within the scope of the programme and the payment schedule are determined in advance. The final decisions for applications of the citizens in this regard are taken by the Board of Trustees of the Social Assistance and Solidarity Foundations.

As regards medical assistance, according to the Social Insurance and General Health Insurance Law (Law No. 5510), citizens who have an identification number receive health care by registering with a family doctor of their choice. Those whose monthly per capita income in the family is found to be less than one-third of the minimum wage have universal health insurance and thus, can benefit from all health services including emergency health services. Citizens whose income in the family is equal to one-third of the minimum wage or more are obliged to pay premiums and benefit from general health insurance by covering premiums themselves.

The Committee understand that there is access to health care beyond emergency assistance to all citizens. However, it reiterates its question as regards the recognition of a subjective, enforceable right to social assistance. If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter on this specific point.

Levels of benefits

To assess the situation during the reference period, the Committee takes into account the following information:

- Basic benefit: the Committee notes from the report that there are different types of aid and assistance pensions: for pensioners, for disabled persons, family and health related aids, etc. However, it seems from the report that there is no specific basic benefit for a single person over 18 not being under one of those specific categories and being in need.
- Additional benefits: the Committee asked in its Conclusions of 2017 to provide an estimate of all additional benefits (e.g. periodical aid, home assistance, housing allowance, food aid etc) that a single person without resources. The report refers to an allowance to cover electricity, which was in 2019 of 53.27 TRY (€5.38) for one person per month.
- Poverty threshold: the Committee notes that according to Eurostat data, the median equivalised income was €3022 euros per year in 2019 and the poverty level, defined as 50% of the median equivalised income, was €1511 per year, or €126 per month. According to the report, the national poverty line, corresponding to 50% of the median income in 2019, was 10442 TRY (€1054.93 at the rate of 31/07/2021) for 2019 or 870.16 TRY (€87.9) per month. In 2015, 50% of the median income was 6246 TRY (€1961, at the rate 31/12/2015), i.e. 520.5 TRY (€163) per month.

The Committee had previously considered in its Conclusions in 2017 that it had not been established that the level of social assistance paid to a single person without resources was adequate. The Committee notes that the report provides some of the information required, according to which it does not appear to be any benefit available for persons in need who are not in one of the special categories (more than 65, disability, pregnancy, sickness, orphanage, etc.), besides the electricity allowance. In the light of this, the Committee

considers that the level of social assistance paid to a single person without resources is not adequate and that Turkey is not in conformity with the Charter on this ground.

Right of appeal and legal aid

The Committee had previously made a deferral in its 2017 Conclusions, pending the information as to whether the legislation provides for a legally recognised enforceable right to social assistance,

The report refers to Law No. 2022 and to the possibility to challenge judicially the decisions made by the boards of trustees. It refers to pensions in particular. The Committee however would like to know whether the right to any type social assistance is supported by an effective right of appeal, as well as information of the different challenges and practice in this matter. The Committee reiterates its reservation on this point.

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 is only 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 nationals of States Parties lawfully resident in Turkey were entitled to social and medical assistance on an equal footing with nationals, without being subject to any length of residence requirement.

The report states that persons who apply for international protection or are recognized as stateless can access universal health insurance in accordance with subparagraph 2 of paragraph (c) of Article 60 of the Law on Social Insurance and General Health Insurance (Law No. 5510). For those applicants or international protection beneficiaries who are not covered with any medical insurance and do not have financial means to afford medical services, provisions of the Social Security and Universal Medical Insurance Law No 5510 shall apply for a period of one year from registration in accordance with Article 89 of Foreigners and International Protection Law (Law No. 6458).

As regards other foreign nationals, Article 60 of Law No. 5510 refers to the right to social protection available for foreign soldiers, those under the general command of the gendarmerie in Turkey, as well persons who are not insured under the legislation of a foreign country who have obtained a residence permit provided that the basis of reciprocity is also taken into account. Social Assistance and Solidarity Foundations provide assistance for the urgent and basic needs of foreigners who are registered by public institutions within the framework of the Principle Decision on Aid for Foreign Nationals in our country. Moreover, they provide assistance for foreigners who cannot be registered in a short time and need to meet their basic needs urgently.

The report also details the protection given to refugees, particularly Syrians. As of October 2020, it has reached more than 1,789,603 beneficiaries and a total of 8 billion 33200000 TLY financial support is provided to the most vulnerable refugee families living in Turkey.

However, the question whether nationals of States Parties lawfully resident in Turkey, outside refuges or persons under other specific programs, are entitled to social and medical assistance on an equal footing with nationals, without being subject to any length of residence requirement, still remains. The Committee therefore reiterates its question. If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.

Foreign nationals unlawfully present in the territory

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187). The Committee asked in its 2017 Conclusions whether the legislation and practice comply with these requirements.

The report simply states that social and medical assistance is provided to the most vulnerable refugees living in Turkey and that different programmes cover foreigners who are under temporary protection or have applied for temporary international protection, have international protection status or residence permit within the scope of Foreigners and International Protection Law No 6458. However, this does not reply to the question whether foreign nationals unlawfully present have access to basic needs and for how long. The Committee reiterates its question. If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.

Medical and social assistance during the Covid-19 pandemic

The report states that, during the Covid-19 outbreak and pandemic, temporary accommodation centres were informed to take measures. Disinfection works were carried out regularly in temporary accommodation centres. In addition, information brochures were printed and distributed to the shelters.

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

Conclusion

The Committee concludes that the situation in Turkey is 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 is not adequate.

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 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 4 - Specific emergency assistance for non-residents

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”). However no targeted questions were posed in respect of Article 13§4. The Committee deferred its previous conclusion in 2017. It will therefore restrict its consideration to the Government’s replies to its previous request for relevant complementary information.

The Committee also refers to its conclusion adopted in 2017 under Article 13§1 (personal scope) and recalls that Article 13§4 only covers emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

Finally, the Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the ‘urgency’ and ‘seriousness’ criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171). The Committee asks the next report to confirm that these requirements are met.

The Committee had noted in its previous Conclusion of 2017, that in case of road accidents all expenses for healthcare-related services were provided, irrespective of whether the victim was covered under social security or not. However, it had asked whether other medical emergencies were also available for lawfully present foreign nationals without resources. The report states that Turkey ratified the European Convention on Social and Medical Assistance of the Council of Europe since 1977, as well as the European Convention on the Legal Status of Migrant Workers since 1983. Turkey undertook therefore to ensure that the nationals of other Parties who are lawfully present in their territory and who are without sufficient resources, are entitled to the same social and medical assistance as Turkish nationals. Under Article 63 of Law No 5510 on General Health Insurance, medical emergencies are treated in the same way. The Committee asks that the next report provides more detailed information about non-resident foreign national access to emergency social assistance. Pending receipt of the information requested, the Committee considers the situation to be in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey is in conformity with Article 13§4 of the Charter.

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 Turkey.

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 concluded previously (Conclusions 2017) that the situation was not in conformity with the Charter on the ground that it has not been established that the number of social services staff is adequate and has the necessary qualification to match user’s needs. The Committee noted that the statistical data provided were not sufficient to establish that staff working in social services was qualified and in sufficient numbers, and that the geographical distribution was sufficiently wide. Figures were needed on the number of beneficiaries broken down by type of service, on staff and on expenditure.

In reply, the report recalls that social assistance is provided by the Family Support Centers and Social Service Centers. It provides that social services are provided by professional staff with necessary titles (psychologists, social workers, child developers, sociologists, psychological counselling and guidance teachers, nurses, teachers, civil servants, child educators, office personnel). The Ministry of Family, Labour and Social Services has a total of 3,083 personnel, out of which 1,006 provide active service within the scope of Family Counselling Service (67,000 beneficiaries having been reached to date since 2012), with 28 trainers in the Pre-Marriage Training Program and 75 trainers and 866 educators in the Family Education Program (2,000,000 beneficiaries reached since 2013). As to the geographical distribution, the report provides that Social Service Centers are widespread throughout the country and are located in:

- provincial centers,
- districts with a population over 50.000,
- districts with a population between 40.000-50.000,
- in districts with a population of 20-40 thousand, if the distance to the nearest SSC, is more than 100 km.

In addition, Violence Prevention and Monitoring Centers serve in 81 provinces (all counties). A total of 111 women’s guesthouses under the MoFLSS provide service in 81 provinces. The report further provides statistics on social protection expenditure, broken down by the type of service. The Committee notes that the level of expenditures has raised in the reference period, reaching 12,5% of the GDP in 2009. It notes, however, that the European Commissions considers this number as very low in its Turkey 2020 Report Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy. From the provided statistical data transpires also

that the increase correlates with the increase in the amounts of the benefits. The staff to beneficiaries ratio is not discernible from these statistics, apart from the information on the staff working for the family support. The report thus answers to the Committee's conclusion on non-conformity only in part. In particular, figures are still needed on the number of staff in relation to beneficiaries broken down by type of service. In the absence of this information the Committee reiterates its finding of non-conformity on the grounds that it had not been established that there existed an effective access to social services ensured by an adequate number of staff providing them.

Further, the Committee has previously asked whether regular inspections of the quality of social services were undertaken in the social services provided by non governmental organisations, as well as on the impact of inspections activities on the improvement of quality of social services. The report provides that all public and private institutions, nursing home care and rehabilitation centers are under the control of the MoFLSS. All these institutions are inspected by the inspectors and auditors working within the Presidency of Guidance and Inspection of the MoFLSS in accordance with the general audit programs. Inspections are carried out on the basis of the provisions of the Regulation on Nursing Homes and Elderly Care and Rehabilitation Centers and Regulation on Social Services and Child Protection Agency General Directorate Rehabilitation and Family Counseling Services of Disabled Persons. Inspectors and the provincial directorate personnel perform regular or unplanned inspections on institutions. Inspection of Special Care Centers is regulated by Regulation on Special Care Centers for Persons with Disabilities in Need of Care. The inspections carried out by the provincial directorate are conducted at least every six months with the provincial director and at least two staff. The findings of the inspection shall be communicated to the center in writing. If the deficiencies or irregularities detected by the inspection report are not corrected, the provincial director shall give administrative fines from ten times up to fifty times of the monthly net minimum wage. In case the deficiencies or irregularities are not remedied within this period, the center shall be closed down by the Ministry. New applicants are not admitted to the center until the deficiencies or irregularities are eliminated within the given period of time. Support and monitoring services for prevention of violence are also conducted by the Violence Prevention and Monitoring Centers. The Committee asks again whether any impact of inspection activities has been discerned and evaluated. It wishes to know, among others, what are the statistics of inspections carried out and fines and/or recommendations imposed, and whether any developments could be observed in this respect. Meanwhile, it reserves its position on this aspect.

The Committee previously requested (Conclusions 2013) clarifications as to how, generally speaking, decisions concerning the provision of social services were taken; it furthermore requested information on whether and how nationals of other States Parties had access to social services. Given that for the previous examination cycle (Conclusions 2017) only a partial answer was provided by only mentioning the case of the elderly, disabled and unaccompanied children, the Committee reserved its position on this point and held that in the absence of such information there would be nothing to establish that the situation is in conformity with the Charter. The report provides in reply a general description of organisation of social services, in particular on social services available to children and women, stating that social services are provided to those in need. The Committee still lacks the necessary information which would enable the assessment of the situation, in particular, whether residence permit is required for non-nationals and under what conditions they enjoy access to social services. Meanwhile, the Committee considers that it has not been established that effective and equal access to social services is guaranteed to nationals of all other States Parties.

In reply to the Committee's targeted questions, the report provides that during the COVID-19 outbreak, social services have provided by taking into account the necessary measures and taking advantage of technological opportunities. Necessary steps have been taken to ensure

that the services are provided without any interruption during the period when the fight against the coronavirus pandemic intensifies. In particular, a total of 9 COVID-19 information guidelines have been prepared by the MoFLSS and these guidelines have been sent to and used by institutions serving disabled and elderly people, as well as other care institutions. Informative letters and posters have also been prepared for general public. Within the scope of combating violence against women during the COVID 19 outbreak, training activities for relevant personnel, especially public officials, continue through distance learning. The report provides that there is an increase in cases of violence against women in times of crisis such as pandemics, and women may be more exposed to different types of violence due to increased tension in the household and social isolation. The report does not provide information on any specific measures taken in anticipation of similar crises in the future.

Conclusion

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

- there is an adequate number of staff providing social services;
- effective and equal access to social services is guaranteed to nationals of all other States Parties.

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 Turkey.

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.

In its previous conclusions (Conclusions 2013 and 2017), the Committee concluded that the situation was not in conformity with the Charter on the ground that it has not been established that the conditions under which non-public providers take part in the provision of welfare services were adequate. The Committee noted that information was continuously lacking on the types of social services provided by voluntary associations and individuals and on the number of beneficiaries of these services. It also wished to receive information on the public and/or private funding set aside for encouraging participation by voluntary associations and individuals in social services provision and on the results of the supervision carried out by the public authorities. Finally, it asked whether and how the users of social services were consulted on questions concerning the organisation and delivery of social services.

The report provides that since cooperation with voluntary organizations will contribute to the improvement of the living standards of the needy people, projects and activities are supported and cooperated in concrete areas such as accommodation, establishing a business, employment, acquiring a profession, training, material support. It further states that Turkey has established a standardized process for the delivery of social assistance that builds on the existing operations of social assistance programs at the local and national levels. Various legal regulations have been made in order to support and increase the interaction between the State and NGOs in the field of social assistance. With Article 19 of Law No. 5263 on the Organization and Duties of the General Directorate of Social Assistance and Solidarity, NGO representatives were elected to the Board of Trustees of the Social Assistance and Solidarity Foundations. In line with Law No. 5263, the Department of Cooperation with Voluntary Organizations and Foreign Relations has been established. Furthermore, several organizations and universities are making various studies on social services, conducting surveys about the satisfaction of users of social services.

The report provides statistics on social protection expenditures, including cash benefits and pensions, from which, however, it is not discernible for the Committee what share corresponds to the services offered by non-public providers and what is the number of their beneficiaries. Neither does the report provide comprehensive information on the funding for encouraging participation by voluntary associations and individuals in social services provision. In the light of the lack of crucial information and the fact that the Committee still

cannot establish that the conditions under which non-public providers take part in the provision of welfare services are adequate, it reiterates its finding of non-conformity on this point.

The Committee furthermore previously asked (Conclusions 2013 and 2017) whether and how the Government ensures that services managed by the private sector were 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. It also asked information on the financial measures taken to promote the activities of voluntary organisations. It held that if such information is not provided there would be nothing to establish that the situation is in conformity with the Charter.

The report provides that the Constitution is guaranteed on equal footing to all without discrimination and several international conventions in the field of human rights ratified by Turkey also impose equal treatment without discrimination. The Human Rights and Equality Institution (HREI) was established to guarantee individuals' right to equal treatment, prevention of discrimination in the exercise of legally recognized rights and freedoms. Social services are listed as one of the areas covered by the prohibition of discrimination in Article 5/1 of the Law on Human Rights and Equality Institution. Inspection activities carried out by the Government also aimed to ensure all services managed by the private sector are effective and accessible on an equal footing to all without any discrimination. The Committee asks how the general principles are implemented in practice. It further requests information on impact and outcomes of inspections and on the consequences of any discriminatory practices discerned. It also asks how any decisions taken in the follow-up are executed and scrutinized. Finally, the Committee reiterates its question about financial measures taken to promote the activities of voluntary organisations. Meanwhile, it considers that it has not been established that services managed by the private sector are effective and accessible on an equal footing to all, without discrimination.

The report does not reply to the targeted question on the user involvement in social services. The Committee renews its question and asks the comprehensive information to be provided in the next report, in particular, on how the user involvement is fostered in legislation and other decision-making, and whether any practical measures to support it, including budgetary, have been adopted or envisaged. Meanwhile, it reserves its position on this aspect.

Conclusion

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

- the conditions under which non-public providers take part in the provision of social services were adequate;
- the services managed by the private sector are effective and accessible to all, without discrimination.

Article 23 - Right of the elderly to social protection

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

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 that relates to developments outside the reference period (namely, after 31 December 2019) for information purposes only. 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 was one of non-conformity that on the grounds that during the reference period, there was no legislation prohibiting discrimination on grounds of age and it had not been established that there was an assisted decision-making procedure for older persons (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.

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

The Committee previously noted that Article 3 of Law No. 6701 2016 on the Human Rights and Equality Institution prohibits age discrimination but that the law entered into force outside the reference period. The Committee therefore considered that the situation was not in conformity with the Charter during the reference period (Conclusions 2017). It asked the next report to contain information on this new Law as well as its implementation in practice.

The report states that one of the aims of the Human Rights and Equality Institution (HREI) is to ensure equal treatment and prevent discrimination. It can examine allegations of discrimination. In addition the report states that Law No. 6701 prohibits discrimination *inter alia* on grounds of age. The Committee notes that the legislation covers a wide ranges of services such as education, training accommodation, health however it asks whether the legislation covers access to goods. The Committee asks the next report to provide information on any case law on discrimination on grounds of old age.

With regard to assisted decision-making for older persons, the Committee asked in its previous conclusions (Conclusions 2009 and 2013) whether such a procedure existed and, in particular, whether there were safeguards to prevent the arbitrary deprivation of autonomous decision-making by the older persons. As the report did not provide any information the Committee considered that, in the meantime, it had not been established that such procedure exists (Conclusions 2017).

The report does not directly address this issue. It states that a regular practice of subjecting persons over the age of 65 to a medical assessment determining whether they are capable prior to them making a legal decision has been deemed discriminatory and degrading by the Supreme Health Council.

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 the existence of assisted decision making procedures.

The Committee notes the information provided in the report on the work of the HREI to promote the rights of older persons.

Prevention of abuse of older persons

The Committee previously noted that a specialised support and advisory service on the issues of neglect, abuse and violence was to be established. In addition new regulations on preventing the abuse of older persons were to be introduced. The Committee requested that the next report provide details on the content of the draft legislation and the advisory service (Conclusions 2017).

The report provides information on the National Prevention Mechanism Fighting against Torture and Ill treatment. However it is not clear to the Committee to what extent this mechanism will engage with the abuse of older persons specifically.

According to the report the Law on Consumer Protection prohibits commercial advertisements that deceive older persons, endanger the safety of life and property of older persons, encourage acts of violence or the commission of a crime, threaten public health, or abuse older persons.

Further the report states that issues of neglect and abuse of older people in nursing homes have been studied. Efforts to improve living conditions as much as possible in elderly care will help in the prevention of neglect and abuse. Awareness arising meetings have been held. No new legislation has been drafted to date.

Specialised Centres have been established to provide assistance to victims of domestic violence these are also available to victims of older abuse.

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 notes from the information in the report that the emphasis is currently on providing care in a persons home and day care centres and reducing the need to resort to institutional care.

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 care and trends in the area.

Services and facilities

The Committee previously asked whether the supply of home help services for the elderly matched the demand for them, whether the extent of their provisions differ from one municipality to another and whether there is a charge for any of these services. It underlined that if the relevant information was not provided in the next report, there would be nothing to show that the situation was in conformity with the Charter in this respect (Conclusions 2017)

The Committee requested further information on the Support Program for Elderly entitled "YADES". It also asked whether temporary care centres and public day-care services were available for older persons' families (Conclusions 2017).

The report states that services for older persons are provided by public and private bodies and civil society. Services provided by the state include home care support, institutional care, temporary/guest care service (respite care for up to 45 days per year), and day care services

According to the report the development of home care and day care services is being prioritised. Older persons benefit from home care support. The number of day care facilities is being increased. A special Department, namely "Home Care and Day Services Department" has been established under the General Directorate of Services for Persons with Disabilities and the Elderly.

Within the frame work of the YADES programme support was provided for home care and day care services for older persons in 13 metropolitan municipalities covering 64,400 older persons.

Home care services provided by the municipalities are provided free of charge.

The report states that the supply and type of services may differ from one municipality to another, however the General Directorate of Services for Persons with Disabilities and the Elderly tries to ensure an integrated model of care services and ensure they all meet identical standards.

Home care assistance subject to certain conditions is available to older person who need assistance to enable them to live at home, it is payable to persons providing the assistance such as family members. It is subject to a means test.

The Committee asks the next report to provide 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 notes the information in the report on the information available to older persons informing them about services and facilities, such as call centres and web pages.

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 skill 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 noted that a new type of specialised housing was available for older persons: houses for the elderly. The aim of the dwellings concerned is to enable older persons to remain in their own homes while receiving care and enjoying a higher standard of living. The dwellings may either be attached to existing retirement homes, in which case the needs and expenditure are covered by the relevant home, or may be stand-alone. The Committee asked the next report to indicate how many older persons benefit from such dwellings, what the overall capacity is and what they cost when older persons themselves have to pay (Conclusions 2017).

The report confirms that the Elderly Living at Home programme, which provides individual dwellings affiliated to nursing homes continues to be expanded. But the report only provides details on the Social Housing Project of which 25% of dwellings built under the project are reserved for older persons. In addition older persons with a low income may be eligible to purchase dwellings under the inexpensive homes project developed by the Turkish Pensioners Association and The Housing Administration of Turkey. No information is provided on the costs of such housing. The Committee repeats its request for this information.

According to the report 18.2% of older persons live alone, 7.7% live in nursing homes and 51.3% live with a child.

The Committee asks the next report to provide 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

The Committee previously noted that a protocol on the implementation of health care and social support services at home at provincial level was signed in March 2015 and then distributed to municipalities for application. The Committee asked the next report to further indicate what rules and measures this protocol imposes on local authorities and how they are monitored (Conclusions 2017).

The report states that many healthcare services are provided free of charge, such as home health care services for patients with certain conditions.

The report further provides information on the Healthy Ageing Action Plan, under this Plan awareness raising material were prepared on dementia, depression in older persons, nutrition, and immunization. 150 general physicians were provided with training on geriatric care. Disease Management software is being developed to ensure the early diagnosis of chronic diseases in older persons.

According to the report the protocol on the implementation of health care and social support services at home at provincial level aims to ensure the integration (coordination) of home health care and social support service across the provinces. A national call centre was established to receive complaints about the system

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

The Committee notes that 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 triage policies.

The Committee also 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 information about the inspection of institutions, and complaints procedures (Conclusions 2017).

According to the report all public and private nursing homes are under the control of the Ministry of Labour Family and Social Services. All institutions are inspected by inspectors working in the Ministry. The Committee asks how the independence of the inspectors is guaranteed. Complaints about care can be made to the Supervision Commissions established in the provinces.

The report states that Nursing Homes and Nursing Home Elderly Care Rehabilitation Centres affiliated to the Ministry of Family, Labour and Social Services may charge fees however persons with insufficient resources may receive such services free of charge.

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. It also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee previously asked for information concerning the pensions paid to older persons under Laws Nos. 1479 and 2926. It also asked for information on the conditions for entitlement to the minimum pension as well as the share of older persons in receipt of such a pension as well as full information on all assistance available to older persons not in receipt

of a pension, including information on the conditions for receipt of such assistance (Conclusions 2017).

The report provides information on the minimum pensions for civil servants and other workers. The Committee finds the information unclear. It notes from the tables provided that the lowest pension paid between July and December 2019 was 1.343.90 9 TL (approximately €121) and highest minimum pension 2.425.50 (approximately €218).

According to MISSCEO the amounts of minimum pension for civil servants varies according to length of service and position but was no less than: 2.546,00 TL (€71.40) in January 2019. For workers, the minimum pension calculated using the old system may be no less than 35% of the average monthly salary, (40% if the insured person has spouse or children) and amounted to 2.054,70 TL (€138.33) in January 2019.

The Committee notes from Eurostat that 50% of the median equivalised income in 2019 stood at €126 and 40% at €110. The Committee notes that the minimum pension figure provided in the report falls between 40-50% of the median equivalised income. Therefore it asks whether there are any other benefits available to persons in receipt of this pension.

In 2019 46,80% of older persons were in receipt of a pension. The Committee notes that this rate seems low and asks for further information on why such a low rate of older persons are in receipt of a pension.

The Committee understands that those not in receipt of a pension from the Social Security Institution and subject to certain conditions, such as having an income of less than one third of the net minimum wage are entitled to a pension (assistance) under Law 222 from the Ministry of Family Labour and Social Services. The monthly amount was 500 TL (€43.55) in June 2018 (prior to June 2018 it was 265 TL (€17.84)). It was increased to 711.50 TL (€47.90 Euros) in 2020 (outside the reference period).

The Committee notes that these amounts are very low. It notes that certain beneficiaries may be entitled to additional assistance such as cash assistance for widows, home care allowance, in kind benefits such as food and fuel, and healthcare. Nevertheless the Committee considers that this basic assistance is too low; well below 40% of the median equivalised income. Therefore the situation is not in conformity with the Charter on the grounds that the basic assistance granted to older persons not entitled to a pension is manifestly inadequate.

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.

The report provides details of the measures taken by the General Directorate of Services for Disabled and Elderly and the Ministry of Family, Labour and Social Services to protect and assist older persons during the Covid-19 pandemic. All personnel working in institutions providing assistance to older persons were required to follow certain protocols as regards disinfecting, PPE and testing. Personnel were provided with onsite accommodation in single room in order to reduce the risk of infection. Efforts were made to ensure continuity of care. Visits to institutions were limited and at times suspended.

Older persons were permitted to return home (from residential institutions) during the pandemic and but kept their place in the institution without having to pay a fee. They could also go and stay with their families for short periods of time on the condition they test negative on their return and self isolate.

According to the report social isolation centres were established to enable older persons to isolate after leaving hospital and before returning to an institution

The report states further that technological facilities were used to enable older persons in institutions to communicate with relatives. Social and cultural activities within institutions were increased as were psychosocial support services.

Other measures mentioned in the report include the preparation of Covid-19 Information Guides, the establishment of social support centres, and the provision of social services for older persons living alone.

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 Turkey is not in conformity with Article 23 of the Charter on the ground that the basic assistance granted to older persons not entitled to a pension is manifestly inadequate.

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

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

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 Turkey 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 does not provide all the relevant 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 slightly during the reference period, from 22.8% in 2016 to 22.4% in 2019 (according to the report, this rate was 21.2% in 2016 and 21.3% in 2019). The Committee also observes that the difference in the at-risk-of-poverty rate (after social transfers) between the sexes was very slight, amounting to 0.8% in 2016, 1.2% in 2017, 1.2% in 2018, and 0.9% in 2019.

The Committee also notes that the unemployed (between 16 and 64 years old) are a particularly vulnerable group: 38.4% in 2016 and 38.3% in 2019 were at risk of poverty during the reference period, while this figure was much lower for the employed (13.6% in 2016 and 13.4% in 2019).

The at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) among persons over 65 slightly decreased from 16.7% in 2016 to 14.9% in 2019. As regards children (younger than 16), the at-risk-of-poverty rate increased slightly during the reference period, from 33.5% in 2016 to 33.8% 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 45.1% of the Turkish population was at risk of poverty and social exclusion in 2016, and 39.8% in 2019.

As regards children (younger than 16), the risk of poverty and social exclusion slightly decreased during the reference period, from 51.4% in 2016 to 47.7% in 2019 (according to the report, the children's poverty rate was 31.4% in 2016 and 32.4% in 2019).

The report provides some other statistical data. It states that, according to 2019 results, the Gini coefficient was estimated at 0.395 with a decrease of 0.013 points compared with the previous year. The mean annual household disposable income increased by 16.5% in 2019 in comparison with 2018. The mean annual equivalised disposable income increased by 17.9% in 2019 in comparison with 2018.

The report further states that in 2019, the persistent at-risk-of-poverty rate was 12.7%, the same as the previous year but that it decreased in comparison with 2016, when it was 14.6%.

The Committee observes that the at-risk-of-poverty rate is slightly decreasing but they remain at a high level and for certain groups (children, the unemployed) the situation remains particularly serious. The Committee also observes that the risk of poverty and social exclusion (ARPE) also remains very high.

Approach to combating poverty and social exclusion

In its previous conclusion, the Committee found that the situation in Turkey was not in conformity with Article 30 of the Charter as there was no adequate overall and coordinated approach to combating poverty and social exclusion. The Committee requested information on the strategic framework, as well as information about the coordination mechanisms for the various measures, including at delivery level (that is, how coordination is ensured in relation to the individual beneficiaries of assistance and services). In addition, it requested detailed data demonstrating that the budgetary resources allocated to combating poverty and social exclusion are sufficient in view of the scale of the problem at hand (Conclusions 2017).

The report lists the 11th Development Plan, the Presidency's annual programme, the new economic programme and the action plan of the Ministry of Family, Labour and Social Services as the main documents relating to fighting poverty and social exclusion. All these documents provide for more effective implementation of programmes to increase employment among disadvantaged groups. They also mention that the Social Assistance Information System continues to be integrated with other information systems, notably the Family Information System. The report states that, as part of a consumer stimulus campaign launched in March 2019, families on need can obtain assistance with the payment of their electricity bills. It adds that 74,730 persons had access, between January and September 2019, to institutional services to facilitate connections with the labour market. As of 2018, 53,017 people with disabilities were employed in the public service, and that, as of September 2019, the number of centres for care and rehabilitation of disabled persons had reached 99. The report explains that due to increasing share of elderly persons, the number of nursing homes affiliated with the Ministry of Family, Labour and Social Services had risen to 152 as of September 2019. The Committee asks that the next report contain information about the results of the measures taken under the Development Plan, the Presidency's annual programme, the new economic programme, and the action plan.

The report also describes policies and measures to be developed in the area of social services, such as the introduction of programmes focusing on employment and productive work for people experiencing poverty, on strengthening the link between social assistance and social services; on increasing the effectiveness of social assistance programmes; and on diversifying and expanding social service models. The Committee takes note of this

information and asks that the next report contain information about the results of these policies and measures.

The report states that, in 2019, total public resources allocated to social welfare amounted to 55 billion Turkish lira (approximately €3,723 million), which is an increase from 2018, when it amounted to 43 billion Turkish lira (approximately €2,911 million). It also adds that, in 2018, the share of social assistance in the budget was 5.18% and in 2019 it rose to 5.5%. The report provides detailed information on the expenditure of public institutions providing social assistance between 2016 and 2018, which represented 1.07% of GDP in 2016 and 1.03% of GDP in 2017 and 2018. The Committee notes that the share of social assistance expenditure in GDP decreased.

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 it has not been established that the allowances paid to apprentices are appropriate (Conclusions 2019);
- Article 10§4 and its conclusion that it has not been established that special measures for the retraining and reintegration of the long-term unemployed have been effectively provided or promoted (Conclusions 2020);
- Article 13§1 and its conclusion that the level of social assistance paid to a single person without resources is not adequate (Conclusions 2021);
- Article 14§1 and its conclusion that it has not been established that effective and equal access to social services is guaranteed to nationals of all other States Parties (Conclusions 2021);
- Article 16 and its conclusion that there is no general system of family benefits, and that it has not been established that vulnerable families receive appropriate economic protection (Conclusions 2019);
- Article 23 and its conclusion that there is no adequate overall and coordinated approach in place to combat poverty and social exclusion (Conclusions 2021);
- Article 31§1 and its conclusion that it has not been established that there are rules imposing obligations on landlords to ensure that rented accommodation is of an adequate standard and that the measures taken to improve the substandard housing conditions of Roma and internally displaced persons are insufficient (Conclusions 2019);
- Article 31§2 and its conclusion that the measures to reduce and prevent homelessness are insufficient and that it has not been established that the right to shelter is guaranteed (Conclusions 2019).

Taking into account all of the above and the assessments made under other provisions of the Charter, the Committee thus considers that the situation in Turkey 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 to explain whether and how the social assistance and solidarity foundations contribute to monitoring and evaluation within the meaning of Article 30. It also requested information on monitoring and evaluation of the efforts to combat poverty and social exclusion, both with respect to the overall level and in relation to areas other than social assistance. In addition, it asked to be informed about any evaluation of the efforts made and any follow-up measures taken to act upon such evaluations (Conclusions 2017).

In response, the report states that social assistance and solidarity foundations were established in each province and district. They have been set up as close to the population as possible in order to be able to quickly identify people in need of assistance and to better

understand their needs. They are legal entities under private law, where the decisions are made by a board of directors. In order to increase and encourage local participation in the decision-making process, the board of directors, which is chaired by the provincial and district governor, also includes elected mayors, village and district leaders, NGO representatives and volunteers.

The report also states that social welfare policies are implemented and monitored at the national level by the Ministry of Family, Labour and Social Services with the help of an integrated social assistance system and at the local level by social assistance and solidarity foundations.

The Committee asks that the next report provide information indicating the involvement of civil society and persons directly affected by poverty and social exclusion (especially, older people, people with disabilities and the unemployed) in the evaluation of these policies.

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

The report indicates that universal health insurance covers almost the entire population (99.2% as of August 2020), but that, with regard to the Covid-19 pandemic, a concerted approach, called the 'social protection shield' was adopted to ensure that no one is left behind. Unemployment benefits, together with short-term work allowances, are among the main measures taken to avoid job losses and mitigate the deleterious effects of the pandemic on the labour market. As of March 2021, a total of more than 27.5 billion Turkish lira (approximately €1,861 million) were paid out to nearly 3.8 million persons in the form of partial unemployment benefits. Since the start of the pandemic, nearly one million persons received unemployment benefits amounting to 5.1 billion Turkish lira (approximately €345 million). In addition, arrangements for the payment of daily cash assistance and a contribution towards the regularisation of contributions for businesses that resume operations have also been put in place. The daily cash allowance is paid to those who are not eligible for short-time work and have had to take unpaid leave, and to those who are not entitled to unemployment benefit. It amounts to 47.7 Turkish lira (about €3.23) per day. By March 2021, almost 2.5 million people had benefited from it.

The report also states that a three-stage social assistance programme was initiated in order to protect the most vulnerable groups of persons from the negative effects of the pandemic. In the first phase of the programme, the elderly and disabled persons in need who were already receiving social assistance were paid an amount of 1,000 Turkish lira (approximately €67.7) per household. In the second phase of the programme, persons whose situation was different from those in the first phase but who were considered vulnerable were entitled to the same amount. In the third phase of the programme, persons who submitted an online application for such assistance schemes and were not included in the two initial phases of the programme were entitled to the same amount. In addition, resources accumulated as a result of donations made by Turkish citizens were distributed to thousands of households in need. As of March 2021, nearly 6.5 million persons or households benefited from different phases of the social assistance programme.

The report also provides information about several other assistance programmes, such as voluntary projects to cover the needs of elderly people who have been put in total isolation during lockdown and to provide accommodation to homeless in state-owned facilities.

Furthermore, benefits for the most vulnerable were increased: benefits for widowed women (who cannot receive survivor's pensions) were increased by 18%; financial support for needy families of persons serving their compulsory military service increased by 45%, and for their children by 50%; conditional benefits for medical assistance, pregnancy and post-natal care were increased by 30%; maternity benefits increased by 33%; conditional benefits for the education of children in need increased by 25%; orphans' benefits increased by 50%; and the minimum pension was raised from 1,000 to 1,500 Turkish lira (from approximately €67.7 to €101.55).

The report also states that the families who were unable to provide for themselves were helped in the framework of the legislation on social assistance and solidarity incentives. The repayment of student loan debts were postponed for three months.

Conclusion

The Committee concludes that the situation in Turkey 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.