



EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITÉ EUROPÉEN DES DROITS SOCIAUX

20 March 2024

PRESS BRIEFING ELEMENTS

Conclusions 2023

Document prepared by the Secretariat

Press briefing elements: Conclusions 2023 by the European Committee of Social Rights

I. Introductory remarks: general overview of Conclusions 2023

Following the changes to the reporting system adopted by the Committee of Ministers at the 1996th meeting of the Ministers' Deputies on 2-3 April 2014 the system comprises two types of reports. First, the reports on the four thematic groups of Charter provisions, and second simplified reports every two years on follow-up to collective complaints for States Parties bound by the collective complaints procedure.

The conclusions adopted by the Committee in January 2024 concern the accepted provisions of the following articles of the Revised European Social Charter ("the Charter") belonging to the thematic group " Children families and migrants":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection, (Article 16),
- the right of children and young persons to social, legal and economic protection (Article 17),
- the right of migrant workers and their families to social, legal and economic protection (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- ensuring the effective exercise of the right to housing (Article 31).

Conclusions 2023

[Andorra](#), [Armenia](#), [Austria](#), [Azerbaijan](#), [Bosnia and Herzegovina](#), [Cyprus](#), [Estonia](#), [Georgia](#),

[Germany](#), [Hungary](#), [Latvia](#), [Lithuania](#), [Malta](#), [the Republic of Moldova](#), [Montenegro](#), [the Netherlands](#), [North Macedonia](#), [Norway](#), [Romania](#), [Serbia](#), [the Slovak Republic](#), [Slovenia](#), [Spain](#), [Sweden](#), [Türkiye](#) and [Ukraine](#).

Conclusions XXII-4 (2023)

[Croatia](#), [Czechia](#), [Denmark](#), [Luxembourg](#), the [Netherlands Aruba](#), [the Netherlands Curaçao](#), [Poland](#), and the [United Kingdom](#).

No report was submitted by Albania, Iceland or in respect of the Netherlands Sint Marten.

The national reports cover the period from 1 January 2018 until 31 December 2021.

Comments from civil society

For its examination of the State reports, the Committee also had at its disposal comments on state reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in terms of ensuring that the Committee had a full, accurate understanding of the national situations concerned.

The outcome: key figures

At its session in January 2024, the Committee adopted a total of **799** conclusions, including **415** conclusions of conformity and **384** conclusions of non-conformity

Main findings

– Problems identified

The problems highlighted in respect of the provisions at stake appear in Appendix I.

The ECSR adopted a *statement of interpretation develop and clarifies the meaning and scope of the Charter as regards specific issues*:

· **Statement of interpretation on Article 17 (child poverty)**

The Committee adopted the following statement of interpretation under Article 17:

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty adopted by the Committee in terms of Article 30, the Committee's consideration of child poverty for the purposes of Article 17 reflects an understanding of both income and multi-dimensional understandings of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the Committee takes into account when assessing State Party compliance with Article 17. For the States that have not accepted Article 17, child poverty will be addressed under Article 30.

The EUROSTAT data and the EU-27 rate of children at risk of poverty or social exclusion is used as key point of reference and indicator of state compliance with Charter rights by the Committee. The Committee will also have regard to disimprovement in terms of the rate of children at risk of

poverty or social exclusion in a State Party. Furthermore, the Committee also takes into account non-monetary measures adopted at reducing child poverty and social exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the Committee will also take into account the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

Progress identified

The Conclusions 2023 also show a number of positive developments which have taken place during the period under consideration. They appear in Appendix II.

Appendix: I Summary of main conclusions

Article 7 – The right of children and young persons to protection

Article 7§1 of the Charter guarantees of the right of children and young persons to protection. the Parties undertake to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work, i.e. work which does not entail any risk to the health, moral welfare, development or education of children. The Charter also regulates the duration of light work and limits it to 6 hours a day and 30 hours a week during school holidays.

In the course of the cycle, the Committee has examined 28 national situations, of which 18 have been found not to be in conformity on two grounds, one relating to the allowed duration of light work and the second one relating to monitoring of child labour.

As regards the first ground, the Committee found that in a number of States Parties (such as, for example Cyprus, Estonia, Hungary and Slovenia) the daily/weekly duration of light work for children under the age of 15 was excessive as it is permitted beyond 6 hours and day and 30 hours a week during school holidays. Therefore, the Committee considered that due to its excessive duration, such work could not be regarded as light.

As regards the second ground, the Committee observed that while there have been some improvements in detecting child labour, the Committee has observed that in some States Parties (such as, for example, **Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, Serbia**) insufficient measures have been taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. For this reason, the Committee has concluded that in these States Parties the prohibition of child labour is not guaranteed in practice as the legislation on the prohibition of employment under the age of 15 is not effectively enforced through enhanced monitoring of child labour.

Article 7§3 is closely linked to Article **7§1** and concerns children, who are over 15 years of age but are still in compulsory education. Article 7§3 requires States Parties to ensure that duration of light work of children still subject to compulsory education is not excessive, so that they are not deprived of the full benefit of their education. Children who are still subject to compulsory schooling can carry out light work for two hours on a school day and 12 hours a week outside the hours fixed for school attendance.

The Committee has examined 29 national situations and found that in 24 cases the situation

was not in conformity with provision. In the majority of cases, this was due to excessive duration of light work performed either during school holidays or during the school term (e.g. **Armenia, Malta and Lithuania**). In other cases (such as **Latvia, Luxembourg, Norway**) the Committee found that children still subject to compulsory education were not guaranteed two consecutive weeks of rest during school holidays, also in violation of Article 7§3 of the Charter.

Article 7§4 is concerned with the employment of children under sixteen (or under 18, where states are party to the revised Charter) who have left school.

In terms of this provision, states undertake “to provide that the working hours of persons under 16 years of age (18 years for the revised Charter) shall be limited in accordance with the needs of their development, and particularly with their need for vocational training”.

The number of hours that a person under sixteen may work will be, consistent with Article 7(4), less than that permitted for adults. Thus, a forty-hour week of eight hours a day, which would be consistent with Article 2(1) is excessive, unless time is allowed off during working hours for vocational study. An eight-hour-day for only a few days a week, thus not amounting to a forty-hour week, is also a breach of Article 7(4). The Committee has concentrated upon the “vocational training” of young workers’; it has not referred to any other aspect of their development.

Article 33 applies to **Article 7§4** so that it is complied with by showing that the “great majority of the workers concerned” benefit from its terms. The application of Article 33 means that, despite the wording “to provide”, which has been held to require legislation, this undertaking may be met by collective agreements or other means instead of legislation where this is normal (statistical evidence required). However, legislation is required wither this is the usual practice.

In the 2023 reporting cycle there were no targeted questions for this provision.

There were 28 conclusions adopted: 10 non-conformities and 18 conformities. The Committee concluded that in 6 countries the permissible working hours for young workers were excessive (**Austria, Czechia, Malta, Serbia, Slovenia and Türkiye**) and that the supervision of working time was insufficient in 2 countries (**Armenia and Montenegro**). Two states were found to be in non-conformity due to a lack of submission of information on the supervision of the implementation of the right in practice (**Austria and Croatia**).

Under **Article 7§5** states parties recognise a fair wage for workers and appropriate allowances as regards apprentices. According to the Committee, this right may be implemented by legislation, collective agreements or other equivalent in the national legal system.

With respect to young workers, their wage may be less than the adult starting or minimum wage but any difference must be reasonable and the gap must be closed reasonably quickly.

For the 2023 monitoring cycle, the Committee requested updated information on net minimum wages and allowances payable to persons under 18 years of age. In particular, it asked for information on measures taken to ensure that fair remuneration is guaranteed to young workers:

- in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
- in the gig or platform economy and
- having zero hours contracts.

The Committee also requested information on measures taken to ensure that this right of young persons to fair pay is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions).

There were 24 conclusions adopted and only 2 states were **in conformity** (Andorra and **Montenegro**). Most non-conformities were due to the lack of reply to targeted questions. Allowances or wages for young persons were found inadequate in 15 states (**Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Czechia, Georgia, Germany, Latvia, the Netherlands, Norway, Romania, Slovanie, Spain, Türkiye and the United Kingdom**).

Under **Article 7§6** states undertake to provide that the time spent by young persons in vocational training during normal working hours with the consent of the employer shall be treated as forming part of the working day. Training time must thus be remunerated as normal working time, and there must be no obligation for the young person to make up for the time spent in training, which would effectively increase the total number of hours worked.

There were no targeted questions for this Article in 2023. There were 26 conclusions adopted: 9 non-conformities and 17 conformities. The Committee concluded that in 3 countries the inclusion of time spent on vocational training in the normal working time of young workers is not effectively monitored (**Armenia, Azerbaijan and Romania**) and that vocational training is not considered working time in 2 countries (**Croatia and the Netherlands**). 4 states have non-conformity conclusion due to lack of submission of information (**Malta, North Macedonia, Türkiye and Ukraine**).

Article 7§10 of the Charter guarantees the right of children to be protected against physical and moral dangers within and outside the working environment. This includes the protection of children against all forms of exploitation and against the misuse of information technologies.

The ECSR had addressed targeted questions to States Parties on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic. The Committee has also requested information on the incidence of such abuse and exploitation; and on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

With regard to Covid-19, States Parties were asked for information on the impact of the pandemic on the monitoring of the exploitation and abuse of children, as well as information on measures taken to strengthen the monitoring mechanisms.

Of the 29 conclusions under Article 7§10 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in 11 cases (**Andorra, Croatia, Czech Republic, Germany, Latvia, Lithuania, Luxembourg, Norway, Slovenia, Romania, Serbia**).

In 18 cases (**Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Cyprus, Estonia, Georgia, the Republic of Moldova, North Macedonia, Malta, the Netherlands, Poland, Slovak Republic, Spain, Sweden, Türkiye, the United Kingdom, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The most common grounds of non-conformity were the following:

not all acts of sexual exploitation of children are criminalised (**Bosnia and Herzegovina,**

Georgia, Türkiye);

children are not adequately protected against sexual exploitation (**Malta and Ukraine**);

child victims of sexual exploitation are at risk to be criminally prosecuted (**Poland, the United Kingdom**).

A significant number of countries failed to provide information needed for the ECSR assessment. The most common information shortcoming was in relation to the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular with regard to sexual exploitation and abuse and solicitation for sexual purposes (grooming).

Article 8

Article 8§1 recognises the rights of employed women to maternity leave and to employment benefits. With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks.

There were no targeted questions, so States Parties were only required to respond to previous conclusions of non conformity, deferrals or pending receipt of information requested.

In 2023, 31 States Parties were examined. The ECSR found 20 Conclusions of conformity, 11 of non conformity. Some of these conclusions of non conformity were for lack of information.

Main grounds of non conformity were related to an inadequate level of minimum rate of maternity benefit (**Bosnia and Herzegovina, Cyprus, the Republic of Moldova and the United Kingdom**)

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, under Article 8§2, the States Parties undertake to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non conformity, deferrals or pending receipt of information requested.

In 2023, 26 States Parties were examined. The ECSR found 12 conclusions of conformity, 14 of non conformity. Some of these conclusions of non conformity were for lack of information.

The main grounds of non conformity related to inadequate protection against dismissal whilst pregnant or on maternity leave (for example **Slovak Republic, Türkiye**) and to ceilings on the amount of compensation that may be awarded in the event of unlawful dismissal (**Bosnia and Herzegovina, Spain**).

Under article 8§3, with a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose.

According to Article 8§3, all employed mothers who breastfeed their babies shall be granted time off for this purpose for at least 9 months.

No targeted questions, so States Parties were only required to respond to previous conclusions of non conformity, deferrals or pending receipt of information requested.

On the 29 States examined, the ECSR considered that the situation was in conformity with the requirements of the provisions in 28 States. In 1 case (**Croatia**) the situation was not in conformity.

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, under Article **8§4** the Parties undertake to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non conformity, deferrals or pending receipt of information requested.

In 2023, 25 States Parties were examined, 23 of whom are parties to the Revised Charter and 2 of whom are States Parties to the 1961 Charter. The ECSR concluded that in 13 countries the situation was in conformity and in 12 States the situation was not in conformity .

Reasons for non conformity: many cases information missing, otherwise pay for leave where woman unable to work due to health and safety inadequate (**Estonia, Georgia, Malta, North Macedonia, Roumania**).

Under Article **8§5**, with a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature and to take appropriate measures to protect the employment rights of these women.

Article **8§5** applies to all pregnant women, women who have recently given birth or who are nursing their infant, in paid employment.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non conformity, deferrals or pending receipt of information requested.

In 2023, 24 States Parties were examined. The ECSR adopted 12 conclusions of conformity and 12 conclusions of non conformity – main reasons for non conformity either information missing or pay for leave due to health and safety reasons inadequate (**Estonia, Georgia, Malta, North Macedonia, Roumania, Türkiye**).

Article 16 – the right of the family to social, legal and economic protection

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, childcare, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women and family benefits.

For this monitoring cycle, the ECSR had addressed targeted questions to States Parties on various aspects of this articles (domestic violence, family benefits, measures in favour of vulnerable families and housing for families).

In 2023, 30 States Parties were examined. The Committee found that situation in 4 States met all the requirements of Article 16 of the Charter: **Lithuania, the Netherlands, Norway, Sweden**.

The most common ground on which states were found to be in non-conformity relates to family benefits.

As regards adequacy of child/family benefits, the Committee looks at two issues: first, the adequacy of coverage (i.e., the percentage of families covered). Even if there is no obligation to have a universal system of child benefit (i.e., the entitlement can be means-tested), it should still be provided to a significant number of families. For instance, if the entitlement is limited only to those families who are below the poverty threshold (very poor families), then the Committee considers that its coverage is not adequate. The second issue is the adequacy of level (the amount granted) – here the Committee has always considered that if the level of benefit (the lowest granted) falls below 5% of the median equivalised income, then the situation is not in conformity, unless it is made evident that in addition, there are other benefits, which are also paid to significant number of families. 15 states (out of 30) are not in conformity with family benefits requirements (**Azerbaijan, Bosnia and Herzegovina, Croatia, the Czech Republic, Latvia, Malta, the Republic of Moldova, Montenegro, North Macedonia, the Netherlands in respect of Curaçao, Slovenia, Spain, Türkiye, Ukraine, the United Kingdom**).

10 states (out of 30) are not in conformity on the ground that the entitlement to child/family benefits for nationals of other State Parties is made conditional on a period of length of residence of more than 6 months. The Committee accepts a length of up to 6 months, as the benefit in question is a non-contributory benefit. A length that is beyond 6 months is not in conformity with the Charter: **Azerbaijan, Bosnia and Herzegovina, Croatia, the Czech Republic, Denmark, Spain, the United Kingdom, Latvia, the Netherlands with regard to Aruba, North Macedonia**.

Other violations identified under this provision relate to housing for families. Almost all of the 22 States examined under this point are not in conformity on the issue of housing for families. It should also be noted that as soon as the report did not provide information on the targeted question/previous questions, the Committee considered the situation not to be in conformity with Article 16.

The specific grounds for non-conformity are:

the length of residence required for receipt of housing allowances in certain Länder is excessive: **Austria**;

nationals of other States Parties to the Charter residing in Malta who do not hold long-term residence status are not entitled to equal treatment with regard to access to housing allowances (rent subsidy): **Malta**;

inadequately legal protection for persons threatened with eviction: 5 states: **Luxembourg, Estonia, Hungary, Romania, the Netherlands with regard to Aruba**;

right to housing, including housing conditions and supply, for vulnerable families (**including Roma/Traveller families**): 5 states: **the Netherlands in respect of Curaçao, Hungary, the Czech Republic, Serbia and the Slovak Republic**.

Inadequate measures to combat domestic violence also led to a number of conclusions of non-conformity (**the Netherlands with regard to Aruba, the Republic of Moldova, the Slovak Republic, Türkiye and Ukraine**).

Article 17 – the right of children and young persons to social, legal and economic protection

Article 17 imposes an obligation on States to adopt the necessary measures to ensure that children can effectively exercise their right to grow up in an environment favourable to the development of their personality and their physical and mental abilities.

The ECSR had addressed targeted questions to States Parties asking for information on any measures adopted to protect and assist children in crisis situations and emergencies. It also posed questions about measures taken to reduce statelessness; to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation; to reduce child poverty; combat discrimination and promote equal opportunities for children from particularly vulnerable groups; and on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

The Committee also developed a Statement of Interpretation on child poverty (see above).

Of the 30 conclusions under Article 17 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in one case (**Sweden**).

In 29 cases (**Andorra, Armenia, Austria, Bosnia and Herzegovina, Germany, Spain, Estonia, Georgia, Hungary, Lithuania, Latvia, Republic of Moldova, North Macedonia, Malta, Montenegro, the Netherlands, Norway, Romania, Serbia, Slovak Republic, Slovenia, Türkiye, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The main grounds of non-conformity were the following:

bone testing is used to assess the age of children in an irregular migration situation (**Andorra, Estonia, Lithuania, Republic of Moldova, North Macedonia, Romania, Slovak Republic, Spain, Denmark, Poland**);

the length of pre-trial detention of children is excessive (**Andorra, Armenia, Austria, Hungary, Latvia, Lithuania, Republic of Moldova, Slovak Republic, Spain, Türkiye, Ukraine, Denmark, Poland, the United Kingdom**);

immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance (**Hungary, Latvia, Lithuania, Romania, Slovenia, Spain, Croatia, Poland**);

not all forms of corporal punishment of children are prohibited in all settings (**Armenia, Bosnia and Herzegovina, Georgia, Serbia, Slovak Republic, Türkiye, Czech Republic, the United Kingdom**);

the rate of children at risk of poverty is too high (**Armenia, Serbia, Spain, Romania, Montenegro, North Macedonia, Türkiye, Luxembourg, the United Kingdom**);

the age of criminal responsibility is too low for some offences (**Hungary, Türkiye**);

children may be detained with adults (**Montenegro, the Netherlands**).

There were also many non-conformities on the ground that States failed to answer questions, such as whether **bone testing** is used to determine the age of children (9 States); on whether children in an irregular migration situation, accompanied by their parents or not, could be detained, and, if so, under

what circumstances (7 States); on measures taken to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or not, are appropriate and adequately monitored (7 States); on measures taken to combat discrimination and promote equal opportunities for children from particularly vulnerable groups (5 States); on measures taken to find alternatives to detention of children in an irregular migration situation (5 States); on measures taken to facilitate birth registration, particularly for vulnerable groups (6 States); whether children in an irregular migration situation have access to healthcare (4 States); what assistance is given to unaccompanied children in order to protect them from abuse and exploitation (4 States); on measures taken to reduce statelessness (5 States); on the maximum length of prison sentence that can be imposed on a child (3 States).

Article 17§2 requires States Parties to establish and maintain an education system that is both accessible and effective.

The ECSR had addressed targeted questions to States Parties on measures taken to ensure that state allocation of resources to private education did not negatively impact on the right of all children to access free, quality public education. It also addressed general questions on measures taken to introduce anti-bullying policies in schools; and on measures taken to facilitate child participation across a broad range of decision-making and activities related to education.

With regard to Covid-19, States Parties were asked to provide information on measures taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children).

Of the 23 conclusions under Article 17§2 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in 11 cases (**Andorra, Germany, Spain, Estonia, Lithuania, Latvia, Malta, the Netherlands, Norway, Slovenia, Sweden**).

In 12 cases (**Armenia, Austria, Bosnia and Herzegovina, Hungary, Republic of Moldova, North Macedonia, Montenegro, Romania, Serbia, Slovak Republic, Türkiye, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The main grounds of non-conformity were the following:

the net enrolment rate in secondary education is too low (**Bosnia and Herzegovina, North Macedonia, Romania**);

Roma children are subject to segregation in education (**Hungary, Serbia, Ukraine**).

There were also many non-conformities because the States failed to answer questions on issues including the situation of Roma children in education; on measures taken to facilitate access to education for children from vulnerable families, etc.

Article 19 - The right of migrant workers and their families to protection and assistance

With regard to **Article 19§1** of the Charter which guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate, couple of States have been found in non-conformity for not taking appropriate measures against misleading propaganda in relation to emigration and immigration (**Georgia and Türkiye**) and for failure to provide information on this provision (**Cyprus**).

Under **Article 19§2** of the Charter, States are obliged to adopt special measures for the benefit

of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception (Conclusions III (1973), Cyprus). The non-conformities identified related to the failure of some States to provide information on assistance, financial or otherwise, available to migrant workers in emergency situations, in particular in response to their needs of food, clothing and shelter, upon reception (**Austria and Georgia**).

Almost all examined State situations were in conformity with **Article 19§3** which concerns co-operation between social services of emigration and immigration states, with the exception of two cases where non-conformities were due to the failure to provide the requested information (**Serbia, Sweden**).

One of the most complex provisions in terms of States' compliance is **Article 19§4** which guarantees the right of migrant workers to a treatment not less favourable than that of the nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

In the 17 national situations examined under this provision, the Committee found that the situation was not in conformity in respect of 10 States. Most of the grounds for non-conformity concerned: (i) equal access of migrant workers and their families to accommodation, in particular to assisted rental schemes and subsidised housing (**Armenia, Georgia, Slovenia**), an excessive residence requirement for eligibility to municipal housing applied by some municipalities (**Norway**) or the failure to provide information on access of migrant workers and their families to subsidised housing or housing aids (**Serbia, Slovakia, Sweden and Türkiye**); equal access to employment (**Türkiye**); failure to provide information on working conditions and equal treatment of migrant workers, including their remuneration and access to vocational training and promotion (**Armenia**) or information concerning posted workers (**Netherlands, Slovenia**).

According to the ECSR case law, equal treatment of migrant workers in terms of accommodation can only be effective if there is a right of appeal before an independent body against the relevant administrative decision. The ECSR found that in respect of couple of States the situation is not in conformity with the Charter on the grounds that the right to equality regarding accommodation of migrant workers and their families is not subject to an effective mechanism of monitoring or judicial review (**Armenia, Georgia**).

On the positive side, all national situations examined were found to be in conformity with **Article 19§5**, which recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.

Article 19§6 commits states parties to "facilitate as far as possible" the family members of migrant workers, who are lawfully staying in their territory, to join them.

The ECSR examined the situation regarding **Article 19§6** in 19 States Parties as regards the personal and the material scope of the right to family reunion, in particular as regards conditions governing this right, such as the condition of length of residence (waiting period), housing conditions, means requirement, and integration measures (including various language tests) in view of family reunification. Finally, the ECSR also examined whether the right to family reunification is subject to an effective mechanism of appeal or review.

During the monitoring cycle 2023, among 19 countries the situation of which was examined by the ECSR with regard to Article 19§6, there are 18 countries with non-conformity conclusions (**Armenia, Austria, Cyprus, Georgia, Germany, Latvia, the Netherlands, North Macedonia, Norway, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Luxembourg, Poland and the United Kingdom**), and 1 country with conformity conclusions (**Estonia**).

The non-conformity conclusions are based on (apart from non-conformities for failure to provide the required information):

- The personal scope of the right to family reunion is not in conformity with the Charter;
- The age threshold for family reunion of married couple which is above the age at which a marriage may be legally recognised in the host state is an undue hindrance to family reunion;
- Adult dependent children are excluded from the scope of family reunion;
- The requirements to prove language proficiency for family reunion are excessive;
- The Requirement to pay fees for the necessary language tests and language courses may impede rather than facilitate family reunion;
- Social benefits are excluded from the calculation of sufficient financial means for family reunion;
- Sponsors must be a resident in the host State for more than one year prior to being granted family reunion;
- Family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.
- The level of means required to bring in the family or certain family members are so restrictive as to prevent family reunion.
- The fees applicable concerning family reunification are prohibitive and may deprive the right guaranteed under Article 19§6 of its substance.

In a number of conclusions, the non-conformity was based on the lack of information/answer in the report to a previous question raised by the Committee (**Armenia, Cyprus, Georgia, the Netherlands, Germany and Sweden**). The most common ground of non-conformity is that the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion [14 countries out of 19].

In some countries, the residence permit of a family member of the sponsor may be revoked if the sponsor's residence permit is terminated and the family member does not yet have an independent right of residence (**Cyprus, Germany, Slovak Republic, Slovenia, the United Kingdom**). In some other countries, the right to independent stay is granted to the family members of a migrant worker only after certain years of residence (5 years in **Latvia**, 3 years in **the Netherlands**, 4 years in **North Macedonia** and **Serbia**) and that no such right has been recognised before the expiry of this length of residence. In **Norway**, the authorities consider whether the family member should be granted a permit only in exceptional cases, on "strong human considerations".

The second common ground of non-conformity is that social benefits are excluded from the calculation of sufficient financial means for family reunion (11 states out of 19). Therefore, requirements, such as in **Austria, Poland or Slovenia**, where the sponsor should have sufficient financial means which must allow them to live without having to claim any social benefits, are not in compliance with Article 19§6. The ECSR reached the same conclusion when social benefits are not listed among the proof that a foreigner has the means to support their family, such as in **Serbia**.

Concerning **Germany** and **Austria**, the ECSR found that strict language requirements hinder the right to family reunion. In **Austria**, the requirement to pay fees for the necessary language tests and language courses were also found to be in breach as they may impede rather than facilitate family reunion. Concerning **Sweden**, the ECSR reached the same conclusion for failure

by the Government to reply to its previous request for information in this respect.

As a result, almost in all countries, the situation is not in conformity with Article 19§6 (except **Estonia**) and the most common problem is that the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion. This ground is followed by the ground of exclusion of social benefits from the calculation of sufficient financial means for family reunion.

No new positive developments in the members states have been taken note of by the ECSR since the last cycle. It took however note that in **Austria**, there were plans to change the legislation regarding age thresholds for family reunification and that in **Cyprus**, regarding the lifting of the sponsor's minimum residence period requirement.

Under Article 19§7 of the Charter States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals. In 2023, the ECSR has examined the situation with regard to **Article 19§7** in 22 Countries. There are 19 countries with conformity conclusions and 3 countries with non-conformity conclusions (the **Republic of Moldova, Serbia and Sweden**).

Concerning **the Republic of Moldova and Sweden**, the non-conformity conclusion is due to the lack of answer/information in response to a previous question raised by the Committee.

Concerning **Serbia**, the non-conformity conclusion is based on the fact that under the provisions of the Law on Free Legal Aid, only migrant workers who are permanently resident in Serbia are eligible to receive legal assistance, that migrant workers who are temporarily resident in Serbia, according to the provisions of this Law, are excluded from this right and may therefore not have the same access to courts and legal proceedings as nationals.

In the case of **Georgia**, although the previous conclusion was that of a deferral, the Committee concluded that the situation is now in conformity following the information provided by the Government as to the provision of assistance as to interpretation in legal proceedings.

Article 19§8 of the Charter obliges States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.

In 2023, the ECSR has examined the situation with regard to Article 19§8 in 18 countries. Among these 18 countries, there are 8 countries with conformity conclusion (**Cyprus, Estonia, Georgia, Germany, the Netherlands, North Macedonia, Sweden, and Luxembourg**). 10 countries have been found by the ECSR to be in breach of Article 19§8 (**Armenia, Latvia, the Republic of Moldova, Romania, Serbia, Slovenia, Spain, Türkiye, Poland and the United Kingdom**).

The non-conformity conclusions are based on (apart from non-conformities for failure to provide the required information):

The time-limit granted to foreigners whose residence permit expired prior to any expulsion, for either getting a valid residence status, leave the country or lodge an appeal against that decision, are not adequate;

Courts, when examining the risk of violation of human rights in case of expulsion, do not take into account the Charter's requirements under Article 19§8;

Migrant workers may be expelled in situations where they do not endanger national security or offend against public interest or morality.

A permit to reside may be revoked where an individual has insufficient personal resources;

The right to appeal against expulsion orders is not effectively guaranteed;

A migrant worker may be considered as a threat to public order and therefore expelled where s/he has been convicted for a minor crime.

A migrant worker may be expelled where there exists reasonable doubt that they will take advantage of the stay for purposes other than those declared;

Risk to public health in itself constitutes a ground for expulsion.

Concerning **Armenia** and **Spain**, the non-conformity conclusions were due to the lack of information in the report in response to previous questions raised by the Committee. In the remaining non-conformity conclusions (8 countries), the situation was found to be in breach of Article 19§8 on the ground that that migrant workers may be expelled in situations where they do not endanger national security or offend against public interest or morality (**Latvia, the Republic of Moldova, Romania, Serbia, Slovenia, Türkiye, the United Kingdom, Poland**).

More particularly, in **Romania**, migrant worker may be considered as a threat to public order and therefore expelled where they have been convicted only for committing a minor crime. This ground is similar to the non-conformity ground concerning **Türkiye** where migrant worker may be considered as a threat to public order and therefore expelled on the basis of a conviction (to a prison term) for any crime and prosecution on the basis of one of the grounds listed in domestic provisions. Also, concerning **the United Kingdom**, the situation has been found to be in breach of Article 19§8 on the ground that expulsion based solely on the ground of the length of prison sentence (12 months) is not acceptable under the Charter. In **Poland**, a permit to reside may be revoked where an individual has insufficient personal resources.

No new positive developments in the members states have been taken note of by the ECSR since the last cycle. However, in the case of Luxembourg (guarantees against deportation), **Slovenia** (independent right to appeal against deportation orders) and **Poland** (risk to public health is not a ground for expulsion). Following the information and clarifications provided in the reports, the ECSR either concluded that the situation was in conformity (**Luxembourg**) or excluded these grounds from the non-conformity conclusions (**Poland and Slovenia**).

In 2023, the ECSR examined the situation with regard to **Article19§9** in 21 counties. Among these 21 countries, there are 13 counties with conformity conclusions ; and 8 countries with non-conformity conclusions.

The ground for non-conformity conclusions is the lack of answer/information in the national report in response to a previous question raised by the Committee.

Concerning **Cyprus, Germany, the Netherlands, Serbia, Slovenia, Spain, Sweden and Luxembourg**, the national reports did not provide any answer to a previous question of the Committee, namely whether there are any restrictions on the transfer of the movable property of migrant workers. In the case of **Sweden, Luxembourg and Slovenia**, the missing information

also concerned up-to-date descriptions of the situation with regard to restrictions on the transfer of money and movable property.

In the case of **Article 19§10**, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers.

In 2023, the ECSR examined the situation in respect of **Article 19§10** in 17 countries. Among these 17 countries, there are only two countries with a conformity conclusion: **Estonia and Lithuania**. In the other 15 countries, the situation has been found to be in non-conformity on the grounds of non-conformity under the other paragraphs of Article 19 of the Charter.

Under **Article 19§11 of the Charter**, with a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families.

In 2023, the ECSR has examined the situation with regard to **Article 19§11** in 16 countries. Among these 16 countries, there are 13 countries with conclusions of conformity and 3 countries with conclusions of non-conformity (**Armenia, Georgia and the Netherlands**).

In the case of **Armenia**, the non-conformity was due to the lack of information/answer in the national report to a previous question raised by the Committee. In the case of **Georgia**, with the exception of migrants under international protection, the State did not adequately promote and facilitate the teaching of national language to all migrant workers and members of their families. In the case of **the Netherlands**, the charges for language courses were found to likely to hinder the integration of migrant workers and their families.

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party as foreseen by **Article 19§11 of the Charter**, the States Parties undertake to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

In 2023, the ECSR examined the situation with regard to Article **19§12** of the Charter in 14 countries. Among these 14 countries, there are 9 countries with conformity conclusions (**Andorra, Armenia, Austria, Cyprus, Estonia, Latvia, Montenegro, Norway and Slovenia**) and 5 countries with non-conformity conclusions (**Georgia, Germany, Spain, Sweden and Türkiye**).

In the cases of **Georgia, Sweden and Türkiye**, the non-conformity conclusion is due to the lack of information/answers in the report in response to a previous question of the Committee.

Germany ratified the Revised Social Charter on 29 March 2021. This means that this is the first time the Committee examined the implementation of Article 19§12 of the Charter in Germany. However, the report stated that no information was available with regard to the implementation of Article 19§12 of the Charter and the Committee therefore concluded that the situation was not in conformity with the Charter.

In the case of **Spain**, the report provided information under Article 19§12 with regard to teaching of mother tongue of migrants only in relation to the Arabic and Portuguese languages. No information has been provided, in particular, the teaching of Romanian, whereas migrants of

Romanian origin is the second largest migrant group in Spain, after Moroccans. The ECSR therefore concluded that the situation in Spain was not in conformity with Article 19§12 of the Charter on the ground that the teaching of the mother tongue was not adequately promoted and facilitated for all migrants.

Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment

In 2023, under **Article 27§1-3**, 22 State reports were examined and 56 conclusions were reached : 50 conclusions concern situations already examined during previous cycles, while 6 conclusions were reached upon the current assessment; 17 conclusions were reached under Article 27§1, 21 under Article 27§2, and 18 under Article 27§3.

Under **Article 27§1**, **5 States Parties** were found not to be in conformity (**Armenia, Azerbaijan, Georgia, Germany, and Spain**). The situation in Azerbaijan is not in conformity due to inadequate protection under Article 27§1a regarding the reconciliation of the working and private life for both women and men on equal footing. Georgia and Spain failed to demonstrate under Article 27§1b that the periods of absence from work of workers with family responsibilities are considered pensionable. Armenia, Germany, and Spain are not in conformity due to insufficient protection under Article 27§1c regarding the child day care services and arrangements.

Under **Article 27§2** (the right to parental leave) a conclusion of non-conformity was the case for 9 States Parties. These conclusions of non-conformity were reached due to the lack of non-transferability of parental leave (**Georgia, Moldova**), inadequate or non-existent remuneration of parental leave (**Cyprus, Malta, Spain**), or on both grounds (**Armenia, Azerbaijan, Türkiye, Ukraine**). The Committee noted that **Malta** did not provide information regarding the previous finding of non-conformity.

According to the Committee's conclusions under **Article 27§3** States Parties that were not in conformity were 6 (**Armenia, Azerbaijan, Cyprus, Türkiye, Germany, and Spain**). In Türkiye and Cyprus, workers are not protected against dismissal in enterprises under a certain number of workers employed, while **Armenia, Azerbaijan, Germany, and Spain** did not demonstrate that adequate compensation is awarded in unlawful dismissal cases.

The failure to provide information that amounts to a breach of the State Party's reporting obligations under Article C of the Charter was observed in the case of **Armenia** (all three paragraphs), **Georgia** (paragraph 1), and **Azerbaijan** (paragraph 3), **Germany** (paragraphs 1 and 3) and **Spain** (paragraph 1). These States did not provide the information requested which would enable the Committee to examine their situation.

Article 31 – the right to housing

Article 31§1 requires States Parties to take measures designed to promote access to housing of an adequate standard.

States Parties were asked to reply to detailed targeted questions for **Article 31§1** of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information. The targeted questions concerned issues such as the criteria for adequate housing or measures in favour of vulnerable groups.

Of 10 situations examined during the 2023 monitoring cycle, the ECSR adopted 3 conclusions of conformity and 7 conclusions of non-conformity.

The conclusions of non-conformity were based on grounds including insufficient measures taken

to improve the housing conditions of Roma (**the Netherlands, Slovenia, Latvia, Türkiye**), inadequate supervision of housing standards (**Slovenia, Lithuania**), the large proportion of overcrowded dwellings (**Latvia**), the absence of a comprehensive definition of the notion of adequate housing under the national law (**Latvia**), insufficient measures taken to ensure that the existing housing stock was of an adequate standard (**Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of the Article 31§1 of the Charter.

Article 31§2 requires States Parties to take measures designed to prevent and reduce homelessness with a view to its gradual elimination.

States Parties were asked to reply to detailed targeted questions for Article 31§2 of the Charter, as well as to provide information responding, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information. The targeted questions concerned issues such as preventing homelessness, the existence and scope of any prohibition of evictions during the Covid-19 pandemic, or the availability and adequacy of emergency accommodation during the Covid-19 pandemic.

Of 9 situations examined during the 2023 monitoring cycle, the ECSR adopted one conclusion of conformity and 8 conclusions of non-conformity.

Conclusions of non-conformity were based on grounds such as the lack of a legal prohibition on carrying out evictions during winter (**Andorra, Lithuania**), the lack of compensation in the event of an illegal eviction under national law (**Andorra**), notice periods before an eviction that were too short (the Netherlands), the lack of a prohibition of evictions from shelters without the provision of alternative accommodation (**Lithuania, the Netherlands, Slovenia**), restrictions on access to emergency accommodation/shelter (**the Netherlands, Türkiye**), discrimination as regards access to housing benefits (**Norway**), or insufficient measures taken to reduce homelessness (**Slovenia, Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of the Article 31§2 of the Charter.

Article 31§3 of the Charter requires States Parties to take measures designed to make the price of housing accessible to those without adequate resources.

States Parties were asked to reply to detailed targeted questions for Article 31§3 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information. The targeted questions concerned issues such as social housing or housing benefits.

Of the 6 situations examined during the 2023 monitoring cycle, the ECSR adopted one conclusion of conformity and 5 conclusions of non-conformity.

The conclusions of non-conformity were based on grounds such as the failure to gather data on the average waiting time for the allocation of social housing (**Norway**), the inadequate supply of social housing (**Slovenia**), ineffective remedies for excessive waiting times for social housing (**Slovenia**), or discrimination as regards access to social housing (**Slovenia, Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of the Article 31§2 of the Charter.

Appendix II : Positive Developments

Conclusions 2023: examples of progress in the application of the European Social Charter relating to “Family rights”:

In its Conclusions XXII-4 (2023), the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or in some cases on the basis of new

information clarifying the situation as regards issues raised in previous examinations.

Article 7§4

Bosnia and Herzegovina has made improvements in establishing safeguards for young workers and effectively supervising compliance with labor laws related to working time. There have also been positive developments in **Cyprus's** and **Georgia's** labor inspection activities and the effectiveness of their enforcement mechanisms regarding the working time of young workers under 18. Furthermore, **Lithuania, Latvia and Estonia** have effectively limited the working hours of persons under 18 years of age in accordance with their developmental needs and vocational training requirements.

Article 7§6

Cyprus has made positive strides in ensuring compliance with labor regulations regarding vocational training and effective monitoring and that **Lithuania** has improved its monitoring of compliance with labor regulations regarding vocational training compared to previous assessments. **Montenegro** made legislative changes by enacting a new Labor Law, aligning its legislation with EU standards and ILO recommendations.

Article 7§10

In 2020, an agreement with **Andorra Telecom** was signed to activate a telephone number, 175, which is a helpline for children at risk of abuse.

The Young Persons Protection Act in **Germany** was amended in 2021 and it now includes an obligation for service providers to provide effective and structural preventive measures to protect against damage to the personal integrity of children and young people in such cases as cyberbullying, cybergrooming or other types of sexual exploitation.

Article 8

In **Slovenia**, the Parental Protection and Family Benefits Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 26/14, 90/15, 75/17) introduced compensation for nursing breaks. A mother has the right to remunerated nursing breaks until the child is 18 months old, for one hour a day.

Article 16

In **Poland**, from 1 July 2019, a childcare benefit has been paid for each child in the family up to the age of 18 years. This benefit is not dependent on family income. It amounts to PLN 500 (€120).

Wider access to nurseries was introduced in **Luxembourg**, with 20 hours per week of free childcare per child, regardless of parental income. In line with this measure, childcare in non-formal education facilities was also made free of charge during the school week for children in primary education (i.e. children from the age of four). This applies to childcare facilities, after-school care and childminders.

The United Kingdom:

Scotland: The Domestic Abuse (Scotland) Act 2018 created a specific offence of domestic abuse which covers physical and psychological abuse, including coercive and controlling behaviour. The Act incorporates the fact that children are harmed by domestic abuse by providing for a statutory aggravation in relation to children.

Northern Ireland: The Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021 came into effect on 21st February 2022 (outside the reference period). This Act introduced a new offence of domestic abuse which encompasses non-physical abuse and controlling or coercive behaviour, and

provides for a number of statutory aggravating circumstances if such violence is perpetrated against a child. In the field of employment, it also provides additional leave and pay rights for workers and employees who are victims of domestic abuse. Victims and survivors of domestic abuse are entitled to ten days' paid leave for the purposes of dealing with the issues resulting from domestic abuse. There are also provisions to enhance support for victims of domestic abuse who give evidence in civil / family proceedings, including the use of special measures, such as giving evidence behind a screen, and protection from cross-examination in person by the alleged perpetrator.

Article 17

In **Lithuania**, in 2021, 21.6% of children were at risk of poverty or social exclusion, a significant decline in comparison with 2018, when the percentage was 28.8%. The number of children in institutions in decreased from 2,419 in 2018 to 415 in 2021.

In the **Slovak Republic**, in 2021, 19.7% of children were at risk of poverty or social exclusion, a significant decline in comparison with 2018, when the percentage was 23.3%.

Article 17§10

The net enrolment rate in lower secondary education, in **Armenia**, was 99.39% in 2021 and is now in conformity with the Charter.

Since 2019, "Bullying box", a free electronic tool, has been developed in **Lithuania**, to fight bullying in educational institutions. 325 schools have already installed the "Bullying box".

Article 19§11

In **Norway**, in 2021, 76 % of the asylum seekers residing in reception centres received training in Norwegian, compared to 51 per cent in 2020. In **Türkiye**, 120-hour "Social Cohesion and Life Education Course Program" for foreigners who have the legal right to stay in Türkiye and who have completed the age of 17, was approved in September 2021 and entered into force. All courses that are open to the public directly or in cooperation with other institutions and organizations are organized free of charge by the public education centres.

Article 19§12

In **Montenegro**, the 2019–2023 Minority Policy Strategy sets the goal of improved respect for the principles of multiculturalism and multiethnicity in the educational system of Montenegro through further strengthening the capacity of educational institutions. In **Slovenia**, whereas as in 2019/20 school year the number of pupils attending remedial language classes was 419, with a funding from the Ministry of Education, Science and Sport of € 15,750, the number of pupils in these classes in the school year 2021/22 was 564, with a funding of € 29,835.

In **Türkiye**, as of September 2022, there were a total of 1,172,067 Syrians of educational age (5-17 years old) under temporary protection in Türkiye. As of October 2022, 762,414 of them (65.05%) were enrolled in educational institutions. In order to support those students to learn their native language, Arabic was offered as an elective course. In addition, children of migrant workers could take courses in many languages free of charge under non-formal education programmes.

Article 27

Two more States Parties to the Charter (**Germany and Spain**) accepted Article 27 by ratifying the Revised Charter.

The situation in **Montenegro** under Article 27§§1 and 2 is now in conformity as well as the

situation in **Türkiye** under Article 27§1.

In relation to **Article 27§2**, the Committee noted that in most EU member states the parental leave is remunerated after transposing the Directive (EU) 2019/1158 to their national legislations (should have been transposed by 2 August 2022).