



January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

BULGARIA

This text may be subject to editorial revision.

The following chapter concerns Bulgaria, which ratified the Charter on 7 June 2000. The deadline for submitting the 15th report was 31 October 2016 and Bulgaria submitted it on 6 December 2016.

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).

Bulgaria has accepted all provisions from the above-mentioned group except Article 12§§2 and 4; Article 13§4; Article 23 and Article 30.

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

The conclusions relating to Bulgaria concern 14 situations and are as follows:

- 9 conclusions of conformity: Articles 3§1, 3§2, 3§4, 11§2, 11§3, 12§3, 13§2, 13§3 and 14§2.
- 5 conclusions of non-conformity: Articles 3§3, 11§1, 12§1, 13§1 and 14§1.

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

Article 3§1

As part of the project on "Prevention for Occupational Safety and Health", practical tools for evaluation of the risk at the workplace (under 30 economic activities) were developed. There is an interactive instrument for risk evaluation which is available to all employers, officials and workers through the OiRA platform. The tools allow employers, both Bulgarian and European, to carry out alone, without hiring external consultants, the risk assessment mandatorily required by the law in their enterprises, as well as to conduct trainings and briefings to their workers and employees.

Article 3§2

- Law amending and supplementing the Health and Safety at Work Act (SG, No. 27 of 2014) was adopted. The Law creates the legal basis for issuing authorisations for special and technological blasting operations and a further set of amendments expands the rights of workers regarding the control of working conditions. The Ordinance on the minimum requirements to the microclimate of the working environment (SG, No. 63 of 2014) also was adopted. It sets minimum requirements for the protection of workers from health and safety risks arising from the microclimate parameters of the working environment in buildings and from adverse weather conditions when working outdoors; it also defines limit values of the microclimate parameters of the working environment on buildings (provisions for temperature, humidity and air movement);
- The Ordinance on the Basic Norms of Radiation Protection (SG No. 76 of 5 October 2012) was adopted. It provides the basic requirements for radiation protection, the criteria and levels for exemption from regulation, measures for radiation protection upon the implementation of activities of use of nuclear energy and the sources of ionising radiation (SIR) within the meaning of the Safe Use of Nuclear Energy Act.

Article 3§4

An Ordinance on the Basic Norms of Radiation Protection (SG No.76 of 5 October 2012) was adopted. It contains special provisions concerning an evaluation of the irradiation and medical surveillance. According to this Ordinance, workers exposed to radiation are subject to mandatory medical surveillance in order to establish their health condition and their suitability from a medical standpoint to perform the tasks they are assigned with. The medical surveillance over persons is implemented by healthcare and/or medical establishments. Enterprises and specialised control authorities are bound to submit to healthcare establishments information for the parameters of working environment, conditions of work and the results from the individual monitoring.

Article 12§3

- The personal scope of mandatory insurance for general sickness and maternity, disability on account of a general sickness, old age and death, labour accident and occupational disease and unemployment has been extended to workers and employees hired for up to 5 working days (40 hours) over the calendar month and persons entrusted with the management and / or control of state and municipal enterprises under Chapter Nine of the Commercial Code, their subsidiaries or other legal entities established by law (in 2015); as well as to other categories of workers (candidate junior judges and junior prosecutors in 2012, persons under the Special Surveillance Means Act in 2013);
- The personal scope of insurance for invalidity on account of a general sickness, old age and death and for general sickness and maternity has also been extended, in 2012, to spouses of self-employed persons, craftsmen and farmers (as voluntary insurance);
- The personal scope of insurance for invalidity on account of a general sickness, old age and death and for labour accident and occupational disease has been extended in 2015 to seasonal agriculture employees;
- All labour (contributory) pensions have been increased (for the Public pension insurance, the increase was around 8% during the reference period), to compensate the inflation and an indexation rule (so called "Swiss rule") has been set and applied as from 2014;
- The social pension for old age was also increased (by some 14% during the reference period), as well as the benefits based on the level of the social pension (labour accident benefit, invalidity pension and survivor's pension).

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The next report to be submitted by Bulgaria will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The report should also contain information requested by the Committee in Conclusions 2016 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right to work – policy of full employment (Article 1§1),
- the right to work – freely undertaken work (forced labour) (Article 1§2).

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.

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 Bulgaria.

General objective of the policy

In its previous conclusion (Conclusions 2013), the Committee asked whether the policy in the field of occupational health and safety is regularly assessed and reviewed in light of changing risks. It also asked for information on any major changes or updates in the legislation and regulations on occupational health and safety.

In reply, the report explains that the Bulgarian Government approved the 2008-2012 Strategy on Safety and Health with a Ministerial Decision on 26 June 2008. The Minister of Labour and Social Policy shall draw up and submit annually to the Council of Ministers for approval an annual National Programme for Safety and Health at Work and the Implementation Report for the Strategy of the previous year. The implementation Reports present the results of the activities implemented under the National Programme in the strategic priority areas. The Committee takes note that the status, trends and problems of the activity for ensuring health and safety at work are analysed and that measures to improve the implementation of certain objectives and priorities are proposed. The Committee refers to its assessment in the light of Article 3§2 of the Charter for a description of the safety and health at work legislation and regulations amended during the reference period.

The report indicates that, pursuant to a Decision of the National Council on Working Conditions, two medium-terms strategic documents will be adopted for the period up to 2020 – National Programmes for Safety and Health at Work which outline the national measures and activities according to the EU Occupational Health and Safety Strategic Framework 2014-2020. The Occupational Health and Safety National Programme 2016-2020 has been drafted, discussed, approved by the National Council on Working Conditions and will be submitted to the Council of Ministers for approval. The Committee asks that the next report provides information on the activities implemented and the results obtained by the programmes.

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 found that measures for occupational risk prevention were taken at national level and asked for more detailed information on the General Labour Inspection's (GLI) role in the development of a culture of health and safety among employers and workers, on its duty to share knowledge about risks and risk prevention in light of its inspection experience and as part of preventive activities.

In response, the report indicates that the key priorities in the activity of the General Labour Inspectorate Executive Agency (GLI EA) include, *inter alia*, protection from occupational and health risks at work, guaranteeing the workers' rights, enabling them to stand up for their interests and to take part in the decision-making processes. These priorities are implemented by GLI EA through its annual plans and objectives. Labour inspectors report the presence of evidence of general improvement of the activity of securing health and

safety at work. The Committee notes that, according to the report, there are a lot of small and medium enterprises, in which the knowledge of safe and health working conditions is insufficient or frequently absent; in lots of economic sectors part of the Bulgarian production is still carried out by the use of obsolete machinery and equipment that generate harmful effects and hazards for the workers. However, the report stresses out that the specified challenges are analysed in details and evaluated.

The GLI EA has a considerable role for the development of a culture of health at work among employers and workers, as the control authorities share their knowledge of risks and prevention on the light of the experience from their inspections. The Committee notes the number of free consultations on issues related to safe and healthy at work, given by the GLI with respect to the observance of the labour legislation for the reference period and its results (serious progress in the provision of safe and healthy working conditions; increase of the relative share of the enterprises that made a risk evaluation; adoption of a programme for risk elimination and work on the implementation of the latter).

The report states that, as part of the project on “Prevention for Occupational Safety and Health”, practical tools for evaluation of the risk at the workplace (under the 30 economic activities, see below) were developed. There is an interactive instrument for risk evaluation which is available to all employers, officials and workers through the OiRA platform. The tools allow employers, both Bulgarian and European, to carry out alone, without hiring external consultants, the risk assessment mandatorily required by the law in their enterprises, as well as to conduct trainings and briefings to their workers and employees.

The Committee considers that measures for occupational risk prevention, awareness-raising and assessment of work-related risks and information and training for workers are provided at national and undertaking levels. It further notes that the General Labour Inspectorate Executive Agency is involved in the development of a health and safety culture among employers and employees and shares knowledge of occupational hazards and prevention acquired during inspection activities. The situation is therefore in conformity with Article 3§1 of the Charter in this respect.

Improvement of occupational safety and health

In response to Committee’s questions on the improvement of occupational safety and health (Conclusions 2013), the report indicates that the GLI EA implemented project “Prevention for Occupational Safety and Health” co-financed by the EU through the European Social Fund. Within this project, the GLI EA developed 30 profiles under healthy and safe working conditions by economic activities representing structured information for separate economic activities at a section level (Classifier of Economic Activities, 2008). The Committee notes that these 30 economic activities were determined jointly with the social partners on the basis of the results from a national survey of the working conditions, which covered all economic activities and provided up-to-date information for all elements of the working conditions. In this way, the 30 top risk and socially important economic activities were determined, for which models of the safe and healthy working conditions activity management systems were developed. Within the Project, codes of good practices containing technical rules, guidelines containing practical rules and guiding principles on safe and healthy working condition for the said 30 economic activities, were also developed.

The report indicates that training seminars were conducted for experts and officials on the development and introduction of the models of safe and healthy working conditions management systems under economic activities.

The Committee notes that there is a system aimed at improving occupational health and safety through research, development and training.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013 and 2009), the Committee noted that the National Council on Working Conditions was effective in promoting social dialogue at national level and that there were equivalent regional councils in all districts. It asked for detailed information on consultation mechanisms at company level. In reply, the report states that bilateral social dialogue at undertaking level in the field of health and safety at work occurs through the Committees and Groups on Working Conditions. Committees on Working Conditions of 4 to 10 members are set up in undertakings with more than 50 employees. In undertakings with sizeable staff, complex structure and territorial fragmentation, committees may be set at the respective structural units in addition to those at undertaking level. Groups on Working Conditions are set up in undertakings (including from the public sector) with 5 to 50 employees inclusive, as well as in the individual structural units of undertakings. In undertakings with less than 5 employees, the employer discusses Occupational Safety and Health matters with the workers, including in case of risks which constitute immediate danger for employee's health and safety or for their life. The social dialogue on OSH at undertaking level is effected also through the collective agreements according to the Labour Code. The Committee refers to the report for a detailed description of consultation mechanisms at company level.

In addition, the report indicates that, pursuant to Article 41 of the Health and Safety at Work Act, sectoral and branch councils on working conditions are set up at individual ministries and institutions. They include representatives of the national sectoral or branch federations, unions and trade unions of the representative employee organisations, of the sectoral or branch structures of the representative employer organisations and an equal number of representatives of the competent ministry or institution. These councils analyse the status of the activity for ensuring OSH in the respective sector, make arrangements for drafting and discussion rules and requirements for ensuring sector specific OSH. They also study and promote experience, organise competitions, workshops, campaigns; organise and hold training, standards and methods ensuring OSH.

Moreover, the Committee takes note that consultations at the national level are carried out within the National Council on Working Conditions, which is the tripartite standing body responsible for coordination, consultation and cooperation for the development and occupational safety and health policy at national level. The National Programme for Safety and Health at Work 2016-2020 has been approved by the National Council on Working Conditions.

The Committee notes that there is genuine co-operation between the authorities and the social partners, both at national and at company level.

Conclusion

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

Content of the regulations on health and safety at work

The report gives a list of health and safety legislation texts adopted and amended during the reference period. These changes concern, *inter alia*, the protection of workers from the risks related to exposure to chemical agents at work and to exposure to carcinogens and mutagens during work; healthy and safe labour conditions to certain categories of workers (temporary workers, fixed-term workers, pregnant workers, workers who have recently given birth or are breastfeeding, to persons under 18 years of age), safety requirements regarding machines and other technical equipment, and the requirements to the microclimate of the working environment.

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). The report does not provide any information on this point. The Committee accordingly reiterates its request. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Bulgaria is in conformity with Article 3§2 of the Charter.

Levels of prevention and protection

The Committee examines the levels of occupational prevention and protection provided for by the legislation and the regulations in relation to certain risks.

Establishment, alteration and upkeep of workplaces

In reply to the Committee's question (Conclusions 2013) regarding the transposition of EU Directives, the report states that Directive 2009/104/EC is fully transposed in the national occupational safety and health legislation by Ordinance No. 7/1999 on the minimum requirements for health and safety at work and upon use of working equipment (SG, No. 88/1999). Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) and repealing Directive 2004/40/EC is with a deadline for transposition by member States on 1st July 2016. The Committee notes that, according to the report, Ordinance on the minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields has been drafted with a view to transposing the provisions of Directive 2013/35/EC in the national legislation. The draft ordinance is pending public discussion and examination by the National Council on Working Conditions, whereupon it will be jointly endorsed by the Minister of Labour and Social Policy and the Minister of Health.

The report also indicates that during the reference period, a Law amending and supplementing the Health and Safety at Work Act (SG, No. 27 of 2014) was adopted. The Law creates the legal basis for issuing authorisations for special and technological blasting operations and a further set of amendments expands the rights of workers regarding the control of working conditions. The Ordinance on the minimum requirements to the microclimate of the working environment (SG, No. 63 of 2014) also was adopted. It sets minimum requirements for the protection of workers from health and safety risks arising from the microclimate parameters of the working environment in buildings and from adverse weather conditions when working outdoors; it also defines limit values of the microclimate parameters of the working environment on buildings (provisions for temperature, humidity and air movement). The report also indicates that Ordinance amending and supplementing

ordinance No. RD-07/8 of 20 December 2008 on minimum requirements for the provision of safety and/or health signs at work (SG, No. 46 of 2015), implements the requirements of Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labeling and packaging of substances and mixtures.

In its previous conclusion (Conclusions 2013), the Committee asked for more detailed information on the implementation, on the basis of mandatory workplace risk assessment, of preventive measures geared to the nature of risks, of information and training for workers, as well as of a schedule for compliance. The report indicates that Ordinance No. RD-07-2 on the Conditions and Procedures for the Conduction of Periodical Training and Briefing of Workers and Employees with the respect to the Rules for Provision of OHS determines the conditions and procedures for conduction of training and briefing on safety and health at work and applies in all enterprises and places where work is performed or a training is conducted according to Article 2§§1-2 of the Health and Safety at Work Act. The employer must make sure that each worker has passed an appropriate training and/or briefing on safety and health at work in accordance with the specificity of the profession/performed activity and of the workplace, as he/she must take into account the possible danger and the results from the risk evaluation of the respective workplace.

Protection against hazardous substances and agents

The report indicates that Directive 2009/161/EU establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC is implemented by Ordinance amending and supplementing Ordinance No. 13 of 2003 on the protection of workers from the risks related to exposure to chemical agents at work (SG, No. 2 of 2012). According to the report, Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures, was also implemented by Ordinance amending and supplementing Ordinance No. 13 of 2003 (SG, No. 46/2015), in relation to the minimum requirements for health and safety in case of risks related to exposure to chemical agents at work and in case of risks arising from exposure to carcinogens and mutagens at work. According to this Ordinance, the employer is bound to provide workers and their representatives with training and information for the respective safeguards and the actions that must be taken for self-protection and protection of the other workers, access to the safety data sheets of the chemical agents used, and reliability and update of the information.

Protection of workers against asbestos

In its previous conclusion (Conclusions 2013), the Committee asked for information on the measures adopted to incorporate into domestic law the exposure limit of 0.1 fibres/cm³ introduced by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work. In response, the report indicates that Directive 2009/148/EC is fully transposed into national occupational safety and health legislation by the Law amending and supplementing the Health Act (SG, No. 59 of 2006) and by Ordinance No.9 of the Ministry of Labour and Social Policy and the Ministry of Health of 4 August 2006 on the protection of workers from risks related to exposure to asbestos at work (SG, No. 71 of 2006). The Committee notes that the currently valid concentration level for asbestos is 0.1 fibres/cm³ (this limit applies to chrysolite and amphibole asbestos, specifically actinolite, amosite, anthophylliten crocidolite and tremolite). The report adds that the activities for demolition and/or removal of asbestos

and asbestos-containing materials are carried out by legal or natural persons who are issued authorisations under the Health Act. The activities for demolition or removal of asbestos and/or asbestos-containing materials from building, structures, undertakings, installations or vessels are carried out upon authorisations from the director of the regional inspectorate on whose territory the activities are carried out. The conditions and procedure for issuing authorisations include requirements pursuant to Section VII “Protection of the Health of Citizens in the Performance of Works with Asbestos and Asbestos-containing Materials” of the Health Act.

In addition, the Republic of Bulgaria put a ban on the import, production and use of all types of asbestos fibres and asbestos-containing products from 1st January 2005. The ban was implemented by the Ordinance on hazardous chemical substances and preparations subject to a ban or restrictions on the trade therein or use thereof.

The Committee takes note of additional intended measures detailed in the report (creation of the National Asbestos Profile, development of a National Programme for the Elimination of Asbestos Related Diseases, development of a register of workers exposed to asbestos at a national level, several inspections and others).

Protection of workers against ionising radiation

The report states that the legal framework and control over the exposition to ionising radiation is implemented in accordance with the Health Act, the Safe Use of Nuclear Energy Act and secondary legislative instruments.

Pursuant to the Safe Use of Nuclear Energy Act, nuclear energy and ionising radiation are to be used in accordance with the requirements and principles of radiation protection for the purpose of ensuring the protection of human life, health and living conditions for the present and future generations, environment and tangible valuables from the harmful impact of ionising radiation. This Act provides that irradiation with ionising radiation of the staff and population must be limited and kept at the lowest reasonably achievable level. The state regulation of the safe use of nuclear energy and ionising radiation shall be implemented by the Nuclear Regulatory Agency.

The Health Act contains a section dedicated to the protection from the effects of ionising radiation. Pursuant to Article 64, the protection of persons from the effect of ionising radiation takes place upon observance of the principles of radiation protection in accordance with this statute and the Safe Use of Nuclear Energy Act. The Committee takes note of protecting measures from the effects of ionising radiation detailed in the report. The medical surveillance of persons who work with sources of ionising radiation is carried out by the National Centre for Radiobiology and Radiation Protection and by medical establishments.

According to the report, the Ordinance on the Basic Norms of Radiation Protection (SG No. 76 of 5 October 2012) was adopted. It provides the basic requirements for radiation protection, the criteria and levels for exemption from regulation, measures for radiation protection upon the implementation of activities of use of nuclear energy and the sources of ionising radiation (SIR) within the meaning of the Safe Use of Nuclear Energy Act.

The Committee concludes that prevention and protection levels for asbestos and ionising radiation are in conformity with Article 3§2 of the Charter. It asks whether workers are protected up to a level at least equivalent to that set in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007).

Personal scope of the regulations

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

As regards specific regulations on safety and health at work concerning some categories of workers, the report indicates regulations amended over the reference period: Ordinance No. RD 07-8 of 13 July 2015 on the terms and procedure for submission, registration and reporting of the employment contracts under Article 114a (1) of the Labour Code to the Labour Inspectorate (SG, No. 54/2015) which sets out in detail the terms and procedure for submission, registration and reporting of short-term seasonal farm employment contracts to the Labour Inspectorate; Ordinance No. 07-4 of 15 June 2015 on improvement of working conditions of pregnant workers and workers who have recently given birth or are breastfeeding (SG, 46 of 2015) and Ordinance amending and supplementing Ordinance No. 6 of 2006 on the conditions and order for issuance of work permits to persons under 18 years of age (SG, No. 46/2015), which implement the requirements of Directive 2014/27/EU in relation to the minimum requirements for the health and safety at work.

Temporary workers

In its previous conclusion (Conclusions 2013), the Committee asked for information about the right of temporary workers, interim workers and workers under fixed-term employment contracts to be represented at work. In reply, the report states that, according to Article 68§2 of the Labour Code, employees under a fixed-term employment contract under Article 68§1 of the Labour Code, have the same rights and obligations as employees under a labour contract for an indefinite period of time. They cannot be put at a disadvantage on account only of the fixed-duration nature of their employment relationship compared to employees under a labour contract for an indefinite period of time who perform the same or similar work in the enterprise, except if the law makes the use of certain rights conditional on the possessed qualification or the acquired skills. When there are no employees employed on the same or similar job position, employees under a fixed-term employment contract cannot be disadvantaged in comparison with other workers and employees who work under a employment contract for an indefinite period of time. The Committee takes note that employees working under a fixed-term employment relationship have the same rights to representation as the ones laid down for employees working under an employment relationship for an indefinite period of time.

The report indicates that the legislation grants equal degree of protection from occupational hazards to all employees, the main provisions contained in the Labour Code, the Health and Safety at Work Act, and Ordinance No. 5 of 20 April 2006 on provision of healthy and safe working conditions to workers employed under fixed-term employment contracts or temporary employment contracts. The Ordinance amending and supplementing Ordinance No. 5 of 20 April 2006 (SG, No. 19 of 2013) achieves compliance of the requirements for provision of healthy and safe working conditions to workers employed under fixed-term employment relations and temporary employment relations with the Labour Code amendments regarding home working and teleworking. The report adds that the enhanced control of those conditions for workers who do not have permanent employment contract is an additional measure. The GLI EA has been carrying out inspection campaigns in relation to workers commissioned by temporary-work agencies for two years.

The report also indicates the amendments made to the labour legislation over the reference period in relation to the protection of temporary workers and workers under fixed-term employment contracts: the Law amending and supplementing the Labour Code (SG, No. 7 of 24 January 2012), passed in relation to the ratified ILO Convention No. 181 (1997) on private employment agencies, and Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work, which sets out the specific employment relations between temporary work agencies, workers, and the user undertakings, and the Law amending and supplementing the Labour Code (SG, No. 54 of 17 July 2015), which sets out, among others, the short-term seasonal employment contract in agriculture.

The Committee confirms that temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration.

Other types of workers

In response to the Committee's questions, the report states that, according to Article 14§1 of the Health and Safety at Work Act, legal entities and natural persons who independently employ workers, who use workers sent to them by an enterprise providing temporary employment, as well as those who work on their own account alone or in association with others, are bound to provide health and safety at work in all cases related to the work both of workers and of all other persons, which are on another occasion in or nearby the working premises, sites or places. According to Article 2§1 of the Health and Safety at Work Act, it applies in all enterprises and places where work is performed or training is conducted, regardless of the form of organisation, the type of ownership and the ground, on which the work or training is performed, as long as another law or international agreement does not provide for otherwise. According to Article 107d(3) of the Labour Code, the employer is bound to provide a homemaker with healthy and safe working conditions.

The Committee notes that home workers and self-employed persons are included in the scope of the national legislation on safety and health at work.

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee found that the situation was in conformity with Article 3§2 of the Charter on this point. It refers to its examination under Article 3§1 (Conclusions 2017) concerning consultation mechanisms at national level, and considers that the situation is still in conformity on this point.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Bulgaria is in conformity with Article 3§2 of the Charter.

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 Bulgaria.

Accidents at work and occupational diseases

In its previous conclusion (Conclusions 2013), the Committee found that the situation was not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents were inadequate. It asked for information on the measures taken to reduce the number of fatal accidents and to counter possible under-reporting of accidents at work in practice. In response, the report states that in 2014, the General Labour Inspectorate Executive Agency (GLI EA) created on its webpage a Section “Major accidents – reasons and violations” to acquaint the webpage visitors with the causes and the most frequent violations bringing about fatal accidents at work. Furthermore, the GLI EA has provided a free telephone number for consultation and reporting of occurrences of accidents at work. In addition, the report indicates that the focus in the measures envisaged in the annual plans of the GLI EA is on the improvement of the quantitative and qualitative aspects of labour inspection, the systematic and consistent seeking of administrative-penal liability from the persons violating the labour legislation and the achievement of reasonable balance in the control of enterprises with high production risk and high labour traumatism. The performance of inspections in enterprises belonging to economic activities having a considerable impact on the national level of accidents at work and occupational diseases is set as a measure in the annual plan for the activity of the GLI EA within its programme “Inspection of all enterprises from all economic activities for guaranteeing of the observance of the provisions of the Labour Code, the Health and Safety at Work Act, the Employment Promotion Act and the Civil Servant Act”. The Committee also notes from the information provided to the Governmental Committee (Governmental Committee report concerning Conclusions 2013) other measures to reduce the level of the fatal accidents at work and of the accidents leading to disability.

As regards the measures taken to combat possible non-reporting of all accidents at work in the practice, the Committee notes from the information provided to the Governmental Committee (Governmental Committee report concerning Conclusions 2013) that, the procedure for establishing the accidents is legally regulated by the Social Insurance Code and the Ordinance on Establishment, Investigation, Recording and Reporting of Accidents at Work. Key measure to combat the non-reporting of all accidents at work is the procedure for establishing the accidents at work itself (official communication) which is based on the insurance principle.

In its previous conclusion (Conclusions 2013), the Committee asked for information on any sanctions applicable to employers in the event they fail to meet their reporting obligations. The report states that the declaration of an accident is the official reporting of an accident submitted to the respective territorial unit of the National Social Security Institute (NSSI). The declaration may be submitted both by the insurer, respectively the enterprise-user, when the person is sent to perform temporary work, and by the victim or his heirs. The NSSI is the competent institution that verifies that the obligations established by the aforementioned Ordinance are complied with. The Committee notes from the information provided to the Governmental Committee (Governmental Committee report concerning Conclusions 2013) that, the failure of the insurer to report an accident at work is considered as a violation of the legislation on the state social security and is subject to administrative and criminal liability. The entities violating the legislation are imposed a penalty from 100 to 2,000 BGN (from € 51 to €1,022) on a case-by-case basis and the insurers – legal entities and sole proprietors – are imposed a penalty payment from 500 to 2,000 BGN (from € 255 to €1,022) on a case-by-case basis. In the event of further violation a penalty payment and / or a fine in the double amount of the original one is imposed.

The report states that, according to the Eurostat figures, the number of non-fatal accidents at work causing at least four calendar days of absence remains stable during the referenced period (2,278 in 2012 and 2,246 in 2014). The standardised rate of incidence of non-fatal accidents at work per 100,000 workers fell slightly from 84.87 in 2012 to 82.45 in 2014. The Committee notes that this rate is significantly lower than the average rate in the EU-28 (1,717.15 in 2012 and 1,642.09 in 2014). The number of fatal accidents at work increased from 98 in 2012 to 117 in 2014. The standardised incidence rate of fatal accidents at work per 100,000 workers rose from 4.65 in 2012 to 5.43 in 2014. The Committee notes that the standardised rate of incidence of fatal accidents is significantly higher than the average rate in the EU-28 (2.42 in 2012 and 2.32 in 2014). According to the report, sectors of activity with high number of fatal accidents during the period of reference are manufacturing, construction, motor vehicles and motorcycles, transportation and storage.

In its previous conclusion (Conclusions 2013), the Committee asked for figures on cases of occupational disease. The Committee takes notes that, according to Article 56 of the Social Insurance Code, an occupational disease is a disease that occurred exceptionally or mostly under the influence of the harmful factors of the working environment or of the process on the organism and caused temporary disability for work, permanent disability for work or death. An occupational disease is included in the list of Occupational Diseases issued by the Council of Ministers on the proposal of the Minister of Health. A disease not included in this list can be recognised as an occupational disease, when it is found to be caused mostly and directly by the usual labour activity of the insured person and to have caused temporary inability to work, permanently decreased ability to work or death of the insured person. The Committee takes note of the distribution of registered occupational diseases by years (these occupational diseases are recognised for the first time in the monitored year) and major classifications detailed in the report.

In its previous conclusion (Conclusions 2013), the Committee asked to explain the disparity between the number of fatal accidents indicated in the report, by EUROSTAT and by ILOSTAT. The report does not provide any information. The Committee notes from the information provided to the Governmental Committee (Governmental Committee report concerning Conclusions 2013) that, this difference is due to the different methodology used by the two institutions in terms of the scope of accidents (see the Governmental Committee report for more details). The National Social Insurance Institute provides an external statistical data to the National Statistical Institute (NSI) in terms of the statistics on the accidents at work. It provides statistics on the accidents at work to the Ministry of Labour and Social Policy, directly to Eurostat and to the International Labour Organisation – LABORSTA (ILOSTAT).

The report also indicates that amendments were made to the Social Insurance Code whereby the insurer's obligations under the procedure for the registration and reporting of accidents at work apply also to an enterprise-user when employees are sent thereto for performance of temporary work (Ordinance on the Procedure for Reporting, Registering, Confirming, Appealing against and Accounting Occupational Diseases and Ordinance on the Establishment, Investigation, Registration and Accounting of Labour Accidents).

The Committee considers, on the basis of the provided data, that measures to reduce the excessive rate of fatal accidents are still insufficient. The Committee asks the next report to provide the most frequent causes of accidents at work and the preventive and enforcement activities undertaken to prevent them.

Activities of the Labour Inspectorate

In its previous conclusion (Conclusions 2013), the Committee deferred its conclusion on this point, and asked for information on the new labour inspection system set out in the Act of 19 June 2008. In response, the report indicates that new Organic Rules of GLI EA were adopted by Decree No.83 of 22 April 2008 of the Council of Ministers (SG No.44 of 9 May

2008). The new rules provided a new structure of GLI EA where the number of Labour Inspectorate directorates was decreased from 28 in 2008 to 21 in 2014. The number of the staff in GLI EA is 495 payroll positions. In addition, the aforementioned Organic Rules were repealed by Decree No.2 of 13 January 2014 of the Council of Ministers, effective from 29 January 2014 (SG, No.6 of 21 January 2014). According to the new Organic Rules, the staff number of the Agency was not changed. The new rules again changed the territorial structure of the Agency, as a Labour Inspection directorate general was created for the first time, and comprises 28 Labour Inspection territorial directorates (the number of the directorates was increased). The structure is conformed to the administrative division of the country, and the directorates are positioned in the administrative centres of the regions of the state.

According to the report, the GLI EA performs its activity by exerting complete control over the observance of the labour legislation in all sectors and activities; exerting specialised control over the observance of the Health and Safety at Work Act, the Employment Encouragement Act, the legislation related to the performance of civil service and the rights and obligations of the parties to a civil-service relationship, and of other legal instruments, when a law requires from it to do so; giving information and technical advice to employers and employees about the most effective methods of observance of the labour legislation, of the legislation regulating health and safety at work, and of other legal instruments, the control over which is vested in the Agency by an act. Moreover, the Agency notifies the competent authorities of gaps and defects found in the labour legislation in force.

The report specifies that, according to Article 4 of the Labour Inspection Act (ZIT), labour inspection includes the control over the observance of the labour and social and health insurance legislation and the specialised control under the Health and Safety at Work Act and the Employment Promotion Act. According to Article 5(1), labour inspection shall be carried out either independently or jointly by executive authorities or administrative structures thereof of the specialised administration, which are assigned by a law to carry out the activities covered under Article 4. The Committee takes note of activities which should be directed and coordinated by the Minister of Labour and Social Policy, according to Article 6 of the Labour Inspection Act.

The Committee takes note of the projects implemented by GLI EA in 2013 for the purpose of enhancement of its administrative capacity. The report adds that GLI EA organises and conducts upgrade training activities for labour inspectors, in order to enhance the administrative capacity of the Agency (15 trainings of 436 employees in 2013). In addition, many publications and broadcasts on topics related to the Agency's activities were produced in national and regional media and a large number of information services for media and citizens were provided.

The report underlines that, according to Article 404 §1(5) of the Labour Code, a coercive administrative measure allows labour inspectors to suspend from work employees who are not acquainted with the health and safety at work regulations or do not have the required training and knowledge. With regard to the application of the coercive administrative measure implying suspension from work of employees who are not acquainted with the health and safety at work regulations, as well as on account of a violation of the provisions of Articles 281-284 of the Labour Code and the provisions of Ordinance No. RD-07-2 of 16 December 2009 on the Conditions and Procedure for the Conduction of Periodical Training and Briefing of Workers and Employees with Respect to the Rules for Provision of Health and Safety at Work, the report indicates that the measure was applied in 27 cases in 2012, 28 in 2013, 31 in 2014 and 34 in 2015.

The report indicates that the number of workers covered by the inspections remains stable, 1,539,744 workers in 2015 and 1,575,447 in 2012.

In its previous conclusion (Conclusions 2013) the Committee also asked for updated information on measures taken and sanctions imposed (number of infringements, types of

measures and notices, numbers and volume of fines, number of suspension of activity, types of notices, number of filing with prosecution authorities) by public authorities. In response, the report indicates that, in 2015 the number of violations established related to health and safety at work remains stable (111,117 in 2012, 101,945 in 2013, 114,135 in 2014, and 111,895 in 2015). The number of penal provisions issued for violations related to health and safety at work decreased from 3,661 in 2012 to 2,393 in 2015. The types of administrative penalties imposed for violations of the labour legislation, including for violation of statutory requirements for health and safety at work are fine – with respect to natural persons (€2,174,452.7 (BGN 1,111,780) in 2012 and €929,723.4 (BGN 475,360 in 2015)), and property sanction – with respect to legal entities and sole proprietors (€34,379,718.6 (BGN 17,578,071) in 2012 and €23,779,880.8 (BGN 12,158,460 in 2015)). The report stresses that the Labour Inspectorate does not have detailed information as to how many of the administrative penalties imposed for violations of health and safety at work are in the form of a fine or a property sanctions.

In its previous conclusion (Conclusions 2013), the Committee also asked for information on any sanctions taken against employers who were found to infringe obligation to provide instruction, training and examination, as required by Articles 281-284 of the Labour Code. The report indicates that in 2015, a total of 18,241 violations concerning briefings and trainings were found in 2015 (17,720 in 2014, 15,847 in 2013, and 16,107 in 2012). Moreover, in 2015, a total of 670 statements of administrative offences were drawn up for established violations concerning briefings and trainings (556 in 2014, 597 in 2013, and 761 in 2012) and 643 penal provisions were issued (550 in 2014, 578 in 2013, and 732 in 2012).

In addition, the report indicates that the number of violations established concerning the sanitary service rose from 1,361 in 2012 to 2,409 in 2015 (Article 282 of the Labour Code, the obligation of the employer to provide conditions for sanitary and medical servicing of workers and employees in accordance with the sanitary norms and requirements).

The Committee takes note of the information provided. However, this information is not sufficient to assess compliance with this part of Article 3§3 of the Charter. The Committee therefore asks that the next report indicate the proportion of workers who are covered by inspections and the percentage of companies which underwent a health and safety inspection in the years covered by the reference period. In the meantime, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Bulgaria is not in conformity with Article 3§3 of the Charter on the grounds that measures to reduce the number of fatal accidents are inadequate.

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 Bulgaria.

The Committee previously examined (Conclusions 2013) the gradual introduction of occupational health services. It deferred its conclusion pending receipt of information on measures taken to promote the progressive development of occupational health services within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources; and on strategies geared to provide access to such services for all workers in all sectors of activity and all undertakings. It also considered that if the requested information is not provided in the next report, there would be nothing to establish that the situation in Bulgaria was in conformity with Article 3§4 of the Charter.

The Committee notes that the Republic of Bulgaria ratified the ILO Convention No. 161 on Occupational Health Services (1985) on 1st March 2012. The Committee also notes that, according to the information from the comments raised by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) published in 2016 (105nd ILC session) on Occupational Health Services Convention 161 (1985), the policy for occupational health services is an integral part of the national policy for occupational safety and health (OSH), which is implemented through national OSH programmes developed annually in consultation with the social partners. According to the same source, in the 2014 National OSH Programme, the measures concerning occupational health services included the development of training modules and training for specialists, conducting postgraduate qualification and courses for specialists, developing risk assessment tools and determining the terms and procedures for the mandatory regular medical examinations of factory and office workers.

In its previous conclusion (Conclusions 2013), the Committee asked for the number of occupational physicians in relation to the labour force. The report indicates that, according to data from an analysis conducted in 2015 by the National Center of Public Health and Analyses, a total of 473 labour medicine services are registered in the Republic of Bulgaria by regions, as 196 of them are active also in other regions, in addition to the one they are registered in. The Committee notes that 403 physicians with specialty labour hygiene and 56 physicians without this specialty work in labour medicine services. About 3% of the physicians with specialty labour medicine/labour hygiene have also a second specialty. A total of 576 persons with higher technical education work in labour medicine services; 15% of them are mechanical engineers; there are also electrical engineers, as well as engineers in safety and health at work. The staff of labour medicine services comprise also 557 other specialists, of which 48 nurses, 65 economists, 267 technical specialists, 97 persons with secondary education and 80 specialists with higher education who have a different profile such as chemists, physicists, biologists.

As regards the measures taken with respect to employers who did not secure servicing of the workers by labour medicine services, the report indicates that the number of statements of violation of Article 25 of the Health and Safety at Work Act, which obligates employers to secure servicing by labour medicine services, decreased from 70 in 2012 to 35 in 2015.

In its previous conclusion (Conclusions 2013), the Committee also asked for absolute figures, beyond those based on effected labour inspection visits, on the rate of enterprises which have in-house occupational health and safety services or which share those with other enterprises. The report states that in 2015 the total number of inspected enterprises having secured servicing by labour medicine services was 30,948, which was 80% of the total number of inspected enterprises (compared to 33,435 in 2012). In 290 enterprises servicing was secured on the basis of a prescription issued by the control authorities of the General labour Inspectorate Executive Agency (compared to 467 in 2012).

In reply to the Committee's question relating to the application of the changes in the legal framework, the report states that Decree No.331 on the promulgation in State Gazette of the Act Amending and Supplementing the Health Act (SG No.98 of 14 December 2010) introduces changes in the organisations of medical expert examination and the powers of the regional health inspectorates. Decree No.142 of the Act Amending and Supplementing the Health Act was promulgated in State Gazette (No.41 of 02 June 2009). The amendments to the statute cause changes in the medical expert examination, in the status of the National Expert Medical Board (NEMB), in the powers of regional health inspectorates and Executive Agency "Medical Audit" was created.

In addition, the report indicates that an Ordinance on the Basic Norms of Radiation Protection (SG No.76 of 5 October 2012) was adopted. It contains special provisions concerning an evaluation of the irradiation and medical surveillance. According to this Ordinance, workers exposed to radiation are subject to mandatory medical surveillance in order to establish their health condition and their suitability from a medical standpoint to perform the tasks they are assigned with. The medical surveillance over persons is implemented by healthcare and/or medical establishments. Enterprises and specialised control authorities are bound to submit to healthcare establishments information for the parameters of working environment, conditions of work and the results from the individual monitoring.

According to the report, the main legal instruments regulating the requirements to labour medicine services are the Health and Safety at Work Act and Ordinance No.3 of 25 January 2008 on the Conditions and Procedure for the Performance of the Activity of Labour Medicine Services. There are provisions in the Act Amending and Supplementing the Health and Safety at Work Act of 2007 (SG No.40 of 2007) and Ordinance No.3 of 2008 on the Conditions and Procedure for the Performance of the Activity of Labour Medicine Services, which determine a procedure for registration of labour medicine services, provide for specialised control over their activity and the documentation kept by them. The report adds that specific penalties are set forth for persons registered as providers of labour medicine services, but do not fulfil their obligations under the law.

Conclusion

The Committee concludes that the situation in Bulgaria 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 Bulgaria.

Measures to ensure the highest possible standard of health

The Committee notes from WHO that life expectancy at birth in 2015 (average for both sexes) was 74.5 (according to Eurostat, the EU-28 average that same year was 80,6). The average life-expectancy rate in Bulgaria is still low relative to other European countries, around six years shorter than the European Union average.

The death rate (deaths/1,000 population) was 15 in 2015, which is high compared to other European countries.

In its previous conclusion (2013), the Committee asked what measures are being taken to combat the main causes of mortality. The Committee notes from the report that, in 2015, cardiovascular diseases remain the main cause of mortality followed by oncologic diseases. The report indicates that measures were taken to reduce these diseases such as the adoption of the National Program for Prevention of chronic non-communicable diseases for the period 2014-2020, the establishment of 71 structures on invasive cardiology, the modernization of oncologic hospitals infrastructure and annual awareness campaigns. The Committee asks the next report to provide updated information on the measures taken to combat the causes of mortality.

Infant mortality fluctuated marginally during the reference period, from a rate of 7 per 1 000 live births in 2013, to 6.6 in 2015. The Committee notes the decreasing trend in infant mortality, but it nevertheless remains above the rate in other European countries (the EU-28 rate in 2015 was 3.6 per 1,000).

As regards maternal mortality rate, the Committee notes that the rate was 11 per 100,000 live births in 2015. This remains above the rate in other European countries.

The Committee notes in the **2015** European Commission Country Report (https://ec.europa.eu/info/sites/info/files/cr2016_bulgaria_en.pdf) that the Bulgarian healthcare system continues being affected by weak performance. Bulgaria ranks as the worst EU Member State in terms of child mortality (1-14 years), the second worst in perinatal mortality and the fourth worst in terms of amenable (preventable) mortality. Life expectancy and mortality place Bulgaria at one of the lowest positions in the EU. Mortality from circulatory system diseases is the highest among all Member States.

The Committee considers that the prevailing high infant and maternal mortality rates, examined together with the still comparatively low life expectancy rate, show that the situation in Bulgaria is below the average in other European countries, and point to weaknesses in the health system. It therefore finds that insufficient efforts and progress has been made in respect of such indicators.

Access to health care

The Committee notes in the report that the National Health Insurance Fund (NHIF) provides full payment for the dental care to specific social population groups such as persons placed in homes for medical and social services; children placed in specialised schools and homes and detainees. Access to dental assistance for people, living in settlements under unfavorable conditions, was improved due to the NHIF additional payment to the dentists for the activities carried out in these areas. The Committee asks that the next report contain information on dental care services and treatments (such as the costs for the main treatments and the proportion of out-of-pocket paid by the patients).

The Committee also asks that the next report contain information on the availability of mental health care and treatment services, including information on the prevention of mental disorders and recovery measures.

In its previous conclusion (Conclusions 2013), the Committee noted that citizens as well as medical professionals were dissatisfied with the health care system and equity. The Committee invited the Government to submit comments on this matter. The report does not reply to this particular question. In this respect, the Committee notes that the European Commission Country Report Bulgaria 2015 (https://ec.europa.eu/info/sites/info/files/cr2016_bulgaria_en.pdf) points out that the healthcare system faces major challenges, including limited accessibility, low funding, and poor health outcomes. It is estimated that 12% of Bulgarians do not have health coverage. This lack of coverage is unevenly distributed across society. Income inequalities are reflected in access inequalities with the worst-off having the greatest problems in receiving services from the public system. In particular, the lack of health coverage is prominent among the Roma population. Limited access to healthcare is illustrated by the high share of reported unmet medical needs, mainly due to costs. The Bulgarian healthcare system continues to be affected by low funding and its population is insufficiently protected against the financial risk of ill health. Public expenditure on healthcare was 4.52% of GDP in 2013 (well below the EU average). This is particularly striking as regards pharmaceuticals. Public spending on medicines in Bulgaria as a share of overall medicinal spending in the outpatient sector is the lowest in the EU (23.8% in 2013, as compared with an EU average of 58.4%). The publicly underfinanced healthcare system is not able to ensure appropriate access for the whole population. Bribery and informal payments are widespread in the health system, as is an ineffective distribution and use of resources. The Committee asks that the next report provide comments on this report.

The Committee recalls that arrangements for access to care must not lead to unnecessary delays in its provision. It underlines that it will pay particular attention to whether access to treatment is based on transparent criteria, agreed at the national level, taking into account the risk of deterioration, in clinical terms as well as in terms of quality of life (Conclusions XV-2 (2001), United Kingdom). In its previous conclusion (Conclusion 2013), the Committee asked for information about the rules that apply to the management of waiting lists and statistics on average waiting times in health care. The report indicates that by Decree No.58 of the Council of Ministers of 21 March 2015 amendments were adopted to the Ordinance on the Implementation of the Right to Access to Medical Aid. The amendments regulate the conditions and procedure, under which persons insured under health insurance schemes, can use health services paid by the National Health Insurance Fund, which guarantee every person insured under health insurance schemes accessible medical treatment in accordance with the development, severity and acuteness of the respective disease. Further the report indicates that there is no statistical data in Bulgaria about the waiting time for hospitalization. The Committee asks that the next report provide statistical data on the actual average waiting times for primary and specialised care as well as inpatient and outpatient care, including surgeries.

Moreover, the Committee also notes in the European Commission country report that health professionals' emigration is driven mainly by higher remuneration in other Member States but also by the lack of appropriate opportunities for professional development in Bulgaria. Again this is partially caused by low health funding.

The Committee finds that it has not been established that sufficient measures have been taken to ensure access to health care.

In the last examination of Article 11, the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. In reply the report indicates several residential and non-residential rehabilitation programmes endorsed as a good practice in accordance with Ordinance No.8

of 7 September 2011 on the Conditions and Procedure for Implementation of Programmes for Psychosocial Rehabilitation of Persons who were Addicted or Abused of Narcotic Substances, issued by the Ministry of Health.

Follow-up of collective complaint European Roma Rights Centre (ERRC) v. Bulgaria (complaint No. 46/2007, decision on the merits of 12 March 2008)

The Committee concluded that there was a violation of Article 11§§1, 2 and 3 in conjunction with Article E of the Charter on the ground that there was a failure of the authorities to take appropriate measures to address the exclusion, marginalization and environmental hazards which Roma communities were exposed to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services.

The Government indicated in the [information](#) registered on 4 December 2014 that there are several measures to improve medical services for socially vulnerable persons, including Roma. First, the information mentions that the activities and priorities set in the Health Strategy for disadvantaged persons who belong to ethnic minorities (2005-2015) are included in section “Healthcare” of the National Roma Integration Strategy 2012-2020 and the Action Plan. In the framework of this Action Plan, the Ministry of Health annually allocated funds for carrying out prophylactic examinations and tests in Roma settlements using the 23 mobile examination rooms provided under the PHARE Programme. During the period 2010-2013, 60,164 examinations and tests have been carried out in such mobile rooms. The examinations are accompanied by lectures and campaigns. Second, the information mentions the figure of health mediators, who are in charge of overcoming the cultural barriers in communication between Roma communities and the medical personnel in various locations. In 2014, there were 150 health mediators. Third, the information states that during the period 2010-2013, 7 National Conferences were organised under the project “Initiative for Health and Vaccine Prophylaxis”.

In its 2015 findings, the Committee considered that the situation has not been brought into conformity with the Charter. The Committee will assess the practical implication of the above-mentioned measures on the basis of detailed information and data on the number of Roma living in Bulgaria to be submitted in October 2017.

Conclusion

The Committee concludes that the situation in Bulgaria is not in conformity with Article 11§1 of the Charter on the ground(s) that:

- the measures taken to reduce infant and maternal mortality have been insufficient;
- it has not been established that sufficient measures have been taken to effectively guarantee the right of access to health care.

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 Bulgaria.

Education and awareness raising

The report indicates that new and updated programmes have been introduced into the curricula related to health education that covered topics ranging from physical health, mental health to social well-being (healthy food, sexual education, self-knowledge, prevention of alcohol, tobacco and drugs consumption).

The report contains a variety of awareness campaign activities on healthy f; activity and sports; dental health; body hygiene, sexual culture; anti HIV/AIDS campaigns- “Health and Sexual Culture” information campaign; anti smoking etc.

The regional health inspectorates all over the country organised and conducted 1,283 campaigns and education activities on HIV prevention and promotion of sexual and reproductive health. The campaigns and educational initiatives covered 122,237 young people.

Within the “HIV/AIDS Prevention and Control” programme of the Ministry of Health, financed by the Global Fund to Fight AIDS, Tuberculosis and Malaria, different activities were carried out through a created network of 18 youth clubs for peer education, with the assistance of non-governmental organisations working with children and young people at risk.

Counselling and screening

In its previous conclusion (Conclusions 2013) the Committee asked whether children have access to medical checks during the period of schooling, and in the affirmative, what is the frequency of such examinations, their objectives and the proportion of pupils covered.

In reply, the report indicates that pursuant to the requirements of Ordinance No.39 of 2004 on the Prophylactic Examinations and Prophylactic System, prophylactic examinations and tests are aimed at early revealing of diseases. Prophylactic examinations of children are carried out by the general practitioner. When he does not have an acquired specialty in children diseases, prophylactic examinations of children may, at the parent’s or guardian’s request, be made by a physician who has a specialty in children’s diseases from a medical establishment for specialised outpatient care. The Ordinance sets forth for school students (aged 7-18) an annual prophylactic examination aimed at testing and evaluating the condition of development of the juvenile (condition of puberty development) and routine general check of the school students’ health. The examination includes an anamnesis and detailed status; measurement of height, weight, chest measurement; arterial tension measurement, assessment of the physical development; survey of the visual acuity and colour sensation; deviations in the development of the bones and joints; urine protein test. Prophylactic examinations of children accommodated in medical-and-social care homes are carried out by a physician working in the relevant medical establishment. Prophylactic examinations of children accommodated in specialised establishments depending on the Ministry of Education and Science, the Ministry of Labour and Social Policy, the Ministry of Justice and the Ministry of Interior, as well as the social services of a resident type for children are provided by a physician, respectively a dental medicine physician who provides medical service of children. In 2015 the average number of the reported prophylactic examinations of the persons aged from 7 to 18 is 0,85 examinations per child in this age category while the programme requires 1 examination per year. The prophylactic activities under the “Children’s Health Care” programme for children aged from 7 to 18 are carried out by the general practitioner of the child or a specialist – paediatrician.

Moreover, the report indicates that pursuant to the Health Act, consulting rooms are set up in kindergartens, schools and specialised institutions for provision of social services for

children. The activities in consulting rooms are performed by a physician and/or by other medical specialists who keep reporting forms and systematize the information from the dental medicine physician for the process of prophylaxis and treatment with respect to the dental status of children and school students in kindergarten, schools and specialised institutions for provision of social services for children.

The current report confirms that examinations for pregnant women are free-of-charge and regular (under the "healthcare for mothers programme" examinations are carried out from the moment of identifying the pregnancy up to the 42nd week of child-bearing). Women without health insurance also have access to genetic examinations and other check-ups. The Committee asks the next report to provide information on the proportion of women covered. It also asks for information on access to such screenings for women living in rural areas.

As regards preventive screening for the population at large, the report states that prophylactic examinations for diseases which constitute the principal causes of death are available pursuant to Ordinance No. 39 of 2004. The risk factors considered are cardiovascular diseases, diabetes and malignant neoplasms. The scope and frequency of check-ups are established on the basis of age and risk factors. In its previous conclusion, the Committee asked information on specific examples of screening programmes available and the persons which have access to them. In reply the report indicates that a National Screening Centre information system and a notification system under project BG051PO001-5.3.02-0001-C0001 "STOP and have an examination" is adopted, put into operational and in process of maintenance. Information campaigns reached 2,000,000 people through broadcasts in the mass media. 1,000,000 invitations (first and second) were sent for a screening examination to 619 120 people from the target groups. A total of 55,898 screening examinations and tests were made 12,269 of which for large intestine cancer and colon cancer; 10,392 for mammary gland cancer and 33,237 for cervical cancer. Those who have passed a screening test can check their results after registration in the National Screening Centre by using the citizen code written in their invitation. Reporting and payment is made with respect to the screening examinations and tests under the project. With regard to diseases which constitute the principal causes of death, the Committee asks the next report to provide information on the screening coverage rate.

Conclusion

The Committee concludes that the situation in Bulgaria 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 Bulgaria.

Healthy environment

The Committee notes that in pursuance with the National Environment and Health Action Programme 2008 – 2013 (NEHAP) measures were taken for improvement of the control and protection of water, air, soil, prevention of the harmful impact of hazardous chemical substances, industrial accidents, noise, enhancement of health and ecological education and participation of the public in the decision-making process, development of ecological infrastructure, etc.

During the reference period, construction of the necessary infrastructure for improvement of Water-Supply and Sewerage Networks continued with the construction of 158 km of water-supply and sewerage network. The share of the population subject to water-supply restrictions on account of shortage of water decreased from 2,9% (2013) to 0,6% (2014). The share of the population connected to urban waste water purification plants increased from 41% in 2005 to 56,8% in 2014. The relative share of the population connected to a public sewerage network increases – from 69% (2005) to 74,9% (2014). A Strategy for the development and management of water-supply and sewerage in the Republic of Bulgaria for the period 2014-2023 was developed and adopted in 2014.

With regard to air quality, in the period 2012-2015 legislative changes were made to the Ambient Air Purity Act and secondary legislation instruments with regard to application of measures for gradual limitation of issues of harmful substances (sulphur and nitrogen oxides, dust, heavy metals, volatile organic compounds, etc.) from immovable sources.

The Committee wishes to receive updated information on the levels of air pollution, contamination of drinking water and food intoxication during the reference period, namely whether trends in such levels increased or decreased. It also asks for information on the noise pollution, waste management, risks related to asbestos.

Tobacco, alcohol and drugs

The report indicates that there are several national programmes in place (involving both the authorities and NGO's) to reduce smoking, alcohol and drug consumption.

As regards tobacco, pursuant to section 56 of the Health Act smoking is banned in indoor public places, as well as in workplaces and a number of specified outdoor locations (for example, close to nurseries, schools or sport sites). Some limited exceptions permit smoking in special facilities in public places, but persons under 18 are not allowed access to these. Despite tobacco control measures and programmes, smoking remains very popular in the country and according to the report increased during the reference period. According to data of the National Statistical Institute, presented in 2014, 40% of men and 20% of women in Bulgaria are smokers. Occasional smokers are only 10%, while non-smokers are 50% of men and 70% of women. Data show that the most active smokers are men aged between 25 and 44 years – over 55% of the Bulgarian active smokers. The most active female smokers are women also aged between 25 and 44 years, and the least active smokers are women over 65 years – only 2%. In Bulgaria, cigarette smoking accounts for the death of 1000 in 100,000 people.

Concerning alcohol policy, the Committee notes from WHO that the national legal minimum age for both on-premise (as well as off-premise) sale of alcoholic beverages is 18 years. Regulations on advertising and product placement are also in place. As regards trends, the report mentions the results of a survey on risk factors among the 25-64 age group, carried out by the National Center for Public Health, which shows that 23.2% of the population drink

alcohol regularly. The Committees asks that the next report provide information on trends in alcohol.

The report does not provide information on illicit drug abuse. As regards the consumption of illicit drugs, the Committee wishes to receive updated information on legislation on the use of drugs as well as trends in consumption.

Immunisation and epidemiological monitoring

The report reiterates that mandatory vaccination against 11 infectious diseases is available. In the previous conclusion, the Committee noted that the coverage immunisation rate was high, around 95%. Maintaining high immunisation rates continues being a health priority according to the report. The Committee wishes to receive updated information in this regard.

Accidents

The report indicates that a National Strategy for the improvement of road traffic safety for the period 2011-2020 was adopted in December 2011. The main goal is to reduce by 50% the number of persons deceased and injured in road accidents by 2020. Detailed statistical information on road accidents is provided: a decrease in the number of accidents was recorded during the reference period, but figures were still high in 2015, with 7 225 severe road accidents, in which 708 persons died and 8 971 persons were injured (of which 6 676 lightly and 2 295 severely). However the current report provides numerous information on measures taken to prevent road accidents. During the period under review (2011–2015) a number of measures and key campaigns were implemented for the prevention not only of road accidents, but also of domestic accidents and free time injuries, some of which are particularly common among specific vulnerable population groups.

The “Informed and Healthy” project, implemented by the Ministry of Health with financial support from the European Social Fund, incorporated targeted campaigns aimed at preventing domestic accidents. The project “Be aware of the risks, in order to avoid them!” united events in 19 cities throughout the country, aimed at raising the awareness of the population regarding the most common threats and the proper ways to prevent and respond to accidental or deliberate domestic accidents.

The Committee recalls that states must take steps to prevent accidents. The main types of accidents covered are road accidents, domestic accidents, accidents at school and accidents during leisure time (Conclusions 2005, Republic of Moldova). The Committee asks to be provided with information on the other types of accidents, including domestic accidents, accidents at school and accidents during leisure time.

Conclusion

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

In the case of **family** and **maternity benefits**, the Committee refers to its conclusions on, respectively, articles 16 and 8§1 (Conclusions 2011).

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions (Conclusions 2004, 2006, 2009 and 2013) for a description of the Bulgarian social security system and notes from the report that the Social Security Code covers eight out of nine contingencies under ILO Convention No. 102 (sickness, invalidity, maternity, family, work accidents and occupational diseases, old age, death, unemployment) and is based on collective financing, as it is funded by contributions (employers, employees and the state) and also by the State budget. As regards healthcare and medical assistance, the report indicates that this contingency is covered by the National Health Insurance Fund and the Ministry of Health.

According to the report, all Bulgarian nationals, long-term residents and refugees are entitled to medical care, as well as foreign students and nationals of EU States legally residing and working in Bulgaria. In response to the Committee's question, the report indicates that, as of end 2015, the number of compulsorily insured persons in the National Health Insurance Fund was 6 355 184 out of a total population of 7 177 991, that is 88.5%. The report indicates however that 1 950 331 persons had suspended health insurance rights (Bulgarian nationals temporarily covered by another EU state's health insurance scheme, foreign nationals who reside abroad for more than 183 days in a year or have not registered for health insurance); the Committee asks the next report to clarify whether the number of persons with suspended health insurance rights is included in the total number of insured or not. It furthermore notes that according to the EU Commission country report 2016 for Bulgaria "it is estimated that 12% of Bulgarians (who do not permanently live abroad) do not have health coverage" and that "in particular, the lack of health coverage is prominent among the Roma population". The Committee asks the next report to provide clarifications on this point as well as updated information on the percentage of the total population covered by health insurance.

Out of an economically active population of 3 276 000 people, those insured under the "Unemployment Fund" were reportedly 2 462 520 in 2015 (75% of the economically active population). As regards the other social security branches, the Committee notes from the report that, as of 2015, all employees (including those who are employed for up to five working days or 40 hours within a calendar month, previously excluded – see also Conclusions on Article 12§3) are compulsorily insured against all the risks covered. The same applies to certain special occupational categories such as civil servants, judges, managers, soldiers, priests etc. Self-employed workers (registered freelance professionals and craftsmen, sole entrepreneurs, owners or partners in commercial companies, registered farmers, working pensioners) are compulsorily insured only against invalidity, old age and death. They may furthermore get voluntary insurance against sickness, but not for work accidents and occupational diseases or unemployment. In the light of this information, the Committee understands from the report that, in 2015, 84.1% (2 755 906 persons) of the economically active population were on average insured against invalidity, old age and death, including 74.7% (2 477 588 persons) of the active population insured against all risks. It asks the next report to clarify whether this interpretation is correct and whether these data include people insured both under the compulsory and the voluntary schemes. While noting that most categories of workers are compulsorily insured, and that therefore a significant percentage of the active population is presumably covered as regards income-replacement benefits, the Committee reiterates nevertheless its request for more detailed data in the next report, concerning the respective number of insured people for each risk.

Adequacy of the benefits

According to Eurostat data, the median equivalised annual income was €3 332 in 2015, or €278 per month. The poverty level, defined as 50% of the median equivalised income, was €1 666 per annum, or €139 per month. 40% of the median equivalised income corresponded to €111 monthly.

In its previous conclusion (Conclusions 2013), the Committee held that the situation in Bulgaria was not in conformity with Article 12§1 of the Charter on the ground that the minimum levels of pension benefit and of unemployment benefit were inadequate.

The Committee notes from the report that, as regards **old-age** benefits, the Public pension insurance (First Pillar) covers all employees and self-employed and functions as a standard pay-as-you-go insurance scheme. In addition, a supplementary compulsory pension insurance based on contributions (Second Pillar) applies, under the Universal Pension Fund, to persons born after 31/12/1959 or, under the Professional Pension Fund, to those working under hard labour conditions (see also Conclusions 2017 in respect of Article 12§3). Furthermore, a non contributory social pension for old age applies to persons aged at least 70 who do not qualify for contributory old-age pensions (see Conclusions 2017 in respect of Article 13§1). As the supplementary pension under the Second Pillar does not apply in all cases, and does not provide for a minimum amount, the Committee takes into account only the Public insurance (First Pillar), and notes that according to the report its minimum monthly amount was, at the end of 2015, BGN 157.44 (€80). As this amount falls largely below the poverty level, the Committee holds that it is manifestly inadequate.

As regards **sickness benefits**, the Committee refers to its previous Conclusion (Conclusions 2013), where it noted that, in order to be entitled to benefits, a person must have been insured at least 6 months and that the benefits are paid until recovery of the working capacity or the establishment of invalidity. The daily cash benefit is 80% of the average daily gross earnings or the average daily contributory income on which contributions have been paid during the 18 months before the incapacity for work occurred, but no more than the average daily net remuneration for the period on the basis of which the benefit is calculated. According to the report, the average daily cash benefit was BGN 25.47 in 2015 (i.e. BGN 764.10 for 30 days, i.e. € 389). If instead of the average daily net remuneration the level of minimum wage is taken into account, which was BGN 380 (€194) in 2015, then the minimum level of sickness benefits would rather correspond to €155. The Committee considers that the situation is in conformity with the Charter on this point.

Those who have been insured for at least 9 months during the last 15 months are entitled to **unemployment benefits**, and the benefits are paid for a maximum of 4 months for an insurance period of up to 3 years, and up to 12 months for an insurance period of over 25 years. The Committee previously noted (Conclusions 2006, 2009) that the unemployment benefits could be withdrawn if the beneficiary unjustifiably refused a job offer or an activation measure, and that such decision may be appealed before the director of the unit, whose decision in turn may be appealed before the administrative court of first and second instance. It furthermore noted (Conclusions 2016 concerning Article 1§2) that, during the first 18 months of registration as unemployed, “suitable work” is defined as any work which is compatible with the person’s education, qualifications and state of health and is located nearby or no more than 30 km away provided that there is appropriate public transport; after this period, “suitable work” is any work that is compatible with the person’s state of health and satisfies the above proximity requirements. The amount of the benefits corresponds to 60% of the average daily contributory income for the last 24 months preceding the termination of the insurance, but the minimum amount, which the Committee previously considered to be manifestly inadequate (Conclusions 2013), has not been modified during the reference period. Such minimum amount, which is paid to persons whose labour contract has been terminated by their own accord or by summary dismissal, has thus remained set at

BGN 7.20 (€3.68, i.e., for an average number of 21 working days in a month, €77 monthly). Accordingly, the situation remains not in conformity in this respect.

As regards **labour accidents and occupational diseases**, the benefits amount to 90% of the average daily gross remuneration or the average daily contributory income on which insurance contributions have been paid during the 18 months before the incapacity for work occurred. On the basis of the level of minimum wage, the minimum monthly level would be, for 2015, BGN 342 (€174), which is in conformity with the Charter.

The minimum amount of **invalidity benefits**, for a person with reduced working capacity/ degree of disability over 90% was, in 2015, BGN 181.06 (€93), that is 115% of the minimum amount of the contributory old-age pension. The report also refers to non-contributory benefits such as the civil disability pension and the social disability pension. For a person with permanent reduced working capacity/ degree of disability over 90%, the minimum amounts correspond respectively to 150% and 120% of the minimum social old age pension, that is, for 2015 respectively BGN 172.73 (€88) for the civil disability pension and BGN 138.18 (€70) for the social disability pension. The Committee notes that all these amounts fall largely below the poverty level. The situation is therefore not in accordance with the Charter on this point.

Conclusion

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

- the minimum level of contributory old age benefits is inadequate;
- the minimum level of unemployment benefits is inadequate;
- the minimum level of invalidity (contributory and non contributory) benefits is inadequate;

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 Bulgaria.

It notes the changes to the legislation during the reference period, as detailed in the report, and refers to its previous conclusions, as well as to its conclusions under Article 12§1, for a description of the Bulgarian social security system. The Committee also notes that during the reference period changes were introduced with regard to maternity and family benefits. Since Bulgaria has ratified Articles 8§1 and 16 of the Charter, the Committee will assess the scope and impact of such changes when it next examines compliance with these articles.

As regards other branches of social security, the report mentions, in particular, the following improvements:

- the personal scope of mandatory insurance for general sickness and maternity, disability on account of a general sickness, old age and death, labour accident and occupational disease and unemployment has been extended to workers and employees hired for up to 5 working days (40 hours) over the calendar month and persons entrusted with the management and / or control of state and municipal enterprises under Chapter Nine of the Commercial Code, their subsidiaries or other legal entities established by law (in 2015); as well as to other categories of workers (candidate junior judges and junior prosecutors in 2012, persons under the Special Surveillance Means Act in 2013);
- the personal scope of insurance for invalidity on account of a general sickness, old age and death and for general sickness and maternity has also been extended, in 2012, to spouses of self-employed persons, craftsmen and farmers (as voluntary insurance);
- the personal scope of insurance for invalidity on account of a general sickness, old age and death and for labour accident and occupational disease has been extended in 2015 to seasonal agriculture employees;
- all labour (contributory) pensions have been increased (for the Public pension insurance, the increase was around 8% during the reference period), to compensate the inflation and an indexation rule (so called "Swiss rule") has been set and applied as from 2014;
- the social pension for old age was also increased (by some 14% during the reference period), as well as the benefits based on the level of the social pension (labour accident benefit, invalidity pension and survivor's pension).

The report furthermore refers to improvements made to some non-contributory pensions (military disability pension, civil disability pension, social pension for old age, social disability pension and other social assistance pensions).

Other measures are mentioned in the report whose impact in terms of personal coverage and benefits' levels does not appear to be clear at this stage. The Committee notes in particular the adoption, on 28 July 2015, of a major pension reform (Law amending and supplementing the Social Insurance Code (LASSIC), SG, No. 61 / 11.08.2015). According to the report, the reform aims at ensuring financial stability of the pension system and improving the adequacy of pensions, and in particular at:

- Increasing the revenues of the social insurance system through the increase of the social insurance contribution for the Pensions Fund;
- Optimising the costs of the social insurance system by setting stricter and fairer conditions for access to pensions for all groups of socially insured persons – the amendments notably provide for the equalisation on the long term of retirement age for men and women and the progressive increase of pensionable age and required contributory service; for the possibility to grant reduced rate pensions to persons who do not have the required contributory service or in case of early retirement; for the setting of a pensionable age for workers in the Defence and

- Security sector, dancers, teachers, workers employed in heavy and arduous professions (as from 2016) and its progressive increase;
- Improving the adequacy of pensions, by gradually increasing (as from 2017) by 1.5% the weight of one year of contributory service when calculating the pension amount (newly granted pensions as well as pensions already granted which will be recalculated). This will also affect the coefficients used for the common disease disability pensions, employment-injury and occupational-disease disability pensions;
 - Developing and improving the three-pillar pension model by introducing the possibility, as from 2015, for persons born after 31 December 1959 to choose whether to insure for additional pension in a Universal Pension Fund (UPF) or only for lifelong pension in the public social insurance system and, upon certain conditions, to change this choice. It is explained in the report that those insured in a universal pension fund are entitled, in addition to the normal old-age pension granted on the basis of the contributory-service period and age requirements, to a supplementary old-age pension (including in case of early retirement) and to a lump-sum payment in case of permanent invalidity by more than 89,99% or in favour of the survivors in case of death. The amount of pensions granted from a universal pension fund is determined on a capital-based principle, i.e. on the basis of the amount accrued in the individual account from the contributions made and from the return on the investment of the said contributions, reduced by the fees and deductions provided for in the Code, and depending on the life expectancy after retirement. The report furthermore points out that since 2012 the weight of years of insured period acquired after the attainment of the pensionable age was increased for the persons who postpone their retirement, although their insured period exceeds the one required for acquiring a pension. The increase refers only to those who have an actual insured period acquired after 31 December 2011.

The Committee notes from the report that, in the framework of the pension system reform, a new cumulative condition for acquiring the right to a pension (instead of the previous point-based system) has been set; that the contributory period and the pensionable age are being gradually increased between 2011 and 2020 (although the raise was suspended during the reference period) and further increases are expected by 2037; and that specific changes have been made as regards the pensionable age and insurance period requirements for staff from specialised departments (military officers, police officers, investigators, etc.) and teachers. As most of these changes have been adopted towards the end of the reference period, the Committee asks the next report to provide information on the implementation of the reforms and their impact.

Conclusion

The Committee concludes that the situation in Bulgaria is in conformity with Article 12§3 of the Charter.

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 Bulgaria.

Types of benefits and eligibility criteria

The Committee notes from the report that the assistance programme is implemented on the legal grounds of Article 9 of the Rules for implementing the Social Assistance Act. The scope of the programme covers the persons and families who meet the legally determined conditions and requirements concerning the income, property and health situation, the marital status, age, study and work load, and others. The conditions and requirements are in accordance with the provisions of the Social Assistance Act and the Rules for implementing it.

In its previous conclusion (Conclusion 2013) the Committee found that the situation was not in conformity with the Charter on the ground that persons registered with the Employment Office Directorates were not entitled to social assistance before a minimum period of six months.

The Committee notes in this respect from the report of the Governmental Committee (GC(2014)21) and the national report that in case of reasonable grounds for support, the Social Assistance Act and its Rules for Implementation provide for a one-time assistance for the person concerned in the amount of up to five times the Guaranteed Minimum Income (GMI). Thus, in practice, the six-month regular registration at the Labour Office does not mean that during this period, the person is limited in his/her right to receive social support from the State. Therefore, according to the report, persons concerned are not fully deprived of monthly social assistance, if the statutory conditions and requirements are met.

The Committee further notes from MISSOC that for the period from the date of registration with the Employment Office Directorate until the 6th month of the registration no differentiated minimum income will be determined for the unemployed person. In case an unemployed member of the family does not have a registration with the Employment Office Directorate, the monthly social assistance allowances will be granted only after a detailed social evaluation of the actual family situation. The Committee considers that there has been no change to the situation which it has previously found not to be in conformity with the Charter. The Committee reiterates its previous finding of non-conformity on the ground that persons registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months.

As regards medical assistance, in its assessment of the follow-up given in 2015 to the Complaint No 46/2007 European Rome Rights Centre (ERRC) v. Bulgaria, decision on the merits of 3 December 2008, the Committee considered that it was still not established that people not receiving social assistance are entitled to medical assistance, other than emergency care, obstetrical care and hospital treatment. The Committee will assess the practical impact of the measures taken in this regard as well as and whether similar measures are envisaged for other vulnerable groups, on the occasion of the information on the follow-up given to decisions that will be submitted in October 2017.

Level of benefits

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

- Basic benefit: the Committee notes from MISSOC that the amount of the monthly social assistance allowance is equal to the difference between the differentiated minimum income and the income of the person concerned. The differentiated minimum income is determined as a percentage of the Guaranteed Minimum Income (GMI) which stood at BGN 65 (€ 33) per month during the reference

period. A person under 65 years of age, living alone received 73% of the GMI, i.e. € 24. A person over 65 years of age living alone received 140% (€ 46), while a person over the age of 75 living alone received 165% of the GMI (€ 54) per month.

- Additional benefits: the Committee takes note of the special-purpose heating allowance and the conditions for granting it. The Committee notes that the conditions are in line with those for social assistance itself. It further notes that in case of unemployed persons, the condition of having been registered at the Employment Office at least six months prior to applying for assistance also holds. The assistance is for the respective heating season and the amount is determined by the Order of the Minister of Labour and Social Policy, on the basis of electricity prices for a household consumer. The Committee notes from MISSOC that the differentiated minimum income for heating is determined as a percentage of the GMI and varies from 167% to 311% according to the category of persons in the same way as the differentiated minimum income for monthly social assistance allowances. The Committee further takes note of one-time allowance which is paid in an incidentally critical situation, as regards vital needs related to health, education, living conditions and others. The amount is determined in accordance to the specific circumstances in the amount up to 5 times the amount of GMI. The report further indicates other types of additional benefits, such as the special-purpose allowance for paying municipal housing rent, one-time allowance for the issue of an identity card.
- Poverty threshold (defined as 50% of median equivalised income and calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at € 139 in 2015.

The Committee notes from the report that social assistance is designed to satisfy the main vital needs, in accordance with the socio-economic development of the country. The social support system is sufficiently flexible and mobile and depending on the available financial resources in accordance with the budgetary possibilities can ensure a wider scope as well as higher amounts of the allowances.

The guaranteed minimum income (GMI) is a legally determined amount used as the basis for determining the levels of social allowances in order to ensure a minimum income to cover the persons' basic vital needs according to their age, marital status, health and property status, work and study load. This is done via a system of correcting percentages going up to 165% in accordance with the criteria defined in this way. The GMI value serves for determining the amount of social allowances under the Social Assistance Act.

According to the report, the persons receiving monthly social allowances and special-purpose heating allowances in accordance with the Social Assistance Act, if not insured on other grounds, receive health insurance at the expense of the state budget.

The Committee takes note of the example provided by the report concerning of a person over 75 years of age, living alone, who, with a correcting percentage of 165% receives a monthly allowance of 107,25 BGN (€54). In addition, during the heating season this person receives a monthly special-purpose heating allowance of BGN 72,20 (€38) at the current level of electricity prices.

The Committee recalls that under Article 13§1 it only considers the situation of a single person without resources. Therefore, it does not take into account the examples of families with children. The Committee notes that in the above examples of a single person over 75 years of age, the total amount of assistance, including the differentiated minimum income and heating allowance, would be around € 92. A person under 65 years of age, living alone receives 73% of the differentiated income, i.e. € 24. Even considering that such person receives the same amount in heating allowances, the total amount will still be much below

the 50% of median equivalised income in all cases illustrated in the report. The same is true for a person over 75 years of age.

The Committee, therefore, considers that the level of social assistance is not adequate on the basis that the total amount of assistance that can be obtained by a person without resources, including elderly persons, is not compatible with the poverty threshold.

The Committee takes notes of the statistics provided by the Agency for Social Assistance concerning the numbers of persons in receipt of monthly allowances and the total amounts spent in allowances.

Right of appeal and legal aid

The Committee asks the next report to provide updated information regarding 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

In its previous conclusion the Committee asked whether foreign nationals, lawfully resident could be repatriated on the sole ground that they are in need.

According to the report foreign nationals holding a permanent residence permit have the same rights to social assistance and the provision of social services as Bulgarian citizens.

The Committee notes from another source (<https://www.angloinfo.com/how-to/bulgaria/moving/residency/residence-permits>) that there are two types of residence permit issued to foreigners moving to Bulgaria: long-Term Residence Permit, issued for one year to non-EU citizens and for five years to EU citizens and Permanent Residence Permit, issued for an indefinite period of time by the National Migration Directorate and its local branches.

The Committee notes from the report that foreign nationals will only be entitled to social assistance after having obtained permanent residence, which may be issued for an indefinite period of time after five years of uninterrupted residency in Bulgaria. This entitles the person to the same rights as Bulgarian citizens.

The Committee thus understands only foreigners with permanent residence permit can be entitled to social assistance, which, in turn, requires five years of prior residence. The Committee asks whether this understanding is correct that reserves its position on this issue.

Foreign nationals unlawfully present in the territory

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need (including medical condition). 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 asks the next report to confirm that the legislation and practice comply with these requirements.

Conclusion

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

- persons registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months;
- the level of social assistance paid for a person without resources, including the elderly, is inadequate.

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 Bulgaria.

According to the report, Article 3 of the Social Assistance Act prohibits direct or indirect discrimination in the exercise of the right to social assistance and social services. As regards the Committee's question in its previous conclusion concerning cases in which the beneficiaries of social assistance have suffered discrimination in the exercise of social and political rights, the report states that the Ministry of Labour and Social Policy has not been summoned in the capacity of an interested party to cases initiated by the Commission for Protection against Discrimination, in relation to the grounds in article 4, paragraph 1 of the Anti-Discrimination Act. Furthermore, no complaints or signals for discriminatory practices have been submitted to the Ministry by beneficiaries of assistance.

Conclusion

The Committee concludes that the situation in Bulgaria 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 Bulgaria.

In its previous conclusion (Conclusions 2013) the Committee asked whether social services for persons without resources were provided free of charge. It notes in this respect that one of the functions of the Social Assistance directorates at the Agency for Social Assistance is to provide information and advice to natural persons as regards their rights to social and family assistance. The persons concerned receive advice free of charge. The advice of the National Health Insurance Fund is also free of charge.

Conclusion

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

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 Bulgaria.

Organisation of the social services

The report indicates that the Government adopted two strategic documents for de-institutionalization of children and adults: in 2010 the National Strategy “A Vision for De-institutionalization of Children in the Republic of Bulgaria” was adopted along with an Action Plan for its implementation; in 2014 the National Strategy for Long-term Care was adopted, concerning the de-institutionalization of care for persons of legal age. The adoption of an Action Plan for its implementation is forthcoming. The Committee notes that the information provided concerns only childcare services and the measures are adopted outside the reference period, whereas the overall description of the social welfare services’ system in the country during the reference period is missing. The Committee asks to be informed on the organisation of social services for all categories of people concerned by Article 14§1.

The Committee recalls that Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population, which distinguishes the right guaranteed by Article 14 from “the various articles of the Charter which require States Parties to provide social welfare services with a narrowly specialised objective”. The provision of social welfare services concerns everybody who finds him- or herself in a situation of dependency, in particular vulnerable groups or individuals. Social services must therefore be available to all categories of the population who are likely to need them. The Committee has identified the following groups: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts and former detainees.

The list is not exhaustive as the right to social welfare services must be open to all individuals and groups in the community. The other provisions of the Charter dealing with social services for specific target groups, including those falling within the scope of Article 13§3, concern – as noted above – services “with a narrowly specialised objective”. When these various provisions have not been accepted by a State Party the situation is examined with regard to social services for the specific target groups concerned under Article 14. (Conclusions 2009, Statement of Interpretation on Article 14§1).

Effective and equal access

The report indicates that pursuant to the Social Assistance Act people entitled to social services are: Bulgarian citizens, families and cohabitants as well as foreign nationals with a long-term or permanent residence permit in the Republic of Bulgaria, foreign nationals who have been granted asylum, persons with refugee status or under humanitarian protection and persons for whom there are provisions to that effect in an international agreement to which the Republic of Bulgaria is a party. When social services are provided, direct or indirect discrimination is prohibited on all grounds laid down in a law or an international agreement to which the Republic of Bulgaria is a party.

In its previous conclusion (Conclusions 2013), the Committee asked that the next report provide information on whether “the temporary residents”, i.e. foreign nationals who are residing lawfully and working regularly on the territory of the country and who are not permanent residents, have the same access to social services as Bulgarian citizens. With regard to the Committee’s request, the report indicates that following the amendment to the Asylum and Refugees Act, in force since 16 October 2015, article 11 of the Act has been repealed (i.e. the legislation does not contain any longer the term “temporary protection”). According to the report there are no limitations as regards the access of refugees and persons enjoying humanitarian protection to social services under the regulations of article

36, paragraph 2 of the Rules for implementing the Social Assistance Act, as they have equal rights as Bulgarian citizens.

The Committee notes that the report, despite his long description, does not answer to its question and reiterates its request that the next report provide information on whether “the temporary residents”, i.e. foreign nationals who are residing lawfully and working regularly on the territory of the country and who are not permanent residents, have the same access to social services as Bulgarian citizens. If such information is not provided there will be nothing to establish that the situation is in conformity with the Charter.

Quality of services

In Conclusions 2015, the Committee took note of the detailed statistics from the Social Assistance Agency according to which the total number of staff employed in social services was 12,208 in 2008 and increased to 13,234 in 2011. The Committee requested clarification as to the distribution of staff between the state and the municipal level and it asked estimates (or examples) of the number of staff providing social services as part of municipal activity and or as private providers.

The Committee recalls that under Article 14§1 the right to social services must be guaranteed in law and in practice. Social services must have resources matching their responsibilities and the changing needs of users. This implies that: – staff shall be qualified and in sufficient numbers; – decision-making shall be as close to users as possible; – there must be mechanisms for supervising the adequacy of services, public as well as private (Conclusions 2005, Bulgaria).

The report indicates that as of 31 May 2016 a total of 1.266 state-delegated-activity social services are in place. Among them, 1.077 are social services within the community and 189 are specialised institutions for childcare. The report underlines that the minimum number of personnel working in state-delegated-activity social services is determined by the Procedure on the number of personnel at specialised institutions and social services within the community, approved by the Minister of Labour and Social Policy. The number of the personnel is dependent on the type of social service. Each social service provider may hire more personnel depending on the users’ needs. The number of personnel is determined by multiplying the number of places per a coefficient of the respective social service.

The Committee notes that no answer is provided to its questions in the current report, in particular, the report does not contain the updated figures on the distribution of staff between the state and the municipal level or the estimates (or examples) of the number of staff involved in social services provision as part of municipal activity and with private providers, as well as on the staff qualification. The Committee therefore considers that the situation in Bulgaria remains not in conformity with Article 14§1 of the Charter.

The Committee recalls that under Article 14§1 it reviews, inter alia, the rules governing the eligibility conditions to benefit from the right to social welfare services (effective and equal access) and the quality and supervision of the social service (Statement of Interpretation on Article 14§1, Conclusions 2009). In this respect the Committee asks what kind of mechanisms exist to monitor and supervise the adequacy of social services, public as well as private. The Committee also asks whether there is any legislation on personal data protection.

Conclusion

The Committee concludes that the situation in Bulgaria is not in conformity with Article 14§1 of the Charter, on the ground that it has not been established that the number of social services staff is adequate and has the necessary qualification to match user’s needs.

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 Bulgaria.

The Committee recalls that Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services.

In its previous conclusion (Conclusions 2013) the Committee asked that the next report present statistical data on the subsidies paid by the government and local authorities to voluntary organisations providing social services. The Committee also required that the next report describes all other kinds of incentives which are in place for the voluntary organisations, such as tax concessions.

The Committee also asked to be informed whether and how the government guarantees that the services managed by the private sector are effective and are accessible under equal conditions to everyone, without discrimination, at least on the basis of race, ethnicity, religion, disability, age, sexual orientation and political beliefs.

The report provides information on criteria for registration in the Register of social service providers, kept by the Agency for Social Assistance. In 2016 changes were introduced in the Social Assistance Act, in particular the procedure for registration and submitting information to the register by the social service providers was facilitated and a requirement was introduced that all information already available by another institution will be automatically exchanged. The Committee notes that the report provides information outside the reference period and asks that the next report provides updated information and developments following changes introduced in the Social Assistance Act.

The report underlines that the mechanism for financing of state-delegated-activity social services in Bulgaria is not related to payment of subsidies. The funding for state-delegated-activity social services comes from the state budget via the municipalities budget in accordance with the State Budget Act of the Republic of Bulgaria for the respective budget year. It should be noted that the social services are decentralised and managed by the municipalities who are responsible for the allocation of the funds in the sector. In view of encouraging private entrepreneurship in the social sphere and establishing partnership with the NGO sector, the mayor of a municipality may assign the management of a social service to an external provider via a competitive procedure in accordance with the Rules for implementing the Social Assistance Act. The assignment is based on a competitive selection observing the principles of non-discrimination and equal treatment of all participants.

In reply to the question on the amount of subsidies paid by the state to voluntary organisations providing social services, the report indicates that the annually allotted state-budget resources for providing social services are significant and there was a constant increase in the reference period, the state budget for social services in 2014 was 183.205.800 BGN, in 2015 – was 189.803.600 BGN. The report indicates that, due to the fact that the municipalities are responsible for the allocation of state budget resources to private social service providers, no data is available. In this respect the Committee reiterates its requests the next report to provide the geographical distribution in different municipalities of the state budget resources devoted to voluntary organisations providing social services and describe all other kinds of incentives which are in place for the voluntary organisations, such as tax concessions.

In reply to the request on efficiency and effectiveness of the social services managed by the private sector, the report indicates that over the past years a range of legislative changes were introduced in the social services sector, aiming at improving the accessibility, the quality and the effectiveness of social services, as well as better satisfaction of their users' needs. These changes concern all social services providers including the private sector. In 2015, changes were enforced in the Rules for implementing the Social Assistance Act, introducing a differentiating criterion for the placement of users with various needs in the

social services within the community. The change was also with regard to the application of a differentiated approach when defining the standards for financing of state-delegated-activity social services through the municipal budgets. Moreover, in 2016, changes were introduced in the Social Assistance Act to improve access and higher effectiveness of the social services. These changes further ensured the application of an individual approach aiming to guarantee users' rights – via the introduction of an individual assessment and an individual support plan by a multidisciplinary team, avoiding permanent institutionalization of vulnerable persons and fostering their participation in the process of guidance and providing the service. The Committee notes that the report provides information outside the reference period and asks that the next report provides updated information and developments following changes introduced in the Social Assistance Act to improve access and higher effectiveness of the social services.

The report indicates that the government, in view of the increasing important role of social services in the national context, also in relation with different needs of persons with disabilities, is undertaking an integral reform in the social sector with the elaboration of a new draft of the Social Services Act aiming to improve the planning, funding, quality, monitoring of and control of social services. In this respect, the Committee asks to know in the next report on the follow up to the reform, undertaken by the government in the social services sector and what kinds of supervisory mechanism are put in place to control the quality of social services and ensure respect of the user's rights.

Conclusion

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