January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

ANDORRA

This text may be subject to editorial revision.

The following chapter concerns Andorra, which ratified the Charter on 12 November 2004. The deadline for submitting the 10th report was 31 October 2016 and Andorra submitted it on 6 March 2017. On 6 October, a request for additional information regarding Article 12§§2 and 3; Article 13§§2, 3 and 4 was sent to the Government which submitted its reply on 10 November 2017.

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 concerns the following provisions of the thematic group "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).

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

The reference period was 1 January 2012 to 31 December 2015.

The conclusions relating to Andorra concern 19 situations and are as follows:

– 13 conclusions of conformity: Article 3§1, 3§3, 3§4, 11§1, 11§2, 11§3, 12§2, 12§3, 13§2, 13§3, 14§1, 14§2 and 23;

– 4 conclusions of non-conformity: Article 3§2, 12§1, 12§4 and13§1.

In respect of the 2 other situations related to Articles 13§4 and 30 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 Andorra under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

During the current examination, the Committee noted the following positive developments:

Article 3§1

On 17 April 2013, after consulting employers' and employees' organisations, the Government approved the text of four technical notes relating to Law No. 34/2008 and concerning four areas, in particular very small and small enterprises in sectors of activity where risks are low or very low; co-operation and co-ordination; providing information for and training employees, and health supervision.

Article 3§2

Four sets of regulations were adopted during the reference period. In particular, the Regulations on minimum health and safety requirements for the use of personal protective equipment (BOPA, 10 October 2012) determine the notion of personal protective equipment; a list of exclusions; the standard criteria which must be applied when risks cannot be sufficiently avoided or mitigated through technical means of collective protection or through the adoption of measures, methods and procedures for organising work; and a list of obligations which are incumbent on employers and employees with regard to the use of personal protection equipment. The Regulations on minimum health and safety requirements for the use of work equipment (BOPA, 10 October 2012) set out measures to encourage improvements in the safety and health of private and public sector workers when using work equipment, and the roles and responsibilities of employers and employees regarding work equipment. Moreover, the Regulations on minimum requirements regarding health and safety signs in workplaces (BOPA, 10 October 2012) indicate their scope and expressly recognise two cases in which they are not applicable (sale of dangerous products, equipment, substances and preparations, and signs used for regulating road and air traffic,

except concerning such traffic in the workplace). In addition, they define the concepts of different types of health and safety signs. These regulations also contain provisions on information and training, as well as on worker consultation and participation.

Article 3§4

- Since April 2013, all companies must have a protection and prevention service which performs and carries out the following tasks and activities: design, apply and co-ordinate preventive action plans and programmes; evaluate risk factors which may affect occupational health and safety at work; identify priorities for the adoption of appropriate preventive measures and supervise their effectiveness; inform and train employees so as to avoid the risks linked to their work, and implement emergency and first aid plans;
- The Technical Information Note No. 4 of the Labour Inspectorate Department, which was approved by the Government on 17 April 2013, clarifies details of the content of Article 19 (health supervision) of the law on occupational health and safety and the Regulation on occupational health services. Particular reference is made to the definition of occupational health services and to the objectives of medical examinations; the need to propose medical examinations at work if they are not compulsory (in particular at regular intervals); carrying out compulsory medical examinations (dangerous activities, workers under 18 years of age, particularly sensitive workers, return to work after more than 6 months' sick leave and in cases in which it is essential in order to be able to evaluate the risks); the terms applied for proposing or carrying out medical examinations at work for all employees; supervising the health of workers who have several jobs or in the event that they change posts; the medical supervision of minors.

Article 12§3

- As from 2012, social security coverage has been compulsory for self-employed workers;
- As from September 2014, family allowances have been granted starting from the first child, rather than from the second (Law 6/2014 of 24 April 2014);
- As from 2015, healthcare coverage has been extended to certain categories of economically inactive persons.

Article 13§1

According to the report, Act 6/2014 of 24 April on Social and Health Services, is a step forward in the organisation and consolidation of the Andorran social protection system, through a network of benefits that complement the benefits established by the social security regulations. The Act 6/2014 determines the eligibility as well as the amounts of benefits. It aims at ensuring complementarity of social security benefits and social assistance, with a view to guaranteeing pecuniary benefits of a sufficient level (to meet essential needs of individuals or families who, because of their disability, their advanced age or other circumstances, cannot work or because they have limited autonomy).

Article 19§1

- Since December 2014,the Criminal Code established as criminal offences, inter alia public incitement to violence, hatred or discrimination against an individual or a group of individuals, public insults or defamation and threats, as well as the public dissemination or distribution and the production or possession of racist images or material;
- Andorra has implemented an advanced inclusive educational programme which attaches considerable importance to human rights and efforts to tackle stereotypes, hate speech and discrimination.

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In addition, the report contains also information requested by the Committee in Conclusions 2015 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right of migrant workers and their families to protection and assistance – assistance and information on migration (Article 19§1)
- the right to housing – reduction of homelessness (Article 31§2).

The Committee examined this information and adopted 1 conclusion of conformity relating to Article 19§1 and 1 conclusion of non-conformity relating to Article 31§2.

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The next report will deal with the following provisions of the thematic group "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 report should also contain information requested by the Committee in Conclusions 2014 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right of persons with disabilities to independence, social integration and participation in the life of the community – integration and participation of persons with disabilities in the life of the community (Article 15§3).

The deadline for submitting that report was 31 October 2017. The report was registered on 31 October 2017. Conclusions on the Articles concerned will be published in January 2019.

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Conclusions and reports are available at www.coe.int/socialcharter as well as in the HUDOC database.

CONCLUSIONS RELATING TO ARTICLES FROM THE THEMATIC GROUP

‘Health, social security and social protection”

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General objective of the policy

In its previous conclusion (Conclusions 2013), the Committee noted that Law No. 34/2008 introduced a legislative framework which maintained and promoted an occupational health and safety policy based on occupational risk prevention. It asked whether occupational health and safety strategies or programmes existed alongside the legislative framework and whether they were reassessed in the light of new risks. In reply, the report states that the Labour Inspectorate Department disclosed all necessary information on the new legislation during the reference period and had monitored compliance with the law during the period mid-2014 to 2015. A special campaign of inspections had also focused on companies in various economic sectors which either employed a large number of workers or which had an accident ratio 50% higher than the average in that specific sector (44 companies had been inspected in 2012 and 60 in 2013). Nevertheless, the Committee reiterates its previous requests.

In reply to the Committee's question concerning the resolution of conflicts between the provisions of Law No. 34/2008 and those of Law No. 35/2008, and how many workers resign in practice (Conclusions 2013), the report states that the figures concerning the number of justified resignations of workers because of failures to comply with occupational health and safety measures are not available. However, it does state that the number is small. According to the information provided by the Labour Inspectorate Department from consultations, in some cases workers use this argument to justify putting an end to their contract.

The Committee points out that new technology, organisational constraints and psychological demands favour the development of psychosocial factors of risk, leading to work-related stress, aggression, violence and harassment. It would also point out that, with regard to Article 3§1 of the Charter, it takes account of stress, aggression, violence and harassment at work when examining whether policies are regularly evaluated or reviewed in the light of emerging risks. The States parties have a duty to carry out activities in terms of research, knowledge and communication relating to psychosocial risks (Statement of Interpretation on Article 3§1 of the Charter, Conclusions 2013). The report does not provide any information on this point. The Committee accordingly reiterates its request.

Organisation of occupational risk prevention

In its previous conclusion (Conclusions 2013), the Committee noted that Law No. 34/2008 regulated occupational risk prevention at national level, taking account of the particular hazards concerned, and the provision of information and training for employees. It also noted that the Labour Inspectorate was involved in the development of an occupational health and safety culture among employers and employees.

The report states that Law No. 34/2008 had been brought into force in stages and had been fully in force 21 April 2013. Article 8 on the planning of prevention and the evaluation of risks, which had come into force on 21 April 2012, stipulated that the employer's prevention measures must be planned on the basis of an initial evaluation of the risks for the workers' health and safety, while taking account of the firm's activity, the nature of workstations and the workers using them. If the outcome of the evaluation so requires, the enterprise can adopt the necessary prevention measures to guarantee a higher level of protection of workers' health and safety. The risks have to be assessed at regular intervals to guarantee occupational health and safety and also when there are changes in working conditions or if there has been an incident that may have consequences for the workers' health.

In its previous conclusion (Conclusions 2013), the Committee asked for information concerning the applicability of Law No. 34/2008 to the public service and to small firms. In reply, the report explains that the law does not apply to a number of public service activities involving specific risks for employees (the Police Department, the Fire and Rescue Services, the Customs Service, Prisons and Civil Protection Services). Nevertheless, risks relating to the workplace in the entire public administrative service had been assessed between July 2012 and October 2013 by an outside prevention service selected by means of an open competition. Moreover, since November 2013, several activities are carried out, in particular the updating and review of the assessment of risks relating to workplaces and equipment, the organisation and supervision of the application of preventive measures identified in the evaluation of risks, the review of activities where specific verification and health supervision is required.

In reply to the Committee's question about the way in which employers, particularly small and medium-sized enterprises, discharge their obligations in terms of initial assessment of the risks specific to workstations and the adoption of targeted preventive measures in practice (Conclusions 2013), the report states that, according to the estimates of the Labour Inspectorate Department, almost all small and medium-sized enterprises have employed outside risk prevention services to carry out the initial evaluation of risks and the planning of preventive activities. However, employers can only carry out some of the preventive work themselves under certain conditions (Technical information note No.1 published by the Labour Inspectorate Department). Health supervision must be delegated to an outside prevention service.

Employers and employees can put questions directly to the inspectors either by phone or at the Labour Inspectorate Department, with or without an appointment. The Committee notes that, according to the report, the number of specific consultations on this subject has increased. The report also mentions the website of the Labour Inspectorate Department, which contains information concerning the legislation and the rules and regulations in force, as well as the questions frequently asked with regard to occupational health and safety.

The report also states that, on 17 April 2013, after consulting employers' and employees' organisations, the Government approved the text of four technical notes relating to Law No. 34/2008, drawn up by the Labour Inspectorate Department. These notes concern four areas, in particular very small and small enterprises in sectors of activity where risks are low or very low; co-operation and co-ordination; providing information for and training employees, and health supervision.

The Committee maintains its previous finding of conformity in this respect.

Improvement of occupational safety and health

In its previous conclusion (Conclusions 2013), the Committee noted the existence of a system aimed at improving occupational health and safety through information, training and development, involvement in the training of occupational health and safety professionals and the definition of training programmes. It asked for information on how the authorities made sure that individual and collective equipment and also workplaces were in line with the latest scientific and technical know-how and met the relevant quality standards.

In reply, the report states that Andorra has neither a technical committee responsible for standardisation nor its own quality standards with regard to individual and collective protective equipment; however European standards are taken as a benchmark. The quality control of materials is carried out by outside prevention services, which determine the types of machinery, work equipment and individual and collective protection to be used on a case by case basis, with reference to European standards. Moreover, the Regulation governing health and safety protection in the building industry (BOPA, 9 December 2010) sets out in a concrete manner the norms concerning machinery and the compulsory nature of protective equipment, in accordance with CE-marking conformity assessment and EC marking,

according to the directives of the EU. The Committee notes from the report that this national regulation has been incorporated into the Regulation setting out the minimum health and safety requirements for the use of work equipment (BOPA, 10 October 2012), which establishes the minimum health and safety requirements for the use of work equipment provided to employees, and in the Regulation governing minimum health and safety requirements for the use of individual protective equipment (BOPA, 10 October 2012), minimum health and safety requirements for the use of individual protective equipment, the criteria and the conditions for their use.

In its previous conclusion (Conclusions 2013), the Committee also requested information as to how the training of occupational health and safety professionals by approved outside prevention services is performed in practice. In reply, the report states that in most companies, outside prevention services hold individual training sessions (at the workplace or in the training classes of the prevention services), semi-individual and online training sessions. Moreover, some prevention services distribute to employees when they are recruited information sheets on the main risks and prevention and protection measures appropriate to each workstation. With regard to small enterprises in sectors of activity where there is a low or very low level or risk and where employers have chosen to perform the prevention and protection activities themselves, the latter organise the training on occupational hazards at the time of recruitment. The Committee notes from the report that almost all small enterprises hire outside prevention services and it is therefore the technicians working for these services who are responsible for training their employees.

In its previous conclusion (Conclusions 2013), the Committee also asked of how the Central Public Health Laboratory (LCSP) and the University of Andorra co-operate with the authorities in this area. As the report does not address this issue, the Committee repeats its request and asks for the information to be updated for the reference period, fleshed out with details of activities carried out in practice (sectoral risk analysis; framing of rules; adoption of recommendations; dissemination of publications; creation of training modules) and backed up by specific examples.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee noted that a system for consulting employers' and workers' organisations exists at the level of the public authorities and in business enterprises, and asked for information about the appointment of the health and safety representatives and the establishment of the health and safety committees in practice. It also requested information about the frequency, compulsory nature and procedural framework of the consultations organised by the Government. In reply, the report states that, pursuant to Article 22 of Law No. 34/2008 of 18 December 2008 on occupational health and safety, employees' occupational health and safety representatives were staff representatives elected in accordance with Law No. 35/2008 of 18 December 2008 on the Labour Relations Code. Under Article 23 of Law No. 34/2008, occupational health and safety committees must be set up in enterprises with one hundred or more employees. They must be made up of employees' representatives for prevention and of employers and/or the same number of representatives as those representing the workers. The Committee notes from the report that between 2009 and 2015, 24 procedures for the selection of staff representatives took place.

According to the report, the Government is obliged to consult employers' and employees' organisations. Under the first additional provision of Law No. 34/2008, the Government must draw up implementing regulations after consulting employers' and employees' organisations. In practice, the frequency with which consultations take place depends on the number of regulations that need to be approved; in particular the Government submits draft regulations in this field to employers' associations, to vocational training schools and to trade unions for their comments and proposals, which it studies and where possible adds them to the final text.

The Committee maintains its previous finding of conformity in this respect.

Conclusion

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

Content of the regulations on health and safety at work

The Committee previously deferred its conclusion on this point (Conclusions 2013) and pointed out that, if the information requested was not provided in the next report, there would be nothing to establish that the situation was in conformity with Article 3§2 of the Charter. It observed that during the reference period, the regulation implementing Act No. 34/2008 had not yet been fully adopted and that the regulations specifically governing exposure to the majority of occupational risks were being drafted. It accordingly asked for information on their adoption and application in practice.

In reply, the report mentions four sets of regulations adopted during the reference period: the Regulations on occupational health services (Official Gazette of the Principality of Andorra (BOPA), 21 November 2012), the Regulations on minimum health and safety requirements for the use of personal protective equipment (BOPA, 10 October 2012), the Regulations on minimum health and safety requirements for the use of work equipment (BOPA, 10 October 2012) and the Regulations on minimum requirements regarding health and safety signs in workplaces (BOPA, 10 October 2012). The report states that the last three instruments provide that risks not specifically governed by regulations are covered subsidiarily by the ILO rules, in application of the first additional provision of Act No. 34/2008, which entered into force on 21 April 2009.

The report also indicates that the Regulations on minimum health and safety requirements concerning the manual handling of loads, shift work (including work with VDUs), work places, and the protection of workers from risks linked to exposure to asbestos at work still need to be approved.

In its previous conclusion (Conclusions 2013), the Committee also requested clarifications on the enforceability of the ILO rules before the courts and on the application in practice of these rules by employers. In reply, the report explains that Andorra has not ratified any ILO Convention, but that national legislation and regulations refer to the application of ILO standards on health and safety at work, in a subsidiary capacity, and, in particular, ILO standards may be invoked in all kinds of judicial processes (criminal, administrative or civil) and the courts take them into account in their decisions. The Committee takes note of a number of decisions referred to in the report which illustrate the courts' reference to international standards, in particular those of the ILO.

In reply to a question by the Committee on arrangements for undertakings having fewer than 10 employees, introduced by the Labour Inspectorate's technical information memorandum No. 1 of 10 April 2013, the report states that this information memorandum sets out four conditions to be met by an employer who personally assumes partial responsibility for the preventive activity: the employer must have undergone, as a minimum, the basic training (50 hours); he/she must work permanently in the undertaking; the undertaking must have less than 10 employees, and the occupational risks must be low. However, some activities must be carried out by a non-prevention service (health monitoring); restrictions are therefore laid down in the technical memorandum.

The Committee points out that under the terms of Article 3§2 of the Charter, regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships (Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). As the report does not answer the Committee's question on this subject (Conclusions 2013), the Committee asks that this information be supplied in the next report.

The Committee recalls that states' first obligation under Article 3 of the Charter is to ensure the right to occupational safety and health rules of the highest possible standard. Paragraph 2 of this article requires them to issue health and safety regulations providing for preventive and protective measures against the risks recognised by the scientific community and laid down in EU and international regulations and standards. These regulations have to be specific in that they must set out rules in sufficient detail for them to be applied properly and efficiently. They must also cover a majority of the risks listed in Conclusions XIV-2 (1998).

The Committee takes note of the fact that general legal standards on health and safety at work have existed since Act No. 34/2008 came into force. It observes, however, that the existing regulations cover only a small proportion of the risks identified in Conclusions XIV-2, and fail to offer protection against some significant risks (carcinogens or mutagens; physical, biological and chemical agents; use of machinery, etc.). The report does not show that the aforementioned regulations correspond to the international standards. Therefore, the Committee considers that the general obligation that rules on health and safety at work must specifically cover a large majority of the risks listed in the General Introduction to Conclusions XIV-2 has not been met.

Levels of prevention and protection

The Committee considers the levels of prevention and protection that the legislation specifies for certain risks.

Establishment, alteration and upkeep of workplaces

The Committee deferred its previous conclusion on this point (Conclusions 2013). According to the report, pending the adoption of regulations specific to the workplace, the manual handling of loads, the use of VDUs and the use of machinery, the provisions of the Labour Regulations of 17 July and 22 December 1978 concerning the workplace, working environment and personal protection remain applicable. The report further states that the relevant ILO rules are also applicable.

However, the report indicates that the Regulations on minimum health and safety requirements for the use of personal protective equipment (BOPA, 10 October 2012) determine the notion of personal protective equipment; a list of exclusions; the standard criteria which must be applied when risks cannot be sufficiently avoided or mitigated through technical means of collective protection or through the adoption of measures, methods and procedures for organising work; and a list of obligations which are incumbent on employers and employees with regard to the use of personal protection equipment. The Regulations on minimum health and safety requirements for the use of work equipment (BOPA, 10 October 2012) set out measures to encourage improvements in the safety and health of private and public sector workers when using work equipment, and the roles and responsibilities of employers and employees regarding work equipment. Moreover, the Regulations on minimum requirements regarding health and safety signs in workplaces (BOPA, 10 October 2012) indicate their scope and expressly recognise two cases in which they are not applicable (sale of dangerous products, equipment, substances and preparations, and signs used for regulating road and air traffic, except concerning such traffic in the workplace). In addition, they define the concepts of different types of health and safety signs. These regulations also contain provisions on information and training, as well as on worker consultation and participation.

The Committee requests confirmation that the above-mentioned regulations also govern the protection of machines; manual handling of loads; work with display screen equipment; hygiene (in commerce and offices); maximum weight; air pollution, noise and vibration.

Protection against hazardous substances and agents

In its previous conclusion (Conclusions 2013), the Committee noted that, during the reference period, no regulation in force specifically governed exposure to asbestos or ionising radiation, outside the particular context of building sites, and it deferred its last conclusion on this point (Conclusions 2013). It therefore requested clarifications on the enforceability before the courts of ILO Conventions Nos. 162 on asbestos (1986) and 115 on ionising radiation (1960); Recommendations Nos. 172 on asbestos (1986) and 114 on protection against radiation (1960); the ICRP Recommendation (1990) and Directive 96/29/Euratom; and the international material safety datasheet, and on the application in practice of these texts by employers. The Committee also stressed that if the next report did not contain this information, there would be nothing to show whether the situation in Andorra is in conformity with Article 3§2 of the Charter

In reply, the report states that there were no new developments concerning the levels of prevention and protection against asbestos and ionising radiation during the reference period. It also confirms that there is no case law demonstrating the possible application of the ILO Conventions and Recommendations on asbestos and ionising radiation; however, the courts take into account the ILO standards when drafting their decisions and judgments.

The Committee notes again that there is no regulation in force which specifically governs exposure to asbestos or ionising radiation, outside the particular context of building sites. The Committee concludes that the levels of prevention and protection against asbestos and ionising radiation are not in conformity with Article 3§2 of the Charter.

Personal scope of the regulations

The Committee examines the personal scope of the legislation and regulations with regard to workers in atypical employment.

Temporary workers

In its previous conclusion (Conclusions 2013), the Committee observed that non-permanent and temporary staff are covered by the legislation on health and safety at work and that they are protected, including against risks resulting from a succession of periods of exposure to pathogenic agents while working for different employers, and by the limitation on using short-term employees for certain particularly dangerous types of work. It asked for information on access by non-permanent and temporary employees to medical surveillance and to representation at work.

According to the report, Act No. 34/2008 requires that workers with a fixed-term contract, seasonal workers and persons recruited by temporary work agencies must be treated in the same manner as other workers regarding occupational health and safety. More specifically, the report states that seasonal workers, temporary workers or those with a fixed-term contract enjoy the same rights with regard to medical supervision as the other employees of the enterprise in which they work. Medical examinations for medical supervision purposes are compulsory before recruitment and at the beginning of the contractual relationship if the employee has to carry out unsafe, unsanitary or damaging activities due to the elements, processes or substances handled (Appendix 1 to Act No. 34/2008) or if the workers concerned are minors or they are particularly sensitive to certain risks. Otherwise, the employer is obliged to offer the possibility of undergoing medical examinations to employees, who are free to accept.

Regarding representation at work, the report states that under Article 116 of Act No. 35/2009, fixed-term employees are represented by representatives chosen in that capacity. Workers with a contract longer than one year are counted as permanent employees, while those recruited for a shorter period are counted taking into account the number of days worked during the year prior to the elections being called: as from 225 days worked, a

worker is counted as an additional employee, as long as he/she works a minimum of 25 hours per week.

The Committee maintains its previous finding of conformity on this point.

Other types of workers

The Committee previously found (Conclusions 2013) that self-employed workers (entrepreneurs, farmers, craft workers, etc.) lacked sufficient protection within the meaning of Article 3§2 of the Charter and it reiterated its request for information on the protection of home workers. It asked for confirmation that domestic employees enjoy, in law and in practice, the health and safety conditions imposed by Act No. 34/2008 and the related implementing regulations.

The report explains that under Article 2(3) of Act No. 34/2008, domestic employees are excluded from the scope of this law. However, this article explicitly provides that employers are obliged to ensure that their domestic employees can carry out their work in appropriately secure and hygienic conditions. According to the report, although employers are in this case exempted from carrying out preventive activities, they are nevertheless obliged to ensure the health and safety of the person they have hired. The Committee asks whether the home from which a worker operates can be considered as a workplace and as a result be subject to an inspection by the Labour Inspectorate.

The Committee reiterates that, as stated in Conclusions 2009, all workers, all workplaces and all sectors of activity must be covered by occupational health and safety regulations. It also underlines that these regulations must apply to all places of work without exception, including private homes. Under Article 3§2 of the Charter, all workers, including self-employed workers, must be covered by the occupational health and safety regulations, on the ground that salaried workers and self-employed workers are more often than not exposed to the same risks. Since the report contains no new information on self-employed workers, the Committee reiterates its finding of non-conformity on this point.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee noted that the public authorities have a system for consulting employers' and workers' organisations. It also observed that Act No. 34/2008 introduces a system for consulting workers on health and safety at work issues within enterprises. It therefore asked for information on the appointment of health and safety representatives and the setting up of health and safety committees in practice.

In reply, the report explains that, under Articles 22 and 23 of Act No. 34/2008 on health and safety at work, staff representatives are also workers' representatives on prevention regarding health and safety. Health and safety committees must be created in undertakings of 100 or more employees (the Committee also refers to its assessment under Article 3§1 of the Charter).

Moreover, the report states that Article 9 of the Regulations on health and safety in construction work of 1 December 2010 sets out the role of the health and safety supervisor, who plays a similar role to that of a staff representative on the protection of workers regarding health and safety at work (ensuring compliance with health and safety measures and ordering prevention and protection measures).The regulations concern all persons who intervene in or carry out, even occasionally, excavations, construction work, installations, demolitions, conservation work, repairs or restorations, maintenance, cleaning and any ancillary operation or works, and generally, all construction work, whether public of private.

The Committee reiterates its previous finding of conformity in this respect.

Conclusion

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

- the health and safety legislation and regulations do not specifically cover a majority of the risks;
- the levels of protection against asbestos and ionising radiation are insufficient;
- self-employed workers are not adequately protected.

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 Andorra.

Accidents at work and occupational diseases

In its previous conclusion (Conclusions 2013), the Committee noted that the incidence rates of accidents at work and fatal accidents at work had continued to fall in overall terms and asked for information on the measures taken to reduce the high number of accidents at work.

In reply, the report explains that the main measure put in place to combat and prevent accidents at work is the full entry into force of Act No. 34/2008 (on 21 April 2013), which, among other things, significantly increases the amount of penalties for non-compliance with its provisions. Moreover, most undertakings have chosen to delegate preventive management to an external prevention service. Businesses have put in place a number of protocols in order to monitor cases of accidents at work and the Labour Inspectorate has carried out many inspections in order to check whether the standards established by law are being complied with.

The Committee notes that, according to the report, the number of accidents at work (leading to sick leave) has decreased (from 1 727 in 2012 to 1 650 in 2015), as has the rate of incidence regarding these accidents (from 4 198 in 2012 to 3 837 in 2015), thereby confirming the tendency noted during the previous reference period. The report indicates that there has been only one fatal accident at work, in 2012.

In its previous conclusion (Conclusions 2013), the Committee also noted the excessively low number of recorded cases of occupational diseases and therefore asked for information on the measures taken to combat inadequate reporting or recognition of cases of occupational diseases in practice. The report indicates that Andorra's economy is mainly based on the services sector and the Andorran list of occupational diseases does not include occupational diseases in that sector. For an occupational disease to be recognised, an application for recognition must be filed with the Andorran Social Security Fund (CASS). An appeal lies to the Administrative Council of the CASS and subsequently to the courts. The report explains that the whole process is then judicialised, with a decision being taken at first instance, and a right of appeal to a court of second instance. Workers are therefore guaranteed remedies at both the administrative and the judicial level. The Committee asks that the next report provide information on the legal definition 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 Committee again observes that the incidence rates regarding accidents at work and fatal accidents have continued to fall overall.

Activities of the Labour Inspectorate

In its previous conclusion (Conclusions 2013), the Committee noted a continuing decrease in the number of inspection visits. It therefore asked for information on the measures taken to increase the number of inspection visits and on inspection visits made outside construction sites.

The report states that the number of inspection visits increased during the reference period (from 144 in 2012 to 206 in 2015). Regarding the measures and penalties imposed by the Labour Inspectorate, the number of administrative penalties increased from 14 in 2012 to 64 in 2015, including minor penalties (from 2 in 2012 to 6 in 2015), serious penalties (from 13 in

2012 to 164 in 2015) and very serious penalties (0 in 2012 and 2013, 3 in 2015). Over that period there was also a marked increase in the average amount of fines (from € 1 664.5 in 2012 to € 4 127.35 in 2015) and their global amount (from € 23 304 in 2012 to € 264 150 in 2015).

However, the number of inspected workplaces (94 in 2012, 173 in 2013 and 86 in 2015) and the number of workers concerned (2 111 in 2012, 6 965 in 2013, 2 363 in 2014, and 989 in 2015) decreased towards the end of the reference period. According to the report, this decrease is temporary and is linked to the implementation of new legislation. The Labour Department instituted an awareness-raising period during inspection visits, with a view to assessing the degree of compliance with Act No. 34/2008 on health and safety at work. From April 2013 to April 2014 disciplinary sanctions were suspended with a view to raising undertakings' awareness of the need for full implementation of the law. The report explains that once this period ended, the inspectors resumed their normal functioning, drawing up sanction files in case of non-compliance with the legislation.

The Committee notes that, according to figures published by ILOSTAT, in 2015 there were 8 labour inspectors and 317 inspection visits to workplaces. The Committee asks that the next report explain why the figures concerning inspection visits to workplaces indicated in the report and those published by ILOSTAT differ. It also asks that the next report state what proportion of workers was concerned by inspection visits and what percentage of undertakings was subject to an inspection visit relating to health and safety during the reference period.

The Committee takes note of the number of inspection visits, broken down by sector of activity (agriculture, industry, trade, hotels, construction and other services), size of undertaking and year, as set out in the report. It notes that, according to the report, inspection visits carried out in the construction sector have decreased, which can be explained by a downturn in activity in that sector and also by the fact that these undertakings are listed in Appendix 1 to Act No. 34/2008, making them subject to strengthened sanction procedures, and were therefore the first to be obliged to adapt to the law. The hotel industry was the sector most inspected during the reference period (workers in that sector filed the largest number of complaints with the Labour Inspectorate).

In its previous conclusion (Conclusions 2013), the Committee asked for information on the duties, powers and number of inspectors in the Department of Industry and on the terms of the co-operation with the Labour Inspectorate regarding monitoring of occupational health and safety. In reply, the report states that the Department of Industry is empowered to carry out inspection visits in respect of electrical and gas installations, pressure devices, fire safety devices, hydrocarbon facilities, elevating devices, explosive substances, mechanised workshops and major repairs on vehicles and body work. The inspection visits are carried out by inspectors from this Department or by approved inspection and monitoring companies. If an accident occurs in a workplace coming within the competence of the approved company's inspectors regarding monitoring and assessment, those inspectors are also competent to take part in the investigation, always in close co-operation with the Labour Inspectorate and the relevant section of the police. The Department of Industry includes three persons empowered to authorise the operation of the above-mentioned facilities, to inspect them, to sanction any breaches found and to impose coercive penalties and, if necessary, close down the facilities where they present a high risk.

In reply to the Committee's question (Conclusions 2013) on data concerning measures (reports ordering remedial measures; fines for minor, serious and very serious breaches; suspension of activities; referral to the prosecution service for criminal proceedings) taken by Labour Inspectorate inspectors, the report explains that there is no specific data analysis concerning reports ordering remedial measures or suspensions of activity. These two measures are taken in the workplace, and the managers concerning are informed directly without any statistics being produced, as they are ad hoc measures which do not lead to a

full suspension of the undertaking's activities, but to their temporary suspension. For a breach involving a greater risk, an administrative procedure is put in place, which may lead to a penalty. In the context of this administrative procedure, requests for rectification are addressed to undertakings in order for them to solve the problem. The amount of the penalty to be imposed is determined according to the follow-up action taken by undertakings in response to the Labour Inspectorate's requests: the degree of the sanctions (minor, serious or very serious) cannot be changed, but if the undertaking quickly resolves the breach found, this will be taken into account when determining the amount of the penalty, within the range corresponding to the severity of the breach. For cases which may give rise to criminal proceedings, the police force is responsible for transmitting the file to the judicial authorities, on the basis of a joint investigation with the Labour Inspectorate department in charge of accidents at work.

The Committee observes that the number of inspections and sanctions has increased significantly, which, according to the report, is due to the full entry into force of Act No. 34/2008 on 21 April 2013.

The Committee recalls that, under Article 3§3 of the Charter, States Parties must implement measures to focus labour inspections on small and medium-sized enterprises (Statement of Interpretation on Article 3§3, Conclusions 2013). The report indicates that as concerns small undertakings, which constitute the majority of businesses in the country, Act No. 34/2008 is fully implemented and employers have the same obligations. The number of inspection visits carried out by the Labour Inspectorate has increased as concerns undertakings with one to five workers (from 22 in 2012 to 41 in 2015) and those with six to ten workers (14 in 2012, 33 in 2013 and 20 in 2014). Visits of businesses with 11 to 30 workers totalled 21 in 2012; 37 in 2013 and 14 in 2015. Moreover, there was one visit to a business without any employees in 2013 and two in 2015.

Conclusion

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

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 Andorra.

The Committee points out that, in accordance with Article 3§4, States must, in consultation with employers' organisations and workers' organisations, promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions. These services may be operated jointly by several companies. They must be effective and be capable of detecting, measuring and preventing work-related stress, aggression and acts of violence at work (See Statement of Interpretation concerning Article 3§4, Conclusions 2013; see also Conclusions 2003 concerning Bulgaria). It points out that if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. That means that a State "must take measures that allow it 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" (Conclusions 2003, Bulgaria; Conclusions 2009, Albania).

In its previous conclusion (Conclusions 2013), the Committee noted that there was a strategy for establishing occupational health services through the practical provision of the resources and facilities required for giving workers access to medical supervision, and the high rate of medical supervision. It asked for clarification regarding the Regulation of 14 November 2012 on occupational health services and the Labour Inspectorate's technical information note of 10 April 2013 regarding medical supervision and occupational health check-ups.

The report states that pursuant to Article 19 of Law No. 34/2008 on occupational health and safety, companies must ensure that workers' health is regularly supervised in accordance with the degree of danger of the work being performed.

Since April 2013, all companies must have a protection and prevention service which performs and carries out the following tasks and activities: design, apply and co-ordinate preventive action plans and programmes; evaluate risk factors which may affect occupational health and safety at work; identify priorities for the adoption of appropriate preventive measures and supervise their effectiveness; inform and train employees so as to avoid the risks linked to their work, and implement emergency and first aid plans. Pursuant to Article 14 of Law No. 34/2008, employers may choose between three different ways of organising their prevention services: the employers themselves may take on responsibility for meeting this obligation, employees may be designated to carry out the work, or they may call on an outside prevention service (in 2015, 8 companies were officially recognised as outside prevention services).

The Occupational Health Regulation of 14 November 2012 established the health activities that must be carried out and the staff-related technical and health conditions that must be met in order to operate and secure authorisation from the health authorities and be registered on the Register of Occupational Health Centres, Services and Establishments. This Regulation determines the conditions required to secure authorisation from the health authorities, the health activities which occupational health services must perform (supervision of employees' health, preventing health problems and health promotion, enquiries into occupational health problems and their causes, assistance, training and providing information on health issues and the work done by companies and their employees, first aid and emergency care in the event that they must be provided within the company), criteria concerning employees who are obliged to undergo medical examinations and the frequency with which such examinations must be carried out, the duties of the health staff, and the penalties applied in the event that a company does not comply with these provisions and obligations. With the exception of compulsory examinations, employees must freely consent to occupational health examinations.

The report also presents Technical Information Note No. 4 of the Labour Inspectorate Department, which was approved by the Government on 17 April 2013, clarifying details of the content of Article 19 (health supervision) of the law on occupational health and safety and the Regulation on occupational health services. Particular reference is made to the definition of occupational health services and to the objectives of medical examinations; the need to propose medical examinations at work if they are not compulsory (in particular at regular intervals); carrying out compulsory medical examinations (dangerous activities, workers under 18 years of age, particularly sensitive workers, return to work after more than 6 months' sick leave and in cases in which it is essential in order to be able to evaluate the risks); the terms applied for proposing or carrying out medical examinations at work for all employees; supervising the health of workers who have several jobs or in the event that they change posts; the medical supervision of minors.

In its previous conclusion (Conclusions 2013), the Committee asked for information on access to medical supervision for public service workers; the participation of employers in medical supervision in practice and the penalties in cases where they fail to comply. In reply, the report states that medical visits in the general administrative services commenced on 24 January 2014, after having been organised by the outside prevention service recruited for this purpose on 19 November 2013. Such visits had been proposed to all staff (some 2 050 persons) taking account of a difference between compulsory visits (15% of posts in the general administrative authorities) and voluntary visits. 1 576 visits were conducted during the period 2014-2015, in 1 524 of cases the person was found to be "fit for work", 49 "fit for work with certain restrictions" and 3 "unfit". Moreover, in keeping with the Protocol on particularly sensitive workers applied by the general administrative authorities as from October 2012, all workers may seek a medical opinion when they consider it necessary to do so, depending on their personal circumstances with regard to their post (69 cases of particularly sensitive workers were registered at the end of 2015). With regard to the specialised services of the administrative authorities (police, fire-fighting services, customs and prisons), medical visits for the purposes of health supervision were carried out by specialists working for the general administrative authorities before the entry into force of Law No. 34/2008 (601 medical visits were made during the reference period). All municipalities have also hired outside prevention services, while the medical services were responsible for workers' medical visits (2 991 medical visits during the reference period).

According to the report, the company, or the public or private sector, should only be informed of the conclusions with regard to the workers' fitness for a particular post or with regard to the need to improve or introduce prevention and protection measures. The Committee takes note of the existence of the offences set out in Law No. 34/2008, and notes that serious offences are subject to a fine of between €1 101 and €10 000, and very serious offences to a fine of between €10 001 and €100 000.

In reply to the Committee's question concerning the frequency with which medical visits take place (Conclusions 2013), the report states that Article 5 of the Regulation on occupational health services prescribes the following frequencies: (a) employees under 18 and over 55 years of age: annual visit; (b) employees under 30 years of age: every 5 years; (c) workers between 30 and 55 years of age: every 3 years. However, doctors specialising in occupational therapy may set much more regular appointments for medical examinations. Employees are obliged to attend a medical examination when they return to work after more than six weeks' sick leave.

The report also states that in 2015, there were 81 registered senior technicians specialising in the prevention of occupational hazards, 51 of whom were registered in the three following specialities: ergonomics and applied psycho-sociology, occupational safety, and industrial health; 9 were registered in two specialities and 21 in only one speciality.

The Committee maintains its previous conclusion of conformity on this point. Given the gradual nature of compliance with the obligation imposed under Article 3§4 of the Charter, it

asks that the next report contain information on access by temporary and agency workers, workers on definite term contracts, self-employed and domestic workers.

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 3§4 of the Charter.

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 Andorra.

Measures to ensure the highest possible standard of health

The Committee notes from WHO that estimated life expectancy at birth in 2012 (average for both sexes) was 83, up from 2009 when it was 82. The life-expectancy rate is higher in Andorra than in other European countries. For instance, according to Eurostat, the average life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015.

The Committee notes from the statistics provided in the report that the death rate (number of deaths per 1 000 inhabitants) remained low during the reference period, i.e. 3.5 per 1 000 inhabitants in 2015. The same figures indicate that infant mortality was 2.3 deaths per 1 000 live births during the reference period (it had increased from 3.6 per 1 000 live births in 2008 to 3.7 in 2011). The report also indicates that the maternal mortality rate was 0.

The Committee had previously requested information on the main causes of death and the measures taken to combat these. The Committee notes from the most recent published analysis of statistics relating to births and deaths in Andorra that cancer and diseases of the circulatory system account for 60% of deaths. It reiterates its request for information on the measures taken to combat these diseases.

The Committee asks for the next report to provide information and statistics on life expectancy at birth (average for both sexes), the death rate and the main causes of premature death, and the measures taken to combat them. The Committee also asks for information on infant mortality and maternal mortality rates to be included in the next report.

Access to health care

For a detailed description of the Andorran health care system, the Committee refers to its previous conclusions (Conclusions 2009 and 2013).

The Committee had previously noted that the Andorran system is a mixed system combining public and private bodies performing tasks relating to hygiene, public health and individual and collective medical assistance. Patients are free to choose their health care provider or practitioner. However, the lack of any criteria governing access to services results in a somewhat irrational use of health services, does not promote a positive image of general practitioners, gives rise to waiting lists for specialists and encourages excessive use of health services, which has a heavy cost. The Committee asked whether measures were planned to tackle these problems (Conclusions 2013). The report states that in the near future, the concept of a GP with whom one is registered is to be promoted along with a sharing of people's medical records. These two principles will make it possible to regulate access to health care, co-ordinate the different levels of services and prevent excessive use of services. The Committee asks to be informed on the implementation of these measures.

The Committee asked to be informed of any reforms in health policy, and in particular if there were any plans to improve cover and access for unemployed people and casual workers not insured by the Andorran Social Security Fund (CASS) (Conclusions 2013). The report states that the amendments to the Social Security Act in 2015 provides that unemployed persons between the ages of 18 and 65 who have been resident in Andorra for three years, or aged 35 or over, not in receipt of unemployment benefits and having paid 36 monthly contributions to the CASS, may continue to be covered by the social security system with a reduced contribution in the general branch which provides cover for contributors and their dependants.

The Committee asks that the next report provide information on care and treatment provided for mental health, in particular with regard to the prevention of mental disorders and

measures taken to promote the recovery process. It also asks that the next report contain information on dental services and treatment (for example, who is entitled to free dental treatment, the cost for the main types of treatment and the proportion of the costs paid for by patients).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 11§1 of the Charter.

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 Andorra.

Education and awareness raising

The Committee had previously taken note of education and awareness-raising campaigns focusing in particular on nutrition, sexuality and prevention of HIV/AIDS and other sexually transmitted diseases (Conclusions 2013). The present report refers, by way of example, to various types of action completed such as the publishing and distribution of different guides containing useful advice on nutrition and physical exercise for a variety of target groups (the general public, the elderly, children and adolescents, expectant mothers, nursing mothers and infants), and the "Sports day for all" race, with over 2,600 participants, representing more than 3.5% of the population, as part of "Sport for All" week.

The Committee asks for the next report to provide updated information on specific campaigns or initiatives to prevent harmful behaviours – smoking, excessive consumption of alcohol and drug abuse – and to encourage a sense of individual responsibility regarding, in particular, a healthy diet, sexuality and the environment.

In its previous conclusions, the Committee noted that health education is provided throughout schooling and forms part of the school curricula. Furthermore, in addition to one-on-one consultations in health centres and lower and upper secondary schools, the nurses responsible for the "Consulta Jove" programme run sex education activities in schools (Conclusions 2009 and 2013). The Committee asks for updated information in the next report.

Counselling and screening

The Committee previously noted that there were regular medical check-ups for pregnant women and children (Conclusions 2013).

The Committee previously took note of the cancer plan which had introduced a programme for the early detection of breast cancer. The Committee asked whether, in addition to the aforementioned programme, there were other screening programmes covering the illnesses which are the main causes of death (Conclusions 2013). The report states that Andorra is currently developing a programme for the early detection of cancer of the colon. The report adds that in 2014, Andorra introduced systematic HPV vaccination for girls.

The Committee asks for the next report to provide updated information on this issue.

Conclusion

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

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

Healthy environment

The Committee previously asked for information on the implementation of the legislation, giving details on air pollution levels and trends, or cases of contamination of drinking water and food poisoning during the reference period (Conclusions 2013).

The Committee takes note from the report of the information on cases of contamination of drinking water and food poisoning during the reference period (2012-2015), and on the new regulations. It also takes note from the sources indicated in the report, of the air quality surveys and the air quality in real time, which show that the situation is good. The report provides information on the measures taken to ensure the protection and quality of surface water, sewage treatment and waste management.

The Committee asks for the next report to provide updated information on air pollution levels and trends, and on cases of contamination of drinking water and food poisoning during the reference period.

Tobacco, alcohol and drugs

In its Conclusions 2013, given the lack of relevant information, the Committee concluded that the situation in Andorra was not in conformity with Article 11§3 of the Charter on the ground that it had not been established that appropriate measures had been taken to take action against smoking (Conclusions 2013).

In 2015 the Committee once again looked at the situation and took note of the adoption in 2012 of Act No. 7/2012 on protection against passive smoking. This Act prohibits smoking in public and semi-public establishments as well as in private establishments and work areas. The Committee once again asked about the situation regarding the regulations pertaining to health warnings on tobacco packaging, and tobacco advertising, promotion and sponsorship; meanwhile, it reserved its position on this point (Conclusions 2015). The report once again mentions the Act on protection against passive smoking, and a regulation setting out the criteria to be complied with in setting up dedicated smoking rooms, the monitoring, supervision and signage of these rooms, and places where smoking is forbidden. The report also mentions the regulation governing certain aspects of the sale and consumption of tobacco. The Committee reiterates its question for information on regulations related to health warnings on tobacco packaging, and tobacco advertising, promotion and sponsorship.

The Committee had also asked about the legislation and policies in force concerning alcohol consumption and, in particular, the minimum legal age for the purchase of alcoholic drinks and whether there were any legally binding rules on alcohol advertising (Conclusions 2013). The minimum legal age for the consumption of tobacco and alcohol is 18. The report provides information on the regulations on certain aspects of the sale and consumption of alcohol and tobacco. The Committee notes from the report the information on the consumption of tobacco and alcohol derived from the 2011 Andorran National Health Survey (ENSA 2011).

The Committee previously asked for updated data on trends in the consumption of alcohol, tobacco and drugs (Conclusions 2013). The report provides data on the consumption of tobacco and alcohol for 2011 (outside the reference period). The Committee notes from the WHO report on the global tobacco epidemic (2017) that in 2015 the percentage of smokers was 38.2% among men and 29% among women, and 33.7% for the two sexes combined. It asks for the next report to provide updated information on trends in the consumption of alcohol, tobacco and drugs.

Immunisation and epidemiological monitoring

In its previous conclusions (Conclusions 2009 and 2013), the Committee noted that the Department of Health is tasked with monitoring the incidence of transmissible diseases and that that there was a specific programme for the prevention and control of tuberculosis (PPCT), the general aim of which was to reduce the incidence of this illness and the prevalence of tuberculosis infection. The Committee asked to be informed of the results of this programme.

The Committee takes note from the report of the results of the programme containing figures for 2015 and showing trends from 1997 to 2015. The five-year incidence rate dropped between the five-year period 1997-2001 (15.2 per 100 000 inhabitants) and the period 2011-2015 (6.4 per 100 000 inhabitants).

The Committee asks for the next report to provide updated information and figures on the immunisation coverage .

Accidents

In its Conclusions 2013, given the lack of relevant information, the Committee concluded that the situation in Andorra was not in conformity with Article 11§3 of the Charter on the ground that it had not been established that appropriate measures had been taken to prevent accidents (Conclusions 2013).

In 2015, the Committee took note of the measures taken to prevent road accidents, in particular through awareness-raising activities. However, it asked for the next report to contain updated figures on the number of accidents and fatality rates, especially with respect to road accidents and domestic accidents; meanwhile it reserved its position on this point (Conclusions 2015).

The report states that safety, prevention of accidents and first aid are topics addressed in the health education programme implemented by all schools in the country. Similarly, all schools provide road safety education via a programme in which all school children from age 4 to 16 take part. Schools also offer first aid training. As part of the National Anti-Drug Addiction Plan, the prevention of accidents arising from the consumption of such substances is also addressed.

The Committee once again asks for the next report to contain information on the measures taken to prevent accidents (the main accidents taken into account are road accidents, domestic accidents, accidents at school and accidents occurring in recreational activities), and updated figures on the number of accidents and fatality rates. The Committee points out that if this information is not provided, there will be nothing to demonstrate that the situation is in conformity with the Charter on this point.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 11§3 of the Charter.

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 Andorra, as well as in the addendum to the report transmitted on 10 November 2017.

In the case of **family** benefits, the Committee refers to its conclusions on article 8§1.

Risks covered, financing of benefits and personal coverage

In its previous conclusions (Conclusions 2013), the Committee noted that the Social Security Fund of Andorra (CASS) had been reorganised in November 2009. It notes from the publication, Andorra in Figures (2015), from the Andorran Department of Statistics that registration with the CASS is compulsory for all employees and assimilated persons and, since November 2012, has also been compulsory for the self-employed. According to that publication and CLEISS (French Liaison Centre for European and International Social Security), financing is divided between employees and employers with regard to coverage for health care, sickness, unemployment, old age, maternity, disability and survivors, while the family benefits scheme is funded from the national budget.

The social security system comprises a general branch (temporary incapacity, including in the case of occupational injuries or diseases, maternity, invalidity and survivors) and an old-age branch (retirement and widow's pensions). It is pointed out in the report that, since 2009, an allowance for involuntary unemployment has existed, which is not part of the social security system but comes under social assistance, in accordance with the regulation of 18 September 2013 governing social assistance benefits. The family branch, which was also established in 2009, has been managed directly by the Ministry of Social Affairs since 2014.

According to the official statistics (Andorran Department of Statistics), the total population in 2015 was 71 732 and the population aged 15 to 65 years was 55 806, of whom 38 751 were employed and 545 were unemployed. In 2014, when the population was put at 70 570, the employment rate was 74.4%, giving a working population of 52 504.

The Committee previously noted that the social security system in Andorra did not guarantee universal coverage. In reply to the questions put by the Committee (Conclusions 2013), the report states that the coverage rate of the health branch as a proportion of the total population was 83.9% in 2015 and that as a result of a legislative amendment in 2015 and subject to certain conditions, the unemployed can continue to be registered with the social security system by paying reduced contributions to the general branch, thereby ensuring healthcare cover for themselves and their dependants. The Committee requests that the next report explain which categories of persons are excluded from health coverage.

The report also states that the coverage rate for the active population was 82.04% in the case of sickness insurance and 24.91% in the case of old-age insurance. The Committee notes that such a low coverage rate does not seem compatible with the information that registration with the old-age branch of the CASS is compulsory for all employees, assimilated persons and self-employed workers. It therefore requests that the next report clarify this point. Moreover, the report provides no information on coverage as regards family benefits, maternity, occupational injuries and diseases, invalidity or survivors' benefits.

The Committee points out that, to be in conformity with Article 12§1 of the Charter, the social security system must both cover a significant proportion of the population in respect of health insurance (health cover should extend beyond employment relationships) and of family benefits and also a significant proportion of the active population as regards sickness benefits, maternity and unemployment benefits, old-age pensions and occupational injury and occupational disease benefits. The Committee requests that relevant figures concerning the coverage rate for each branch be given in all future reports, i.e. the percentage of the total population insured as regards health cover and family benefits and the percentage of the active population insured as regards sickness, occupational injuries and diseases,

invalidity, maternity, unemployment, old-age and survivors cover. In the meantime, it reserves its position on this matter.

Adequacy of the benefits

The Committee points out that, under Article 12§1, the level of income-replacement benefits should be fixed such as to stand in reasonable proportion to previous income and it should never fall below the poverty threshold defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value. If the benefit in question stands between 40% and 50% of median equivalised income, other benefits, including social assistance, will be taken into account, while if the level of the benefit is below 40% of median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into conformity with Article 12§1. In the absence of the Eurostat median equivalised income indicator, the Committee notes from the report that, since 2014, the reference threshold for determining the minimum subsistence level has been the "social cohesion economic threshold" (LECS), the level of which is the same as the minimum wage, which was set at €962 in 2015. The Committee understands from the report that the LECS is equivalent to 60% of average incomes per consumer unit, which is roughly the same as the Eurostat at-risk-of-poverty threshold defined as 60% of median equivalised income. In assessing the adequacy of the benefits, the Committee will therefore take account, on the basis of the LECS, of the thresholds corresponding respectively to 50% and 40% of average incomes, i.e. €802 and €641.

In the absence of information concerning the minimum level of benefits, the Committee deferred its previous conclusions (Conclusions 2009 and 2013) and stated that if the information was not provided in this report, there would be nothing to establish that the situation was in conformity with the Charter. The Committee notes that the report still does not provide information concerning the minimum level but does indicate the replacement rate.

On the basis of that information, the Committee notes that, for the first 30 days, the level of **sickness** benefit amounts to 53% of the average wage earned in the 12 months preceding the cessation of work in the case of employees. On the basis of the minimum wage, the Committee notes that the minimum amount would be €510, which is manifestly inadequate compared to the poverty threshold defined as 40% of average income.

When temporary incapacity is caused by an **occupational injury** or an **occupational disease**, the level of benefit for the first 30 days of sick leave amounts to 66% of the average wage earned in the 12 months preceding the cessation of work. On the basis of the minimum wage, the Committee notes that the minimum amount would be €635, which remains manifestly inadequate compared to the poverty threshold defined as 40% of average income.

In the case of **invalidity** benefits, when the invalidity does not result from an occupational injury or an occupational disease, the report states that the calculation basis corresponds to the theoretical retirement pension and depends on the residual work ability. The Committee notes from CLEISS that in the case of a person no longer able to work at all (category 2), the invalidity benefit amounts to 100% of average wages/income. On the basis of the minimum wage, the Committee considers that this amount is in conformity with the Charter.

With regard to the **old-age pension**, the Committee refers to its assessment under Article 23 (conformity).

With regard to the allowance for involuntary **unemployment**, insofar as the Andorran social security system does not provide for a contributory benefit, the Committee refers to its assessment of social assistance under Article 13§1.

Given that Andorra has not accepted Article 16, the Committee assesses the adequacy of **family benefits** under Article 12§1. The Committee notes from the report that family benefits

are paid to insured persons with dependent children aged under 18 years, or 25 years in the case of students, and subject to conditions relating to residence (seven years of uninterrupted residence in Andorra) and income (monthly income below the LECS, increased by a percentage depending on the composition of the family). The amount of the benefit is equivalent to 10% of the LECS per child (20% in the case of children with disabilities). The report states that during the reference period (from 2012 to the end of 2015), family benefits were paid in respect of 1 463 children, for a total amount of €1 472 948. The Committee considers that the amount of the benefits is in conformity with the Charter.

The Committee requests that the next report provide up-to-date information concerning the national poverty threshold, the minimum wage, the monthly median equivalised net income and the minimum level of income-replacement benefits (sickness, occupational injuries and diseases, old-age pension and invalidity) and the level of family benefits.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum level of sickness benefits is inadequate;
- the minimum level of occupational injury and occupational disease benefits is inadequate.

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 Andorra.

The Committee recalls that Article 12§2 obliges states to establish and maintain a social security system which is at least equal to that required for ratification of the European Code of Social Security. The Code requires acceptance of a higher number of parts than ILO Convention No. 102 relating to social security; six of the nine contingencies must be accepted although certain branches count for more than one part (medical care counts for two parts and old-age counts for three).

The Committee notes that Andorrra has not ratified either the European Code of Social Security or the ILO Convention No. 102. Therefore the Committee cannot take into consideration other sources such as the resolutions of the Committee of Ministers on the compliance of the States bound by the Code and has to make its own assessment based on the information received in the report.

The Committee recalls that in order to assess whether the social security system stands at a level at least equal to that necessary for the ratification of the Code, it has to be provided with information regarding the branches covered, the personal scope and the level of benefits offered.

The Committee refers to its conclusion under Article 12§1 in which it notes that the social security system comprises the general branch (temporary incapacity, including employment injury, maternity, invalidity, survivors benefits), the old-age branch (pensions and survivors) and family benefits branch. An involuntary unemployment allowance exists which is not covered by the social security scheme but provided under social assistance.

With regard to personal scope, the Committee refers to its request under Article 12.1 that the relevant figures concerning the coverage rate in each branch be systematically provided in reports and in the meantime it reserves it position on this point.

The Committee refers to its assessment under Article 12§1 that the minimum amounts of sickness benefit and employment injury benefits are manifestly inadequate.

The Committee also refers to its assessment under 12§1 that the levels of invalidity benefits and family benefits are in conformity as well as its Conclusion of conformity under Article 23. Moreover, the Committee refers to its assessment of social assistance under Article 13.1 that the situation is in conformity as regards the level of benefits, pending receipt of information concerning eligibility to social assistance and the amount of the basic benefit. The Committee also takes into account its assessment (Conclusion 2015) under Article 8§1 which is in conformity, pending receipt of information concerning the minimum rate of maternity benefit in relation to the poverty threshold. In the light of these elements, pending receipt of the information requested, the Committee considers that Andorra maintains a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra 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 Andorra, as well as in the addendum to the report, transmitted on 10 November 2017.

It refers to its previous conclusions for the description of the Andorran social security system. Since Andorra has ratified Article 8§1 of the Charter, the Committee will assess the scope and impact of developments with regard to maternity benefits when it will next examine compliance with this provision.

As regards the other branches of social security, the Committee takes note of the legislative developments during the reference period. The report and its addendum refer to the following improvements in particular:

- as from 2012, social security coverage has been compulsory for self-employed workers;
- as from September 2014, family allowances have been granted starting from the first child, rather than from the second (Law 6/2014 of 24 April 2014);
- as from 2015, healthcare coverage has been extended to certain categories of economically inactive persons as a result of a legislative amendment which provides that persons aged between 18 and 65 years who have been resident in Andorra for 3 years, or who are aged over 35 years and have paid 36 monthly contributions to the National Social Security Fund (CASS), who are not in employment but are not receiving unemployment allowances, can continue to be registered with the social security system by paying reduced contributions to the general branch, thereby ensuring healthcare cover for themselves and their dependants.

The Committee also notes that, according to ISSA (International Social Security Association), the pay-as-you-go public pension scheme was reformed in 2014; in particular, the minimum number of contribution years was raised from 13 to 15, the level of the highest pensions was reduced and a non-contributory pension scheme was set up. The Committee requests that the next report provide any relevant information on this issue.

The Committee points out that Article 12§3 requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 12§2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks and increases in the level of benefits are all examples of improvement. A restrictive development in the social security system is not automatically in violation of Article 12§3. Assessment of the situation depends on the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.); the reasons given for the changes and the social and economic policy framework in which they arise; the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after changes); the necessity of the reform; the existence of social assistance measures for those who find themselves in need as a result of the changes made (this information can be submitted under Article 13); and the results obtained by such changes. However, where the cumulative effect of the restrictions brings about a significant deterioration in the standard of living and the living conditions of some groups of population, the situation may amount to a violation of Article 12§3 of the Charter. Even if individual restrictive measures are in conformity with the Charter, their cumulative effect, together with the procedures adopted to put them into place, may constitute a violation of the right to social protection. Measures taken in order to consolidate public finances may be considered as a necessary means to ensure the maintenance and sustainability of the social security system. However, any modifications should not undermine the effective social protection of all members of society against social and economic risks and should not transform the social security system into a basic social assistance system. In any event, any changes to a social security system must

nonetheless ensure the maintenance of a basic compulsory social security system which is sufficiently extensive.

In the light of the above, the Committee asks for information in the next report on any relevant changes made during the reference period to the social security system, specifying the effect of such changes on the personal scope of the system and the minimum level of income replacement benefits. Such information must be provided in each report concerning Article 12§3 in order to assess compliance of the situation with the Charter.

Conclusion

The Committee concludes that the situation in Andorra 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 Andorra.

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

Right to equal treatment

In its previous conclusions (Conclusions 2009 and 2013), the Committee asked whether and how equal treatment is guaranteed for non-nationals legally working or residing in Andorra, who are not covered by bilateral agreements. The report states that any person working in Andorra, irrespective of his/her nationality, must be registered with the social security system and, in this respect, enjoy the advantages of the system.

The Committee notes, however, that some benefits and allowances are subject, inter alia, to certain residence conditions which vary between three and ten years:

- The solidarity allowance for the elderly requires a length of residence in the Andorran territory of at least ten years, immediately preceding the minimum age for access to the ordinary pension required by the Social Security Act, or at age 60 if the person applying receives a social security widow's allowance;
- The solidarity allowance for disabled persons, benefits for dependent children and the residence allowance require a length of residence of at least seven years; and
- The technical and technological services require a length of residence period of at least three years.

The Committee recalls that, where non-contributory benefits are concerned, the section of the Appendix relating to Article 12§4 allows a residence requirement to be imposed on foreign national provided that the length of residence required is to the objective pursued (Conclusion XIII-4, Denmark).

All above benefits are non-contributory; Nonetheless, considering the basic nature of the solidarity allowances for elderly and disabled persons the Committee considers that the ten and seven years of residence requirements are excessive.

The Committee notes from CLEISS (French Liaison Centre for European and International Social Security) that this ten-year residence requirement does not apply to French nationals, in accordance with the bilateral agreement between Andorra and France. The Committee asks whether Spanish and Portuguese nationals are also exempt from this condition.

In respect of payment to family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusions XVIII-1 (2006), Cyprus).

In this regard, the Committee previously (Conclusions 2013) asked whether all children residing in Andorra, irrespective of their nationality, are entitled to family benefits, whether there is a "child residence requirement" and, if so, whether Andorra intend to conclude bilateral or multilateral agreements within a reasonable period of time with those States which apply a different principle for entitlement to such benefits (Albania, Armenia, Georgia and Turkey). The report indicates that all children residing in Andorra, irrespective of their nationality, shall benefit, through their parents, who are, in the Andorran social security system, the actual beneficiaries of family benefits. Therefore, the Committee understands that Andorra does require the claimant's children being resident in Andorra for the payment

of family benefits. It asks the next report to clarify whether this understanding is correct and, in the meantime, reserves its position on this point.

Right to retain accrued benefits

In its previous conclusions (Conclusions 2009 and 2013), the Committee asked if and how the retention of accrued rights is guaranteed for non-nationals legally residing or working in Andorra, who are not covered by bilateral agreements. The report states that the retention of benefits is only guaranteed for nationals of States with which there are bilateral agreements, namely Spain, France and Portugal. The Committee takes note of this information but nevertheless considers that it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties.

The Committee recalls that, under Article 12§4, States Parties shall conclude multilateral or bilateral agreements, or to take unilateral measures to ensure the right to retention of accrued benefits whatever the movements of the beneficiary. It requests that the next report provide information on the planned agreements, if any, and on what timescale.

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

In the previous conclusions (Conclusions 2009 and 2013), the Committee asked if and how the right to accumulate insurance and employment periods is guaranteed for nationals of States Parties not covered by a bilateral agreement with Andorra. The report states that aggregation of insurance periods is only guaranteed for nationals of States with which bilateral agreements exist**,** namely Spain, France and Portugal. The Committee takes note of this information but nevertheless considers that it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

The Committee recalls that there should be no disadvantage for a person who changes his/her country of employment, where he/she has not completed the period of employment or insurance necessary under the national legislation to be entitled to certain benefits. This requires, where necessary, the aggregation of the employment or insurance periods completed in another territory and, in case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefits.

States Parties may choose between the following means in order to ensure the maintenance of accruing rights: multilateral conventions, bilateral agreements or, unilateral, legislative or administrative measures.

The Committee asks that the next report provide information on the agreements foreseen, if any, and on what timescale.

Conclusion

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

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;
- it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

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 Andorra.

Types of benefits and eligibility criteria

In its previous conclusion (Conclusions 2013) the Committee asked the next report to clarify the criteria applied to qualify for social assistance.

The Committee takes note of the Act 6/2014 of 24 April on Social and Health Services, which, according to the report, is a significant step forward in the organisation and consolidation of the Andorran social protection system, through a network of benefits that complement the benefits established by the social security regulations.

The Andorran social protection system for people in need is focused on provision of periodic benefits for vulnerable groups (the elderly, persons with disabilities, families and children), of occasional benefits to meet basic needs as well as on provision of assistance in emergency situations. For this approach, the Economic Threshold of Social Cohesion (LECS) occupies a significant place. This is an objective reference that is used to determine whether a person or a family may require assistance to prevent or respond to situations of need or social marginalisation, or to benefit from social services and programmes of social assistance provided for by the Act 6/2014.

In addition to referring to above three groups persons (persons with disabilities, the elderly and families), the Law 6/2014 addresses new needs, which are more complex. Among them are the occasional aids for people in the need, where economic benefits relate to fundamental rights. These are, among others, assistance to respond to situations of need, including access to housing.

The Act 6/2014 determines the eligibility as well as the amounts of benefits. It aims at ensuring complementarity of social security benefits and social assistance, with a view to guaranteeing pecuniary benefits of a sufficient level (to meet essential needs of individuals or families who, because of their disability, their advanced age or other circumstances, cannot work or because they have limited autonomy).

This complementarity is guaranteed by the compatibility system established by Act 6/2014. The Committee takes note of the *solidarity allowance* which is compatible with other allowances paid by the Government, as well as with the allowances paid by the Andorran Social Security Fund, or other entities to the extent that the total income of the person concerned, including the solidarity allowance itself, does not exceed the LECS. *Occasional aids* are compatible with other aids, even if they can be paid beyond the established maximum amount.

LECS is calculated according to the poverty rate which considers that persons in this situation are persons or families with income less than 60% of the average income per consumption unit in Andorra. The amount of LECS, (corresponding to the Eurostat at-risk-of poverty rate set at 60% of the median equivalised income) is very close to the minimum wage. It is for this reason that the new social assistance programmes approved on September 18, 2013 equalised LECS and minimum wage.The official minimum wage appears to be much closer to the minimum living wage, which is what a person or a family requires to meet basic human needs such as food, housing, clothing, education, health, recreation or transportation.

According to the report, as a result, the Act 6/2014 represented a major step forward in the structuring and organisation of a protection network which complements the social security benefits and establishes a set of rights to ensure dignified living conditions, through the consolidation of minimum income for people with disabilities and the elderly, equivalent to the LECS, which equals the minimum wage (€ 962.00 per month in 2015). The Committee

takes note of the solidarity benefits allocated in 2015, the total amounts allocated to persons with disabilities and the elderly, including the numbers of beneficiaries.

The Committee recalls that under Article 13 the system of assistance must be universal in the sense that benefits must be payable to 'any person' on the sole ground that he/she is in need. This does not mean that specific benefits cannot be provided for the most vulnerable population categories, as long as persons who do not fall into these categories (e.g. persons with disabilities, the elderly, children) but are still in need, are also entitled to appropriate assistance. Under Article 13 social assistance should be provided as a subjective right of any person without resources. There must be a precise legal threshold below which a person is considered in need and a common core of criteria underlying the granting of benefits. The text of Article 13§1 clearly establishes that this right to social assistance takes the form of an individual right of access to social assistance in circumstances where the basic condition of eligibility is satisfied, which occurs when no other means of reaching a minimum income level consistent with human dignity are available to that person. The Committee asks the next report to confirm that any person without resources is eligible for social assistance in the meaning of Article 13, on the basis of the Act 6/2014.

Level of benefits

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

- Basic benefit: the Committee understands that LECS is used to determine the situation of need and represents the minimum guaranteed income. It also understands that it is used as a threshold in the means-test to determine eligibility to social assistance. The Committee further understands that the persons whose income is inferior to LECS receive the amount of social assistance that is necessary to make up the difference. The Committee asks the next report to confirm that this understanding is correct.
- Additional benefits: the Committee wishes to be informed of the monetary value of other benefits (e.g. housing and heating allowance, transport allowance) that a single person without resource, in receipt of the basic social assistance benefit may receive.
- Poverty threshold: the Committee notes from the report that since 2014, the reference value to establish the minimum living standard is LECS, which is equivalent to the minimum wage and which stood at € 962 in 2015. The Committee understands that LECS corresponds to 60% of the median equivalised income (the Eurostat at risk-of-poverty rate). The Committee will take into account, in its evaluation, 50% of the median equivalised income, which stood at 802€ in 2015.

The Committee considers that the the overall assistance that can be obtained exceeds the Eurostat poverty threshold. Pending receipt of the reply to its question concerning eligibility to social assistance and the amount of basic benefit, the Committee considers that the situation is in conformity with the Charter as regards the level of benefits.

Right of appeal and legal aid

The Committee asks the next report to provide updated information concerning the right of appeal and legal aid .

Personal scope

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation of Articles 13§1 and 13§4

(Conclusions 2013) regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that persons in an irregular situation in the territory of the State concerned are also covered under Article 13§1, rather than under Article 13§4, which was previously its practice.

The Committee henceforth examines whether the States who have accepted Article 13§1 ensure the right to:

- adequate social and medical assistance for their own nationals and for nationals of other States Parties lawfully resident within their territory on an equal footing;
- emergency social and medical assistance to persons unlawfully present in their territory.

Nationals of States Parties lawfully resident in the territory

According to the Act 6/2014 social and medical services are provided to families who are at risk of exclusion or dependency. Article 5 of this Act provides that, in order to have access to medical and social services, the persons requesting it must demonstrate their legal and effective residence in Andorra at the time of submitting the application and during the enjoyment of these rights. The Committee further notes that in some cases, a minimum integration in the country is required, assessed through a specified period of residence .

In its previous conclusion the Committee noted that the length of residence requirement for access to basic benefits had been entirely abrogated. The Committee asks whether Law 6/2014 establishes any additional length of residence requirement.

Foreign nationals unlawfully present in the territory

In its previous conclusions (Conclusions 2013 and 2015) on Article 13§4 the Committee found that it had not been established that all foreign nationals in an irregular situation were entitled to emergency social and medical assistance.

As regards medical assistance, in its previous conclusion (Conclusions 2015) the Committee noted that that Section 8(c) of the General Law on Health as amended on 23 January 2009 provides for free emergency medical assistance to non-residents lacking medical coverage. In this regard, the Committee asked the next report to clarify whether this or other provisions provide free emergency medical assistance to non-resident foreign nationals in an irregular situation.

As regards emergency social assistance, 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 cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The Committee has considered that even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country (Complaint No. 90/2013, Conference of European Churches (CEC) v. the Netherlands, decision on the merits of 1 July 2014, §123).

In its previous conclusion (Conclusions 2015) the Committee noted that Act No. 6/2014 provides that emergency social assistance to foreigners in an irregular situation is provided for a duration that usually is of seven days, but that may be extended if necessary for

ensuring their safe return to their countries. In this respect, the Committee took noted that Act No. 6/2014 only provides occasional financial aid for handling urgent situations of subsistence for foreigners in an irregular situation (Section 5§4 of Act No. 6/2014). The Committee further took note that foreigners in an irregular situation are entitled to receive information and advice provided by primary care teams (***equips d'atenció primària***) (Section 28§1(d) of Act No. 6/2014), and asked for clarification on the meaning of this provision, and particularly on whether foreigners in an irregular situation are entitled to be diagnosed and treated by socio-sanitary primary care teams.

The Committee notes that the report does not provide any information on how these requirements are met in legislation and in practice. Therefore, the Committee reiterates its previous finding of non-conformity on the ground that it has not been established that foreign nationals unlawfully present in the territory are entitled to emergency social and medical assistance.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that foreign nationals unlawfully present in the territory are entitled to emergency social and medical assistance.

Article 13 - Right to social and medical assistance

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

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

In its previous conclusion (Conclusions 2013) the Committee noted that the Constitution of Andorra guarantees equal rights to vote and to exercise public functions for all nationals. No restrictions apply on grounds of receipt of social or medical assistance.

The Committee notes that the Act 6/2014 of 24 April on Social and Socio-sanitary Services, which establishes the legal framework for access to benefits and programmes of assistance, also guarantees and ensures that citizens do not suffer any diminution of their political and social rights. This Act regulates the rights and obligations of the beneficiaries as well as the portfolio of social services and the criteria for coordination of actions and optimisation of resources.

The Committee asks the next report to provide updated information as regards whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 13§2 of the Charter.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

Article 3 of the Act 6/2014 of 24 April on Social and Socio-sanitary Services provides for the setting up of social services, which aim to develop programmes of social and medical assistance, to address, in particular the individuals and families at risk or exclusion or dependency. Article 17 of the Act 6/2014 provides that the role of social services, is, among others, to inform, advise and guide families and groups about the available resources for social and medical assistance and other areas of social welfare, such as education, social security, employment and housing, and the rights and duties established by the social protection system.

The report states that the role of social services is also to detect situations of risk of social exclusion and carry out individual, family or community preventive actions and monitoring of the situations. These services participate and cooperate in the context of processes for the reintegration, inclusion and promotion of individuals, families and community groups. They are provided free of charge.

Conclusion

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

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

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

The Committee refers to its conclusion under Article 13§1 (personal scope) and recalls that Article 13§4 from now on will cover emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

The Committee recalls that States Parties are required to provide non-resident foreigners without resources emergency social and medical assistance (accommodation, food, emergency care and clothing, 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 refers to its conclusion on Article 13§1 regarding unlawfully present foreign nationals and asks the next report to provide information regarding emergency social and medical assistance provided to lawfully present foreigners without resources.

Conclusion

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

Article 14 - Right to benefit from social services

Paragraph 1 - Promotion or provision of social services

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

Organisation of the social services

The organisation of social services in Andorra is governed by Law No. 6/2014 of 24 April 2014 on social and medico-social services (*Llei 6/2014 de serveis socials i sociosanitaris*).

This law provides that social and medico-social services shall be provided in order to assist the population as a whole and in particular those who are in need of social welfare support or at risk of social exclusion and who do not have the personal or family means or resources to cope with the situation. The law lays down the rules governing holders of rights and duties and aims to organise and structure the system of social and medico-social services, establishes the framework for the participation of public and private stakeholders and the portfolio of specific social and medico-social services and specifies the criteria for co-ordinating action and optimising resources.

Effective and equal access

In its previous conclusion (Conclusions 2013), the Committee reiterated its request for a more detailed explanation on how decisions on granting social services are taken and what judicial remedies are available to persons against unfavourable decisions on requests for such services.

The report states that decisions are made according to certain predefined criteria and conditions for each type of benefit, programme or service applied for, in accordance with Law No. 6/2014 and the Decree approving the Regulation of 18 May 2016 on social and medico-social welfare benefits (*Decret d'aprovació del Reglament regulador de les prestacions econòmiques de serveis socials i sociosanitaris*), which came into force on 1 September 2016 (outside the reference period). One of the guiding principles of this law is the person-centered approach.

The report explains that national competence for social services lies with the Ministry of Social Services, Justice and the Interior with the participation of the *comuns.* The *comuns* are required to promote and facilitate access to the technical services within their purview, to the extent of the funds allocated, and to deliver these services either directly or through partner agencies. To this end, the *comuns* must help families and individuals who cannot afford the public tariffs charged for services within their competence. Under Article 35 of Law No. 6/2014, central government may delegate to the *comuns* the task of managing technical services relating to primary social care and domiciliary care. In order to establish inter-agency co-ordination and co-operation between central government and the *comuns* in certain areas of mutual interest relating to social services, in 2015 the Andorran government approved the Regulation on the National Commission for Social Well-being (CONBS) (*Reglament de regulació de la Comissió Nacional de Benestar Social*) set up under Article 36 of Law No.6/2014 which performs a number of functions.

As regards the judicial remedies available to persons wishing to appeal against unfavourable decisions on requests for social services, the report states that accordingly, under Article 124 of the Administration Code of 29 March 1989, as amended by Law No. 45/2014 of 18 December 2014, it is possible to lodge an appeal against an unfavourable decision (*recurs de reposició*) with the government. In addition, under Article 36 of the Decree Law of 15 July 2015 publishing the Law of 15 November 1989 on administrative and fiscal administration (*Decret legislatiu de publicació de la Llei de la Jurisdicció Administrativa i Fiscal*), a *recurs de reposició decision can be challenged by lodging an appeal with the Administrative Chamber of the Tribunal de Batlles*, within one month as from the day after the decision in question was notified. In accordance with the Decree of 17 December 2014 approving the

Regulation on the right to defence and to the assistance of a lawyer (*Decret d'aprovació del Reglament regulador del dret a la defensa i l'assistència tècnica lletrades*), individuals who have been declared insolvent by the competent *batlle* (judge) or court, according to the thresholds and scales stipulated in this Regulation, are entitled to a number of rights, including the right to be assisted and represented free of charge by a lawyer.

In its previous conclusion (Conclusions 2013), the Committee also asked for confirmation that nationals of other States Parties were guaranteed equal treatment as regards access to social services.

According to the report, Article 3 of Law No. 6/2014 establishes equality and fairness as basic principles governing access to and use of social and medico-social services (services, measures, programmes and protocols). Article 5 of Law No. 6/2014 which sets out the eligibility requirements for social and medico-social services, they are available to anyone who is legally, effectively or permanently resident in Andorra, irrespective of their nationality, except for minors, who are covered by the UN Convention on the Rights of the Child, and persons with disabilities, who may live abroad for the purpose of receiving treatment for their disability or illness.

In its previous conclusion (Conclusions 2013), the Committee also asked for the information on the charges paid by the beneficiaries of social services to be updated.

According to the report, primary social care services are guaranteed free of charge. Domiciliary care, which includes home help services, telephone assistance, fostering and child-minding services, is provided until the funds run out (*prestació de concurrència*), except for domiciliary care for highly dependent persons and telephone assistance, which are guaranteed, along with the foster family service for children and adolescents and the support service for women victims of gender-based violence and their children, which are guaranteed and free of charge. Day care services such as the early care service, the occupational assistance service and the day centre-based medico-social service are guaranteed and co-financed.

The report indicates the support services available: a) Guardianship service b) Full support service for victims of gender-based violence c) Personal care service d) Occupational integration support service e) Complementary health care f) Caregiver's support g) Emergency helpline h) Social volunteering i) Special transport service. The services listed in a), b) and g) are guaranteed and free of charge. The service mentioned in d) is guaranteed and co-financed, except for information about resources and individual counselling which are guaranteed and free of charge. The service mentioned in e) is available on the terms laid down in the social security regulations.

The report also lists the technological services available and explains that people who do not have sufficient resources to pay the public tariff charged for these services and who are not receiving any help from their families or close relatives who have an obligation to support them, can apply for financial assistance from the Public Administration, without prejudice to the Administration's right to seek reimbursement from the family or other relatives concerned. The report indicates the individual social cohesion economic threshold (LECS) which is equivalent to the interprofessional minimum wage, currently €975.87 per month.

Quality of services

In its previous conclusion (Conclusions 2013), the Committee had asked what conditions providers must meet to be able to offer their services.

According to the report, there is a Regulation on technical and technological assistance, which is currently the subject of a consultation with social and medico-social service bodies, and is expected to be approved in January 2017. This Regulation elaborates on three key instruments of Law No. 6/2014: authorisation, accreditation and registration. The Committee notes that the new Regulation on technical and technological assistance was adopted

outside the reference period and asks that the next report provides information on the implementation of such a Regulation.

The report points out that in order to monitor the quality of social services, the Law states that organisations receiving public funding for the provision of social and medico-social services must undergo a financial and management audit. Organisations in receipt of €25 000 or more per year are required to perform this audit every year, and those in receipt of smaller amounts every 4 years. Lastly, Law No. 6/2014 provides that central government, through the ministry competent for social affairs, is responsible for granting authorisations to open and/or modify social and medico-social service centres and facilities; it determines the facilities and technical and material requirements for the various centres, the operating conditions for the services and the number of staff and the minimum qualifications required (Article 33.2.c). In this respect, the Committee requests that the next report provides information about the impact on the quality of social services and on users of the implementation of the introduction of Law No. 6/2014.

In its previous conclusion (Conclusions 2013) the Committee had also asked for information in the next report on steps taken to ensure that social welfare services provided by the different agencies concerned were of a sufficient standard.

According to the report, Article 51 of Law No. 6/2014 tasks central government and the *comuns*, within the scope of their powers and in accordance with the co-operation agreements drawn up, with monitoring the quality of services provided by social and medico-social service centres and facilities. For example, they are required to conduct regular opinion polls to determine the level of user satisfaction. Article 52 of Law No. 6/2014 states that for the purpose of carrying out this monitoring, the ministry responsible for social affairs must set up a health and social care inspectorate, which acts either on its own initiative or at the request of a party. Article 53 of Law No. 6/2014 sets out the functions of the Health and Social Care Inspectorate: the inspectors are to assess, monitor and verify the correct application of the regulations, including notably as regards respect for users' rights and the standard of service; as well as the investigatory tasks which they are required to perform by the competent ministry, the inspectors take particular care to ensure compliance with the requirements for obtaining authorisation or accreditation. Article 46 of Law No. 6/2014 stipulates that every two years, the government must request an audit of the effectiveness and efficiency of social and medico-social services, to be carried out by firms with recognised expertise in this area following a public call for tenders.

In its previous conclusion (Conclusions 2013), the Committee had also requested that the next report indicate the qualifications required for social welfare personnel and demonstrate that there were enough such personnel to meet needs.

The report states that under Article 9 of Law No. 6/2014, senior managers of social and medico-social service centres and facilities must possess the qualifications and knowledge required by the relevant regulations. Article 10 of Law No. 6/2014 stipulates that all professionals working in social and medico-social services must have received formal training and hold a formal qualification. Social workers and specialised teachers working in the primary social care sector and those working in other services must hold a university degree certifying that they possess the knowledge and technical and operational skills needed to perform their duties. Other social and medico-social professionals may be recruited from health care, education, family welfare, occupational integration or other specialist fields relevant to the services to be provided and programmes to be implemented. They must hold a university degree and/or have received training such as to enable them to perform the duties assigned to their occupational category and, where appropriate, must be listed in the Register of Health Professions (*Registre de Professions Sanitàries*) or other registers prescribed by the relevant regulations.

Law No. 6/2014 stipulates a ratio of at least one social worker per 5 000 inhabitants and one specialised teacher per 8 500 inhabitants. Each parish has at least one social worker and

one specialised teacher, employed either full-time or part-time. 14 social xorkers and 2 specialised teachers are working for the LDepartment of Social Affairs of the Ministry of Social Affairs. In any case, the number of staff employed in primary social care is sufficient for the needs of the population and there is no waiting list given that the *comuns* also have specialised teachers, and that professionals in the Ministry of Social Affairs, Justice and the Interior now work in a co-ordinated fashion with their counterparts in the *comuns.*

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 14§1 of the Charter.

Article 14 - Right to benefit from social 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 Andorra.

In its previous conclusion (Conclusions 2013), the Committee asked again what procedures were in place and what conditions were imposed in connection with non-profit organisations and other non-public providers wishing to offer services, and how their activities were monitored. It also asked for information on initiatives taken to encourage user participation in the creation and maintenance of social services.

The report states that Law No. 6/2014 stipulates that non-profit organisations must be encouraged and must receive certain types of preferential treatment. Consequently, the Government approved the regulation by the Commission on the Participation of Civic Bodies (*Reglament Regulador de la Comissió de la Participació de les Entitats Cíviques* (COPEC)). COPEC was established in November 2016 (outside the reference period), has met once and has been consulted on the regulation relating to technical and technological social and medico-social services, which includes a detailed appendix of all the services offered. In this connection, the Committee asks what impact the regulation has on the quality of services offered by non-profit organisations.

The report states that during this reference period and in accordance with the National Plan on social and medico-social services, each year there were calls for applications for subsidies granted to non-profit organisations legally established in Andorra carrying out an action or social programme. Since the entry into force of Law No. 6/2014, financial assistance continues to be allocated to non-profit organisations through co-operation agreements with the government, to enable these organisations to carry out actions and programmes and provide services in the social and medico-social field.

The report outlines the procedures and conditions that regulate private initiatives and the types of organisations that exist. Only organisations in conformity with the regulations in force, which have obtained authorisation and are registered with the national register of social and medico-social services, are allowed to establish and run centres and facilities providing technical social and medico-social services. Article 3.c of Law No. 6/2014 stipulates that the public authorities should promote citizen initiatives aimed at encouraging citizen involvement in identifying and meeting needs so that individuals and families may be completely independent. This is to be achieved through citizen involvement in drawing up programmes, assessing needs and monitoring social and medico-social services. It is for this reason that the law sets out active society, solidarity and participation as the guiding principles of the social and medico-social services.

The report provides statistics (the number of organisations and the amount) relating to the subsidies given by the Andorran Government, through the Ministry of Social Affairs, Justice and the Interior, to a number of non-profit organisations following annual calls for applications or in the context of co-operation agreements during the reference period.

According to the report, a number of instruments make it possible to monitor non-profit organisations action. Article 39 of Law No. 6/2014 specifies that the Government must carry out a financial audit of all non-profit organisations in receipt of a subsidy. In addition, the official document detailing the conditions that non-profit organisations must meet to be able to present their programmes and projects, states that follow-up visits will take place throughout the year to check that the projects are completed, and that the accounts and a report on the subsidised actions must be presented every year, regardless of the amount received. The report highlights that there is also an inspection department that assesses, monitors and verifies the correct application of the regulations.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 14§2 of the Charter.

Article 23 - Right of the elderly to social protection

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

Legislative framework

The Committee points out that the main aim of Article 23 of the Charter is to enable elderly persons to remain full members of society and, it consequently invites the States Parties to make sure that they have appropriate legislation to, firstly, combat age discrimination outside employment and to, secondly, provide for a procedure of assisted decision making.

With regard to age-based discrimination, the Committee asked in its previous conclusion (Conclusion 2013) if anti-discrimination legislation (or an equivalent legal framework) to protect elderly persons outside the field of employment exist, or whether Andorra plans to legislate in this area. The report states that there is no specific legislation on the subject. It further states that the principle of equal treatment is enshrined in more general terms in Andorran legislation, as with Law No. 6/2014 of 24 April 2014 on social and medico-social services and, in particular its Article 3.i. The Committee asks whether there exist a case-law on age discrimination outside employment which would protect elderly persons from such form of discrimination. Meanwhile, it reserves its position on this issue.

The report also states that Andorra is working on a bill on equal treatment and non-discrimination. The drafting process is intended to be participatory so it involves all social sector organisations, including those representing the elderly. The Committee asks whether age will be included as a possible ground of prohibited discrimination. It also asks to be informed of all developments concerning this project.

With regard to assisted decision making for elderly persons, the Committee previously asked whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. The report states that Law No. 15/2004 on Incapacity and Guardianship Bodies, as amended, establishes a series of guarantees (declarations of incapacity, guardianship) intended to compensate for the loss of legal capacity: In their judgments, courts must set out the extent and the limits of legal incapacity and appoint the members of the guardianship body. Law No. 15/2004, as amended, also includes restrictive regulations on involuntary placement. The Committee asks for further information in the next report on such placement. The report further states that under Law No. 6/2014 on Social and Medico-Social Services, the beneficiaries of such services, which includes elderly people, should be able to take part in decisions concerning them, be treated with dignity and respect and without discrimination, and be given advice and guidance to help them take decisions. Infringements of these rights are regarded as offences and subject to penalties.

Adequate resources

When assessing the adequacy of resources of elderly persons under Article 23, the Committee takes into account all social protection measures guaranteed to elderly 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 elderly persons. These resources are then compared with median equivalised income. However, the Committee points out that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, it also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

In its previous conclusion (Conclusion 2013), the Committee asked what amount of pension is regarded as the minimum, thus triggering supplements. According to the report, Law No. 6/2014 guarantees elderly people fulfilling the relevant conditions a minimum income equal to the Social Cohesion Economic Threshold (LECS) due to the old-age social solidarity

allowance. In 2015, the amount guaranteed by this solidarity allowance came to € 962 per month.

According to the report, Andorra also offers a broad range of *ad hoc* or emergency forms of assistance to those who are entitled to them and specific technical and/or technological aids.

An elderly person who receives a social security pension paid by the Andorran Social Security Fund or a foreign fund is less than the LECS may, under certain conditions, be entitled to the solidarity allowance and have his or her income topped up to equal the LECS. The Committee asks the next report to specify what the conditions are**.**

The Committee also asked for information on the at-risk-of-poverty rate for persons aged 65 and over and about measures taken to address their situation. The report states that the threshold lies at the level of the LECS, which is equivalent to the minimum wage. The report also states that measures to improve the situation of elderly people and ensure that they receive social welfare benefits are set out in Law No. 6/2014.

Prevention of elder abuse

In its previous conclusion (Conclusion 2013), the Committee asked what was done to evaluate the extent of the problem, to raise awareness about the need to eradicate elder abuse and neglect, and if any legislative or other measures had been taken or were planned in this area. The Committee takes note of the information provided in the report but observes that the programmes to combat gender-based violence adopted by Andorra in accordance with Law No. 1/2015 are not addressed to elderly persons as such, meaning that an important part of them is not covered by the measures implementing those programmes. The Committee also notes that Law No. 9/2005 on the Criminal Code, as amended, has made age or, to be more precise, "vulnerability owing to old age" an aggravating circumstance in criminal cases. The Andorran Criminal Code also includes ill-treatment among offences against persons' health and physical integrity. Finally, the Committee notes that the Health and Social Care Inspectorate set up by Law No. 6/2014 may be called on to deal with cases of physical or psychological ill-treatment brought to its attention.

Services and facilities

The Committee points out that, although Article 23 makes reference only to information about services and facilities, it presupposes that such services and facilities exist.

With regard to the services and facilities themselves, the Committee firstly asked in its previous conclusion (Conclusion 2013) how many people benefit from the Red Cross Helpline and if the supply matches the demand. The report states that in 2015, the helpline dealt with 248 people. It confirms that the supply matches the demand as anybody who wants can access the service.

Secondly, the Committee asked if measures were planned to promote services for the elderly. The report states that the following services are available to the elderly: a first tier of social assistance, home help (home care provision, home helplines, host families), day care (day care centres, old people's centres), support services (guardianship services, personal services, support for family carers, adapted transport services), and a specialised service to assess situations of dependence. The report also states that Law No. 6/2014 has reformed the system of home help services by centralising its management, transferring it to government level, and extending these services to the entire country. A draft Regulation on technical and technological aids is being drawn up to clarify the functioning of the various services proposed. The Committee asks the next report to provide further information on the impact of those measures.

Thirdly, the Committee asked for details of the charges for services available to the elderly. According to the report, Law No. 6/2014 establishes a new system of financing based on the

joint responsibility of the relevant public authorities, the beneficiaries and where appropriate, their families when they have maintenance obligations. The cost of places in geriatric centres is broken down into three components: health, assistance with independence, and board and lodging. The two components are financed mainly by the government while users cover the cost of the third. However, vulnerable persons may receive financial aid.

The Committee asked in its fourth and last questions how the quality of services was monitored and whether there was a procedure for complaining about the standard of services. According to the report, Article 53 of Law No. 6/2014 requires private bodies to obtain a licence and entrusts the Health and Social Care Inspectorate with the task of monitoring the services provided. Beneficiaries of the social and medico-social services have the right to submit complaints or suggestions and to receive a written reply.

With regard to information on the existence of the services and facilities available, the Committee notes that Andorra set up a website, www.Govern.ad, which proposes an interface adapted to elderly people's needs. It is also working on the preparation of a good practice guide on accessibility.

Housing

In its previous conclusion (Conclusions 2013), the Committee asked, *inter alia*, whether there were any public financing mechanisms (loans, grants, etc.) available to elderly persons for home renovation/adjustment works. The report states that Andorra offers elderly people housing allowances (157 beneficiaries in 2015, receiving a total annual amount of €1 718), occasional assistance, together with technological benefits intended for housing conversion. It is possible, when carrying out conversion projects, to ask the Accessibility Commission for advice on the design of the changes to be made.

Health care

In its previous conclusion (Conclusions 2013), the Committee asked for information on specific healthcare services aimed at the elderly, mental health programmes, palliative care services and special training for individuals caring for elderly persons. According to the report, Andorra sets up an Interministerial Commission on Medico-Social Services, whose main task is to provide advice, help with medico-social activities and set up systems to co-ordinate social and medico-social services. The report also states that the "Notre Dame de Meritxell hospital" houses a mental health ward and palliative care service which provide home help in co-ordination with the social and medico-social services. The report further states that training courses are offered, one of which is intended for non-professional carers and another of which is intended for professionals wishing to improve the quality of the services provided in specialised establishments.

The Committee also asked to be informed of any measures aimed at improving the accessibility and quality of geriatric and long-term care, and the co-ordination of social and healthcare services for the elderly. According to the report, Law No. 6/2014 includes several measures intended to improve the accessibility of geriatric care and safeguard access to it. The Committee notes from the report that under the abovementioned Law, beneficiaries of social and medico-social services have the right for all data and information relating to them to be private and confidential.

Institutional care

In its previous conclusion (Conclusions 2013), the Committee asked whether capacity was sufficient to meet the needs of the elderly and whether the number of applications for institutional care was on the increase or not. The report states that Andorra has 4 medico-social centres (public and private), which provide 85 day care places and 387 permanent accommodation places in total. In order to better assess the situation, the Committee wishes

to know in the next report how many elderly people there are in Andorra and what proportion of the total population of Andorra this amounts to.

The Committee also asked whether an independent inspection system of public and private residential care services existed. The report states that the assessment and supervision of standards, particularly respect for users' rights and the quality of services, is entrusted to the Health and Social Care Inspectorate, which also follows up on inspections with the co-operation of the Health Department and other relevant ministries. The report also states that Law No. 6/2014 requires the government to conduct audits on the efficiency of social and medico-social services, which could lead to the preparation of a service improvement plan. The Committee asks to be informed of the results of this audit and the measures that might be adopted.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 23 of the Charter.

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

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

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 the replies to its questions previously raised. According to the report, the at risk of poverty rate is used to calculate the Economic Precariousness Threshold (LEP) as well as the Social Cohesion Threshold (LECS). With respect to the Social Cohesion Threshold, the resulting threshold value after using the Eurostat methodology (60% of median equivalised income) is very close to the minimum wage. In 2015, the minimum wage stood at 962 €. According to the report the minimum wage coincides closely with the minimum subsistence level which will allow an individual or a family to cover all basic needs (food, accommodation, clothing, education, health, leisure activities and transport).

As for the next report, the Committee reiterates its request to receive an estimate of the at-risk-of-poverty rate calculated according to the Eurostat methodology (persons with an income of 60% of median equivalised income or less).

As for the request for obtaining poverty rates before and after social transfers, the Committee notes the efforts made in order to obtain these figures pursuant to Section 45 of Act No. 6/2014. More particularly an IT system is being developed which will allow the integration of data from all relevant ministries and authorities, notably those responsible for social affairs, helth, education, employment, housing as well as the Social Security Fund. The IT development is currently in its final phase and the report indicates that the data previously requested by the Committee will be available from the new system as from 2018. The Committee asks that they be included in the next report.

Finally, the Committee notes from a variety of sources that despite the absence of precise and reliable official statistical data, it is estimated that in view of the nature of the Andorran economy, its income structure and the size of its population, the incidence of poverty is very low. According to a 2003 study by the Andorran Ministry of Finances, the extreme poverty rate is less than 1% and with less than 8% being at risk of poverty, see http://www.estadistica.ad/serveiestudis/web/index.asp.

Approach to combating poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights. The overall and coordinated approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach and coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should exist.

The Committee notes that report contains only very limited information on how the Government co-ordinates efforts and measures in different areas to arrive at the “overall and co-ordinated approach” required by Article 30 of the Charter and hence to cater for the multidimensional nature of poverty and social exclusion. The Committee therefore asks that information be provided in the next report not only on the measures implemented, but also on the existence of coordination mechanisms for these measures, including at delivery level (that is, how coordination is ensured in relation to the individual beneficiaries of assistance and services). It also asks that the next report contain 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.

Finally, the Committee refers to its conclusions of non-conformity under other provisions of the Charter which are relevant to its assessment of compliance with Article 30 (see Conclusions 2013, Statement of interpretation on Article 30). It refers in particular to Article 12§1 and its conclusion that the minimum level of sickness benefits and occupational injury and occupational disease benefits is manifestly inadequate (Conclusions 2017), to Article 7§5 and its conclusion that the minimum wage of young workers is not fair and that the apprentices' allowances are not appropriate (Conclusions 2015) and to Article 31§2 and its conclusion that it has not been established that there is adequate legal protection for persons threatened with eviction and that the law prohibits eviction from emergency accomodation/shelters (Conclusions 2015).

Nevertheless, in view of the low level of poverty and while awaiting the information requested, notably the statistical information announced by the Government for 2018, the Committee reserves its position as to the conformity of the situation with Article 30.

Monitoring and evaluation

The Committee recalls that Article 30 of the Charter requires the existence of monitoring mechanisms for reviewing and adapting the efforts in all areas and sectors, at all levels, national, regional, local, to combat poverty and social exclusion; mechanisms which should involve all relevant actors, including civil society and persons directly affected by poverty and exclusion (see Conclusions 2003, France, Article 30).

The Committee notes that actions to combat poverty are assessed by an audit of effectiveness and efficiency as required by the law. The audit makes it possible to analyse the evolution of poverty taking into account other data such as the employment rate.

As for the participation of individuals and associations to take part in the monitoring and the assessment of measures to combat poverty and social exclusion, the Committee takes note that by a law adopted in 2014 such participation is guaranteed through the establishment of a Commission for the Participation of Civil Society Entities (COPEC) covering the social and medico-social field in Andorra thus ensuring transparency of the decisions taken. One of the tasks of this Commission is to prepare proposals for the improvement and adaption of social welfare legislation with a view to attaining the objectives laid down by such legislation

Conclusion

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

CONCLUSIONS RELATING TO CONCLUSIONS OF NON-CONFORMITY DUE TO A REPEATED LACK OF INFORMATION IN CONCLUSIONS 2015

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

Paragraph 1 - Assistance and information on migration

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information provided by Andorra in response to the conclusion that it had not been established that adequate measures had been taken to combat misleading propaganda about emigration and immigration.

The Committee points out that in combating misleading propaganda, States Parties to the Charter must take legal and practical measures tackling racism and xenophobia aimed at the population as a whole.

According to the report, Andorra amended the Criminal Code, in particular its Article 338, in December 2014, and established as criminal offences, *inter alia* public incitement to violence, hatred or discrimination against an individual or a group of individuals, public insults or defamation and threats, as well as the public dissemination or distribution and the production or possession of racist images or material.

The report also refers to some draft legislation (a draft law on combating trafficking in human beings and protecting victims and a draft law extending the powers of the Ombudsman to issues concerning racism, intolerance and non-discrimination) which was expected to be shortly tabled in Parliament for adoption. The Committee asks the next report to provide updated information in this respect.

The report adds that specific training on racism and racial discrimination is provided for judges, lawyers and prosecutors and other legal professionals and also, where necessary, for other relevant personnel such as police officers and social workers. The Committee also notes from the fifth report of the European Commission against Racism and Intolerance (ECRI) adopted on 6 December 2016 that while 15 or so journalists attended a conference on the offences of incitement to hatred and discrimination, no other general efforts to raise awareness of human rights appear to have been organised for journalists. The Committee also notes that the recommendations by ECRI, which attaches great importance to the setting up of an independent body capable of investigating complaints against the media, have not been acted on. The Committee asks whether it is planned to set up such a body and, if so, when.

The Committee notes, again from ECRI's fifth report, that Andorra has implemented an advanced inclusive educational programme which attaches considerable importance to human rights and efforts to tackle stereotypes, hate speech and discrimination.

Lastly, the report indicates that Andorra provides a website with interfaces in various languages, information brochures and an individualised multilingual telephone information service for immigrants and emigrants. The Committee notes that, contrary to what is stated in the report, the website does not have any interfaces in languages other than Catalan.

In the light of the information available, the Committee considers that Andorra has taken adequate steps to combat misleading propaganda.

The Committee recalls that the situation concerning other aspects covered by Article 19§1 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 19§1 of the Charter.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information provided by Andorra in response to the conclusion that it had not been established, firstly, that there was adequate legal protection for persons threatened with eviction and, secondly, the law prohibited eviction from emergency accommodation/shelters without the provision of alternative accommodation.

Forced Eviction

In its previous conclusion, the Committee asked whether the formal warning given to the tenants who failed to comply with an evicted order fixes a new period notice before forced eviction. It also asked for information on the prohibition to carry out evictions at night or during winter, access to legal remedies, access to legal aid or compensation in the event of illegal eviction. The report states that although there are no specific regulations to protect persons threatened with eviction, the judicial authorities do not in, practice, evict financially vulnerable persons without notifying the welfare services beforehand. It further indicates that the judicial authorities never order evictions when the person or household concerned has no alternative accommodation, and there must be confirmed alternative accommodation when the household includes children, persons with disabilities, elderly persons or other "vulnerable" persons. Over two months' notice is given for "forced evictions".

While taking note of this information, the Committee points out that Article 31§2, as interpreted by the Committee (see, in particular, the decision on the merits of collective complaint No. 15/2003 of 8 December 2004, European Roma Rights Centre (ERRC) v. Greece, §51; the decision on the merits of collective complaint No. 31/2005 of 18 October 2006, ERRC v. Bulgaria, §53), requires eviction to take place in accordance with rules which are sufficiently protective of the rights of the persons concerned. In other words, Article 31§2 implies that such rules exist. In this regard, even though States Parties have a certain margin of appreciation when implementing the provisions of Article 31§2, they must take the necessary legislative measures to prevent vulnerable persons threatened with eviction from being (arbitrarily) deprived of accommodation. Consequently, in the absence of specific regulations to protect persons threatened with eviction, the Committee considers the situation to be not in conformity with the Charter on this point.

Moreover, the Committee notes that the report does not provide any information on the prohibition on carrying out evictions at night or during winter, access to legal remedies access to legal aid or compensation in the event of illegal eviction. It reiterates its questions and, in the meantime, reserves its position on these points.

Right to shelter

The Committee refers to its Statement of Interpretation on Article 31§2 (Conclusions 2015) and recalls that eviction from shelters without the provision of alternative accommodation is prohibited.

In this regard, the report states that when the situation of homeless persons is brought to their attention, the welfare services assess the situation and adopt (two-stage) welfare action plans under which immediate temporary accommodation is found, followed later on by (long-term) transfers to "ordinary" accommodation.

The Committee understands that Andorran authorities in practice never evict anyone without first offering alternative accommodation. It requests the next report to clarify whether this understanding is correct and, in the meantime, reserves its position on this point.

The Committee recalls that the situation concerning other aspects covered by Article 31§2 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 31§2 of the Charter on the ground that there is no adequate legal protection for persons threatened with eviction.