



January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

LITHUANIA

This text may be subject to editorial revision.

The following chapter concerns Lithuania, which ratified the Charter on 29 June 2001. The deadline for submitting the 14th report was 31 October 2016 and Lithuania submitted it on 13 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).

Lithuania has accepted all provisions from the above-mentioned group except Articles 12§2, 13§4, 23 and 30.

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

The conclusions relating to Lithuania concern 15 situations and are as follows:

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

In respect of the 2 other situations related to Articles 11§3 and 12§4 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Lithuania under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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

Article 3§1

- The General Regulations for Assessing Occupation Risks were amended and entered into force as of 1st November 2013. The Regulations contain revised concepts and provisions relating to the organisation and performance of risk assessment and set out that the assessment of a risk at the workplace is followed by the filling in of a document in the form chosen by the enterprise. Enterprises having conducted a self-assessment of occupational risks in accordance with the Regulations review and revise the assessment of or reassess occupational risks according to Paragraph 5 of the General Regulations for Assessing Occupational Risks;
- The Online Interactive Risk Assessment ("OiRA") tools are being developed seeking to help small and medium size enterprises to assess the risks on their entities.

Article 12§3

- From 1 January 2012, payment of old age, work incapacity (disability) and survivors' pensions (widow's/widower's and orphan's pensions), which had been temporarily reduced in 2010–2011 (see Conclusions 2013), was restored to the full amount. As a result, in 2012, the average amount of old-age pension increased by around 9% compared to 2011;
- As of 1 January 2015, sickness allowances paid from the State Social Insurance Fund budget resources were increased by approximately one third, following the amendment of the Law on Sickness and Maternity Social Insurance. As a result, the sickness allowance was brought to 80% of the beneficiary's compensatory

- salary for the whole length of the sick leave, while until end 2014 only 40% of it was paid from the third to seventh day of sick leave.;
- Sickness and maternity/paternity insurance was extended in 2015 to students and graduates under the age of 26, exempting them from the qualifying period requirements, provided that they start working within 6 months (as regards sickness insurance) or 12 months (as regards maternity/paternity insurance) from the completion of their studies. Until the end of 2014, young people starting work after completing their studies were only exempted from the qualifying period requirement if they started working within 3 months from the graduation.;
 - A Law on Compensation of State Social Insurance Old-Age and Lost Capacity for Work (Disability) Pensions, entered into force on 22 May 2014. The law provided for the payment of compensatory benefits to those who received reduced old-age and disability pensions in 2010–2011, because of the economic crisis, as well as to their heirs, if the beneficiaries has died after the entry into force of the law. The compensatory amounts were paid in instalments, between end 2014 and 2016, to around 500 000 persons, for a global cost of around €99 000 000. Another law (Law on Compensation of State Social Insurance Old-Age Pensions and State Pensions Reduced by Taking into Account Available Insured Income), adopted on 30 June 2015, provides for further compensatory amounts to be paid in instalments between 2016 and 2018 to some 84 400 beneficiaries of Old-age pensions which were reduced in 2010-2011 (the global amount involved is expected to be around €120 600 000).

Article 12§4

Amendments to the Law on Pension which remove the length of residence requirement for old age pension, widows and survivor's benefits have been adopted, so that social security benefits are henceforth only based on the social insurance record. The amendments entered into force in 2014 provide for the payment of state social insurance pensions to any person, whether he or she is a Lithuanian national or a national of third country, who paid the compulsory contributions to the State Social Insurance Fund budget, irrespective of his or her presence in Lithuania.

Article 13§1

The amendments to the Law on Cash Social Assistance for Poor Residents established a legal basis for cash social assistance for persons in need. Municipalities provide cash social assistance for poor residents under equal conditions (both social benefits and compensations) as of 1 January 2015 by fulfilling their independent municipal function.

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In addition, the report contains also information requested by the Committee in Conclusions 2015 in respect of its conclusions of non-conformity due to a repeated lack of information regarding the right to housing – reduction of homelessness (Article 31§2).

The Committee examined this information and adopted a conclusion of non-conformity relating to this Article.

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

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),

- the right to information and consultation (Article 21),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right to dignity at work (Article 26).
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- the right to information and consultation in collective redundancy procedures (Article 29).

The deadline for submitting that report was 31 October 2017. The report was registered on 16 November 2017. Conclusions on the Articles concerned will be published in January 2019.

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

**CONCLUSIONS RELATING TO ARTICLES
FROM THE THEMATIC GROUP**

‘Health, social security and social protection’

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General objective of the policy

In its previous conclusion (Conclusions 2013), the Committee confirmed the existence of a policy whose aim was to pursue and preserve a culture of prevention as regards safety and health at work, and asked for information on the way in which the policy was regularly reviewed in the light of changing risks. In response, the report states that national legislation is revised according to the new EU legislation and taking into account of practice of implementation of the legislation.

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 notes that, according to the joint report from the European Foundation for the Improvement of Living and Working Conditions and the European Agency for Safety and Health at Work (2014), Lithuanian regulation mentions the obligation to take psychosocial risks into account, gives a definition of what is meant by psychosocial risks or stress and what has to be included in a risk assessment on order to ensure proper prevention of poor mental health. The Committee invites the authorities to comment on this observation in the next report.

In reply to the Committee's question concerning strategy, the report indicates that the Strategy on Health and Safety at Work for 2009-2012 and the Action Plan for Implementation of the Strategy on Health at Work for 2009-2012 are closely linked with the aims and objectives set in the 2007-2012 Community Strategy on Health and Safety at Work. The Committee notes that, according to the information provided by OSHWiki, the Strategy has not been renewed since 2012. The Committee invites the authorities to comment on this observation in the next report.

The Committee maintains its previous finding of conformity in this respect. It points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period.

Organisation of occupational risk prevention

In response to the Committee's question concerning measures of prevention, risk evaluation and awareness-raising taken by the public authorities, the report indicates that in 2012, risks assessment procedures were revised in order to define them clearly and allow employers to prepare documents on risk assessment in their own way, and particularly the General Regulations for Assessing Occupation Risks were amended and entered into force as of 1st November 2013. The Regulations contain revised concepts and provisions relating to the organisation and performance of risk assessment and set out that the assessment of a risk at the workplace is followed by the filling in of a document in the form chosen by the enterprise. Enterprises having conducted a self-assessment of occupational risks in accordance with the Regulations review and revise the assessment of or reassess occupational risks according to Paragraph 5 of the General Regulations for Assessing Occupational Risks.

The report also indicates that the Online Interactive Risk Assessment (“OiRA”) tools are being developed seeking to help small and medium size enterprises to assess the risks on their entities. According to the report, State Labour Inspectorate in cooperation with EU-OHSA takes part in the projects developing OiRA tools: in 2013 OiRA tool for Car repair was published, in 2014 OiRA tool for working in offices and for woodworking sector, in 2015 OiRA tool for wholesale and retail sales of non-food products.

In reply to other Committee’s questions, the report states that in 2015, State Labour Inspectorate has carried-out an activity oriented towards providing help to entities by giving out consultations and informing them on the questions of labour law and the safety and health of the employees. Special attention has been given to the activity of small, medium and first year acting entities. The report indicates an increase of State Labour Inspectorate (SLI) seminars and consultations on the safety and health of the employees and labour law (371 various consultation-educational events in 2014 and 520 in 2015). The report indicates that after the inspections of micro and small entities, the recommendations are prepared and handed-over to the employers regarding the elimination of established discrepancies in the safety and health of the employees and statutes of labour law requirements. In those recommendations, attention is emphasised to the formation of the safety and health of the employees and labour law policy in the company, the complex tackling of these questions, rational use of human and financial resources at hand. Means of impact (demands to eliminate the discrepancies and administrative penalties) are applied only in extreme cases when it is not possible to achieve the purposes of the entities supervision with other measures (by consulting or educating the entity).

The Committee notes that at national and at company level, there is a system for the assessment of occupational risks; preventive measures geared to the nature of the risks involved, and information and training measures for workers. It also notes that the SLI participates in developing an occupational health and safety culture among employers and employees and in sharing knowledge of occupational hazards and prevention acquired during inspection activities.

Improvement of occupational safety and health

In its previous conclusion (Conclusions 2013), the Committee found that the public authorities were involved in scientific and applied research and training on safety and health at work, and asked for updated information on the research work and training undertaken during the reference period.

As regards research work, the report indicates that the Institute of Labour and Social Research under the Ministry of Social Security and Labour was reorganised into Lithuanian Centre of Social Research under the Ministry of Education and Science in 2009. In addition, the Institute of Hygiene (budgetary institution of the Ministry of Health) investigates the effects of the working environment on health and assesses occupational healthcare technologies. This Institute consists of three specialised centres, one of which is Occupational Health Centre, which develops research on the effects of the working environment on health as well as the assessment of occupational healthcare technologies, while also preparing and testing innovative interventions in the occupational healthcare practice. The report adds that this centre had a number of researches and provided many recommendations concerning preparation of specialists in the professional health care.

The Committee notes from the report, examples of studies commissioned by the Ministry of Social Security and Labour with a view to improving working conditions and creating quality jobs.

Training on safety and health at work is carried according to the programmes approved by the Minister of Social Security and Labour or prepared by training institutions. The Minister of Social Security and Labour has adopted the mandatory programmes on OSH for specialists on safety and health at work, for employers fulfilling the duties of health and safety services

at their enterprises, and for persons designated by employers to fulfil duties of health and safety services at the enterprises. It has also adopted a program for employers, according to which the latter have to be attested before starting their activities. Training institutions provide programmes on OSH and training according to those programmes for employees according to the needs of enterprises.

The report also indicates that the Description of the Procedure for Drawing up and Legitimation of the Programmes of Training on Occupational Safety and Health was amended. The programme of training on occupational safety and health approved till 12 January 2013 could be used till 31 December 2013 and the training programmes for foremen of maintenance of potentially dangerous equipment, managers of the work with potentially dangerous equipment and workers working with such equipment – till 31 December 2014. In 2012, 19 training programmes for foremen of maintenance of potentially dangerous equipment, managers of the work with potentially dangerous equipment and workers working with such equipment were updated.

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

Consultation with employers' and workers' organisations

In its previous conclusion (Conclusions 2013), the Committee found that the employers' and employees' organisations were consulted on safety and health at work, at both official and enterprise level, and asked for information on relations between the health and safety committees and the health and safety services in enterprises. In reply, the report provides information on organisation of occupational safety and health committee in different undertakings according to Law on Safety and Health at Work. The Safety and Health at Work Service in an enterprise provides the Safety and Health at Work Committee with information about safety and health situation in the enterprise. Moreover, Safety and health at work specialists participate in the activities of Safety and Health at Work Committee.

In reply to the Committee's question regarding the work done by the enterprise-level committee in practice, the report indicates, that, according to Article 13 of the Law on Safety and Health at Work, the employer's representative or persons authorised by the employer must inform workers and consult with them on all issues concerning the state of occupational safety and health, the planning of its improvement, organisation, implementation and control of the measures. To that end, safety and health at work committees shall be set up, and workers' representatives with specific responsibility for the safety and health of workers shall be appointed. The employer's representative or heads of units shall create conditions for workers and workers' representatives with specific responsibility for the safety and health of workers to take part in discussions concerning safety and health matters.

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

Conclusion

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

Content of the regulations on health and safety at work

The report gives a list of the health and safety legislation amended during the reference period. These changes concern, *inter alia*, the protection of workers from the risks related to exposure to noise, risk from explosive atmospheres, exposure to vibration, working time and list of prohibited work and health hazards, work with asbestos, and risks related to exposure to electromagnetic fields.

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 Lithuania is in conformity with Article 3§2 of the Charter.

Levels of prevention and protection

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

Establishment, alteration and upkeep of workplaces

In its previous conclusion (Conclusions 2013), the Committee asked for information on the transposition of Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work. The report indicates that Directive 2009/104/EEC is transposed by Order No. 102 of the Minister for Social Security and Labour of the Republic of Lithuania of 22 December 1999 “On approving the General Regulations for the Use of Work Equipment” as last amended by Order No. A1-271 of 17 September 2005 “On Amendment of the Order No. 102 of the Minister for Social Security and Labour of the Republic of Lithuania of 22 December 1999 “On approving the General Regulations for the Use of Work Equipment”.

As regards assessments of the occupational risks of workstations, the report states that, irrespective of the activities performed, each enterprise must assess risks at the workplace. According to Article 260 of the Labour Code, the employer must ensure the safety and health of workers. Implementing this duty of the employer and having regard to Article 25(2) of the Law on Safety and Health at Work, the person representing the employer organises (or delegates) an assessment of risks at the workplace. The report states, that this is used as the grounds for establishing the safety and health situation of workers in enterprises and branches and at individual workplaces. The Committee notes from the report that the assessment of risks at the workplace is organised and performed and its outcomes are registered in accordance with the procedure laid down in the General Regulations on Assessment of Occupational Risk.

In the light of this information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with Article 3§2 of the Charter.

Protection against hazardous substances and agents

The report indicates that, in implementing Directive 2014/27/EU of the European Parliament and of the Council, the following regulations were revised: Regulations of the Use of Signs of Safety and Health at Work, Regulations on Protection of Employees from Risks Related to Exposure to Chemical Agents at Work and Regulations on Protection of Employees from Risks Related to Exposure to Carcinogens and Mutagens at Work and the List of Hazardous Working Conditions and Hazards to Pregnancy, those who have Recently Given Birth and Breastfeeding Women. The adopted legal acts have come into effect as of 1st June 2015, i.e. from the date of application of Regulation (EC) No. 1272/2008 of the European Parliament and of the Council to mixtures.

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. The report states that Directive 2009/148/EC is transposed into the Regulations of Work with Asbestos approved by the Order No. A1-184/V-546 of the Minister of Social Security and Labour and of the Minister of Health of 16 July 2004 and last amended by Order No. A1-323/V-716 of 8 June 2015. The Committee notes that, according to Paragraph 11 of this Regulations, the employer has to ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0.1 fibres/cm³ as an 8-hour time-weighted average.

The Committee previously asked (Conclusions 2013) whether the authorities have considered drawing up an inventory of all contaminated buildings and materials. Bearing in mind the importance of this question in the light of the right to health of the population (Article 11), it asks for the next report to provide specific information on steps taken to this effect.

The report also indicates that during trainings and counselling seminars, the State Labour Inspectorate disseminates its leaflets and flyers on safe work with materials containing asbestos and about asbestos-related risks. In addition, information on safety and health requirements to various types of work is published on the website of the Labour Inspectorate in a section entitled "Careful! Asbestos" ("*Atsargiai asbestos!*"). This section lists the legislation regulating work with asbestos, its summary versions and commentaries as well as other publications. Moreover, there was a separate publication of a practical handbook "Prevention or mitigation of asbestos hazards at work involving (or potentially involving) asbestos. For employers, employees and labour inspectors".

Protection of workers against ionising radiation

The report specifies that the Radiation Protection Centre established on 1st January 1997 by Order of the Minister of Health, is the institution which co-ordinates the activities of executive and other bodies of public administration and local government in the field of radiation protection, exercises state supervision and controls of radiation protection, monitoring and expert examination of public exposure. The aim of occupational exposure monitoring is the assessment of the internal and external exposure doses of radiation workers. According to these assessments safe working conditions are created and it is determined whether used radiation protection measures are effective. If the licensee cannot by himself assess the exposure of their workers and perform workplace monitoring, such investigations can perform the laboratory, which should be approved by the order of Ministry of Health Care. The Radiation Protection Centre performs investigation and assessment of internal and external exposure of the workers.

According to the report, ILO Convention concerning the Protection of Workers against Ionising Radiations No. 115 (1960) has been ratified on 11 December 2012 and entered into force on 27 May 2014.

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.

Temporary workers

In its previous conclusion (Conclusions 2013), the Committee asked for information on the protection provided for workers employed on a temporary or fixed-term basis other than through a temporary work agency. In reply, the report states that safe and healthy working conditions shall be ensured for every worker regardless of the nature of business of an undertaking, the type of employment contract, number of workers, profitability of the undertaking, workstation, working environment, work type, the duration of the working day (shift), the worker's citizenship, race, nationality, sex, sexual orientation, age, social background, political views or religious beliefs. According to Article 3.1 of Law on Safety and Health at Work, the guarantees of safety and health at work, provided by the law, shall also apply to public servants of State and municipal institutions and agencies. The Committee notes from the report that all provisions of Law on Safety and Health at Work and other legislation on safety and health at work are applied to workers employed on a temporary or fixed-term basis.

In reply to the Committee's question, the report states that, according to Article 270(1) of the Labour Code, the employer may not demand that a worker starts work in the enterprise if the worker is not instructed in matters of work safety, irrespective of the economic activity performed by the enterprise. According to Article 264(2)(4) of the Labour Code, local regulatory legislation in the area of occupational safety and health in enterprises is drafted by the employer or the person representing the employer, and, according to Article 27(1) of the Law on Safety and Health at Work, the employer's representative shall establish the procedure for instructing and training of workers in an enterprise. The report indicates that, where a worker has insufficient professional skills or knowledge obtained during training to be able to work in safety and avoid harm to his health, the employer's representative or the person authorised by the employer shall organise the training of the worker at the workplace, in the enterprise or educational institutions providing training in accordance with the General Regulations for the training and attestation in the area of the safety and health of workers.

In addition, the report states that the Procedure for drafting occupational safety and health instructions and for instructing employees provisionally posted by employers' agreement from one enterprise to another was approved by Order No. V-240 of the Chief State Labour Inspector on 10 August 2012.

In view of this information, the Committee considers that temporary workers, interim workers on fixed-term contracts enjoy the same standard of protection than workers on permanent contracts.

Other types of workers

In its previous conclusion (Conclusions 2013), the Committee asked for examples of the way in which the protection granted by the legislation and regulations was implemented in practice with regard to self-employed workers, for example in the forestry sector. In

response, the report explains that provisions of the Labour Code and the Law on Occupational Safety and Occupational Health are applied to every employer (i.e. every undertaking, institution, organisation or other body). An employer can be any natural person. The Civil Code regulates active and passive capacity of an employer (a natural person). Employers (natural persons) can perform labour rights and duties themselves. The Committee takes note from the report the list of persons which are considered as self-employed: owners of sole proprietorships, general partners of general partnerships and general partners of limited partnerships, persons engaged in individual activities in the meaning defined by the Law on Income Tax. According to the report, self-employed persons perform their rights and duties themselves in line with the aforementioned laws and regulations.

The report indicates that the Labour Code or the Law on Safety and Health at Work do not single out or refer to self-employed persons. The concept of “self-employed person” is not used in these laws but is used in the General Regulations on Setting-up Workplaces in Construction Sites (approved by Order No. A1-22/D1-34 of the Minister of Social Security and Labour and the Minister of Environment of 15 January 2008) and the Provisions on the Prevention of Sharp Injuries in the Hospital and Healthcare Sector (approved by Order No. A1-157/V-210/V-501 of 16 March 2012 of the Minister of Social Security and Labour and the Minister of Health). According to the report, a self-employed person, in the course of his or her work, shall bear responsibilities of both an employer and a worker, and must comply with the Labour Code, the Law on Occupational Safety and Health and other regulations.

According to Article 5§2 of the Law on Safety and Health at Work, the Minister of Health shall establish safety and health requirements for separate activities or exposure of workers to separate factors. These requirements are mandatory to both legal and natural persons, irrespective of their status. Furthermore, the Rules on Occupational Safety and Health have been developed with regard to performance of specific work and use of working equipment. The Rules are also applied both to natural and legal persons, irrespective of their status.

The Committee asks for information in the next report on the measures making it possible to check and ascertain whether the protection provided by the regulations for self-employed workers, home workers and domestic staff is applied in practice.

Consultation with employers' and workers' organisations

The Committee examined the situation and found that employers' and employees' organisations were consulted on safety and health at work, both at official level and at company level. In response to the Committee's question (Conclusions 2013) regarding the relations between health and safety committees and health and safety services in companies, the report explains that Safety and Health at Work Committees has to be set up in an enterprise that employs 50 or more workers. If an enterprise employs less than 50 workers, the above mentioned committee may be set up on the initiative of the employer or the workers' representative, or at the proposal of more than half of the workers of the undertaking. Safety and Health at Work Service in an enterprise provide the Safety and Health at Work Committee with information about the safety and health situation in the enterprise. Safety and health at work specialists participate in the activities of Safety and health at work committee.

In its previous conclusion (Conclusions 2013), the Committee also asked for information on the activity of company committees in the implementation of legislation and regulations relating specifically to hazards, particularly in small and medium-sized enterprises. The report indicates that Safety and Health at Work Committee, among others, analyses causes and circumstances of accidents at work and occupational diseases and proposes preventive measures to employer; discusses health and safety situation in an enterprise; listens to the information presented by worker safety and health representative on the situation of keeping

to the legislative requirements in an enterprise or a ship and the control of this; and prepares proposals on how to improve safety and health at the working places.

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

Conclusion

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

Accidents at work and occupational diseases

In its previous conclusion (Conclusions 2013), the Committee found that the situation in Lithuania was not in conformity with Article 3§3 on the ground that measures to reduce the excessive rate of fatal accidents were inadequate. It asked for information on the discrepancy between figures on fatal accidents given in the report and those published by EUROSTAT. The Committee takes note of the explanation given in the report.

The report indicates that the number of fatal accidents at work in 2008-2015 year period decreased significantly, from 82 in 2008 to 42 cases in 2015, and recognised that the incidence rate of fatal accidents at work is too high. According to the report, 2013-2014-year period could be qualified as a period of the stabilisation because the number of fatal accidents at work (59 in 2013 and 2014) and incidence rate indicators (5.0 in 2013 and 4.9 in 2014) stabilised. In 2015 the number and incidence rate of the fatal accidents at work (3.5) again showed a downward trend. The report also indicates that incidence rate of non-fatal accidents at work is permanently increasing (from 181.2 in 2009 to 293.2 in 2015).

The Committee states that, according to the Eurostat figures, the number of non-fatal accidents at work causing at least four calendar days of absence rose during the referenced period (from 2,808 in 2012 to 3,120 in 2014). The standardised rate of incidence of non-fatal accidents at work per 100,000 workers also rose from 280.19 in 2012 to 296.67 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 fell slightly from 58 in 2012 to 55 in 2014. The standardised incidence rate of fatal accidents at work per 100,000 workers decreased from 6.26 in 2012 to 5.56 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).

In its previous conclusion (Conclusions 2013), with regard to the incidence rate for accidents at work, which is excessively low compared to the average rate observed in the EU-27, the Committee also asked for detailed information on obligations to declare accidents at work and the measures designed to combat the possible under-reporting of such accidents in practice. In response, the report indicates that in Lithuania non-fatal accidents at work are divided into severe and minor accidents at work. According to the Law on Safety and Health at Work, State Labour Inspectorate investigates all fatal and severe (those, which personal health care physician in accordance with procedures, approved by Health minister, assigned as a severe) accidents at work. Minor accidents at work are investigated by the employer confirmed bipartite commission composed from workers' representative with specific responsibility for the safety and health and the employer's representative. The legislation (the Law on Safety and Health at Work and Regulations on investigation and registration of accidents at work) obligates the employer to report to the State Labour Inspectorate on the accident at work. Social benefits for the days lost due to the accident at work to the employee are paid when the accident is investigated and the accident investigation documents are submitted to State Labour Inspectorate and the Social Insurance Fund Board local office.

According to the report, accidents usually occur in the enterprises of the construction, manufacturing, forestry and agricultural economic activities (about 80% of all fatal accidents at work), workers falling from height (about 30%). The report indicates that the State Labour Inspectorate is planning its activities in the light of the above mentioned statistics and focuses on reduction of the number of occupational safety and health violations.

In reply to the Committee's question for statistics data on fatal occupational diseases, the report indicates that it was one fatal occupational disease (malaria) in Lithuania registered to aircraft mechanic in 2015. The report also indicates that State Register of Occupational Diseases ("ROD") is established at the Occupational Medicine Centre at Institute of Hygiene. The main objectives of the ROD are collection of data on occupational diseases, analysis and dissemination of statistical information as well as research promotion in the field of occupational health. According to the ROD data, the number of reported cases of occupational diseases rose from 393 in 2012 to 437 in 2015; the incidence rate for such diseases also rose from 30.8 in 2012 to 32.7 in 2015. According to the report, the main diagnoses was noise induced hearing loss, diseases of the musculoskeletal system and diseases of the nervous system caused by whole body vibration, the handling of heavy loads and repetitive work in Manufacturing, Construction, Transport and Agriculture sectors.

In addition, the report also indicates that the State Labour Inspectorate takes part in the development of the National Occupational Safety and Health 2017-2020 Strategic Action Plan and has already submitted a whole series of proposals to introduce new measures of "soft" and "hard" enforcement, non-traditional ways of monitoring and to increase the effectiveness of the sanctions.

The Committee considers, on the basis of the provided data, that measures to reduce the number of fatal accidents at work 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

The Committee notes that under Article 3§3 of the Charter, States Parties must implement measures to focus labour inspection on small and medium-sized enterprises (Statement of Interpretation on Article 3§3, Conclusions 2013). The Committee deferred its previous conclusion on this point and asked for information concerning the measures taken to increase monitoring visits to small and medium-size business enterprises, the manner in which less serious accidents at work are reported and investigated, the results of the policy of prevention, information and advice, and the number of criminal convictions as a result of criminal proceedings.

In reply, the report indicates that in 2015, State Labour Inspectorate has carried-out an activity oriented towards providing help to entities by giving out consultations and informing them on the questions of labour law and the safety and health of the employees. Special attention has been given to the activity of small, medium and first year acting entities. In 2015, the inspections of microenterprises (no more than 9 employees inclusively) consisted of 54% and small (no more than 49 employees) – 29.7% of all inspections carried-out by the State Labour Inspectorate. The report indicates that practically in more than half cases after the inspections of micro and small entities, the recommendations are prepared and handed-over to the employers regarding the elimination of established discrepancies in the safety and health of the employees and statutes of labour law requirements.

The report adds that for the consultation on the questions of the safety and health of the employees and labour law for the riskiest economic activities and the most dangerous work that entities take-up (including micro and small ones), the check-lists and methodical recommendations are prepared and published on the State Labour Inspectorate website.

In addition, in 2013, the State Labour Inspectorate with the Funds of the European Union implemented a project to create the Electronic Service System for Employers (ESSE). Its aim is to electronically fill-out and submit a declaration regarding the safety status of the employees and the workplace conformity to the requirements of the safety and health of the employees normative statutes of law. The report specifies that the purpose of the State Labour Inspectorate is not to apply the sanctions, but to monitor, help, consult and to strive

for a common result – the enhancement of the safety and health of the employees prevention culture, the lessening of accidents and occupational diseases.

In reply to the Committee's question regarding Radiation Protection Centre (RSC), the report indicates that this Centre co-ordinates the activities of executive and other bodies of public administration and local government in the field of radiation protection, exercises state supervision and control of radiation protection, monitors and experts examination of public exposure. According to the report, in 2015, 52 persons worked in this Centre. The aim of the inspection is to ensure that legal entities and natural person apply all necessary measures to protect people and the environment from the harmful effects of ionising radiation. The report specifies that inspections could be planned (407 in 2015) and unplanned (250 in 2015). According Regulations of State Radiation Protection Supervision, 657 inspections (644 entities) were performed in 2015. The report states that, despite all the measures applied to ensure implementation of radiation protection requirements, the number of objects where breaches were found is not decreasing (162 legal entities in 2015). Most of the breaches were eliminated during the inspection or within a specified period of time and did not cause a threat to others. However, 21 administrative sanctions were applied in 2015.

The report does not provide any pertinent figures on the number of health and safety inspection visits by the labour inspectorate and the proportion of workers and companies covered by the inspection or on the number of breaches to health and safety regulations and the nature and type of sanctions imposed. According to figures published by ILOSTAT, the Committee notes that in 2013, the number of labour inspectors was 193, the average number of labour inspectors per 10,000 employed persons was 1.5 and the number of labour inspection visits to workplaces was 10,069.

The Committee also notes that, according to the SLI reports, the number of employees engaged in tasks related to occupational health and safety decreased from 211 in 2012 to 197 in 2014; the number of inspection was 9,926 in 2012 and 10,582 in 2015. According to the SLI 2015 report, the number of OSH improvement notices issued was 798, the number of prohibitions was 38, the number of administrative fines concerning OSH proposed by Labour Inspectorate was 410, the number of cases concerning OSH presented to public prosecutor was 188 (in Lithuania only cases of fatal and non-fatal accidents at work are presented to the public prosecutor).

The Committee takes note of this information. However, this information is not sufficient to assess compliance with this part of Article 3§3 of the Charter. The Committee asks that the next report provide information on the following points: any change in the general framework for labour inspection activities during the reference period; the number, while distinguishing clearly between administrative staff and inspection staff, of inspectors assigned to supervising the application of the legislation and regulations on occupational health and safety; the number of general, thematic and unscheduled inspection visits assigned solely to the occupational health and safety legislation and regulations; the application of the legislation and the regulations on the labour inspectorate throughout the country in practice; details, by category, of administrative measures that labour inspectors are entitled to take and, for each category, the number of such measures actually taken; the outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings; and figures for each year of the reference period. In the meantime, the Committee concludes that the situation is not in conformity with the Charter on the ground that it has not been established that labour inspection, insofar as it concerns occupational health and safety, is effective.

Conclusion

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

- measures to reduce the number of fatal accidents at work are inadequate;
- it has not been established that labour inspection, insofar as it concerns occupational health and safety, is effective.

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 Lithuania.

The Committee previously deferred its conclusion and asked for information on the following aspects: the actual content of occupational health services if these duties are carried out by the employer; the updating of information concerning the proportion of in-house occupational health and safety services; the proportion of external occupational health and safety services; the rate of coverage by occupational health doctors; the arrangements for giving independent, agency and temporary workers and workers on definite term contracts access to occupational health services; and the arrangements that allow the SLI to ensure that business enterprises comply with legal obligations, in particular the obligation deriving from Article 12 of Law No. IX-1672 to ensure that companies have health and safety services corresponding to the number of staff and the nature of hazards. It also asked for information concerning the existence of a strategy to improve access to occupational health services, in consultation with employers' and workers' organisations.

The report does not provide any requested information. The Committee notes from the OSHWiki, that in order to ensure OSH in an enterprise, the employer may appoint one or more OSH specialists or establish an OSH service. The employer may conclude contract with a natural or legal person concerning the performance of the OSH service functions or part of such functions. This person must meet one of the qualification requirements for the OSH professionals in accordance to the Description of Qualification Requirements for Occupational Safety and Health Professionals, approved by the Minister of Social Security and Labour on 15 July 2010. The duty of these persons is to prepare proposals with regard to preventive measures designates to protect workers against injuries and occupational diseases, to coordinate the implementation of these measures, to control the compliance of workplaces of an undertaking with the OSH requirements. These persons are directly answerable for their work to the employer's representative or to the person authorised by the employer. The procedure for the establishment of OSH services in undertakings, functions, rights and duties of the persons appointed by the employer are laid down by the Model Regulation of Occupational Safety and Health Services in Enterprises, approved by the Minister of Social Security and Labour and the Health Minister on 2 June 2011. The Regulations also determine number of the OSH specialists in an undertaking OSH service taking into account types of economic activity, number of employed workers and relevant occupational risks. The Committee invites the authorities to comment on this observation in the next report and to provide all relevant information in this respect.

As regards external OSH services, the Committee also notes from the OSHWiki, that in the absence of competent staff able to ensure all OSH service functions, in order to ensure the process the employer can hire external OSH services or persons providing the OSH functions, according to the Law on Safety and Health at Work, adopted on 1 July 2003. Natural persons performing functions of the occupational safety and health service or part of such functions must meet the same qualification requirements like specialists for the internal OSH services and possess adequate means necessary to perform these functions. The duty of these persons is to prepare proposals with regard to preventive measures designated to protect workers against injuries and occupational diseases, to coordinate the implementation of these measures and to control the compliance of workplaces of an undertaking with the OSH requirements, etc. Mutual obligations of the employer and a legal or natural person performing the functions of the OSH service or part of such functions shall be established in an agreement regarding the performance of the said functions. Where the number of the OSH specialists of the legal person and/or the number of the natural persons performing functions of the OSH service or part of such functions cannot be smaller than the number set in the Model Regulations of Occupational Safety and Health Services in Enterprises this number should be fixed by the aforementioned agreement. The Committee invites the

authorities to comment on this observation in the next report and to provide all relevant information in this respect.

The report refers to the study “Company employees’ safety and health service preventive efficiency assessment” for 2011-2012 which showed that Lithuanian company employee safety and health services lack human resources in order to run employee healthcare functions efficiently. In an aim to adopt the best practices, international organisations as well as countries in the Baltic Sea region and Scandinavia are cooperated with. Moreover, the report refers to two projects implemented in 2011-2012: “Enterprise occupational safety and health service preventive efficiency assessment” and “The assessment of periodic employee health examination and occupational disease determination”.

The Committee notes that under Article 3§4 States must promote, in consultation with employers’ and workers’ organisations, the progressive development of occupational health services for all workers with essentially preventive and advisory functions. These services may be run jointly by several companies. They must be efficient and should be able to identify, measure and prevent work-related stress, aggression and violence (see Statement of Interpretation on Article 3§4, Conclusions 2013; also Conclusions 2003, Bulgaria). It further notes that if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers’ and employees’ organisations, for that purpose. Thus, States “must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources” (Conclusions 2003, Bulgaria, Conclusions 2009, Albania).

The Committee notes that the report does not provide the requested information on how the progressive development of occupational health services is promoted, and therefore, it considers that it has not been established that there is a strategy to institute access to occupational health services for all workers in all sectors of the economy. Recalling that the report must provide full, updated information on changes that have taken place in the relevant laws and regulations during the reference period, the Committee reiterates all its questions.

Conclusion

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

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 Lithuania.

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 73.6 (compared to 73.23 in 2009). The life-expectancy rate is still below that of other European countries, life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015. The report states that life expectancy increased by 0.75 years for males and 0.18 years for females during the 2012-2015 reference period.

The report indicates that the death rate (deaths/1 000 population) fluctuated from 13.7 in 2012 to 14.4 in 2015 (the EU-28 average in 2015 was 10.3). The Committee asks for updated information in the next report on the main causes of death as well as on the measures/programmes aimed to reduce morbidity and mortality caused by such diseases.

The report indicates that the infant mortality rate (number of infant deaths per 1 000 live births) stood at 4.2 (3.9 in 2012). The EU-28 average in 2014 was 3.7 infant deaths per 1,000 live births.

As regards maternal mortality rate, the Committee noted previously that it decreased from 11 deaths per 100 000 live births in 2005 to 4.29 deaths per 100 000 live births in 2010 (Conclusions 2013). The report does not provide any updated information on this point. The Committee notes from World Bank data that the maternal mortality rate stood at 10 deaths per 100 000 live births between 2012-2015. The Committee asks updated information on the maternal mortality rate in the next report.

Access to health care

The Committee refers to its previous conclusions for a short description of the healthcare system, where it noted that everyone covered by compulsory health insurance is entitled to free health care (Conclusions 2009 and 2013).

It also took note of the measures taken to reduce the prices of medicines in order to reduce the financial burden of the patients (Conclusions 2013). The report indicates that during the reference period (2012-2015), 100 new medicines were introduced on the List of Reimbursed Medicines for patients suffering from severe diseases. In 2015, 11.5 million prescriptions of reimbursed medicines were prescribed (4.3% more than in 2010). Although the number of prescriptions increased, the costs for patients and the state decreased.

The Committee noted previously that informal payments, as a negative indicator of service accessibility, were prevalent in Lithuania where they were still used as a common patient practice and asked for comments on this matter (Conclusions 2013).

The Committee takes note from the report of the information on the measures taken during the reference period to reduce the informal payments such as: awareness raising campaigns, control procedures and surveys measuring the corruption level in the Compulsory Health Insurance System. The report outlines that measures to address informal payments are part of the National Anticorruption Plan, as well as Anticorruption Measures plans of the Ministry of Health and the National Health Insurance Fund. The Committee asks to be kept informed on the impact/outcomes of such measures to stop/reduce the informal payments to the doctors.

In its previous conclusion, the Committee asked whether any measures were being taken to improve the content and scope of public health care services provided, with a view to meeting the needs and expectations of the population (Conclusions 2013). The report describes the measures taken during the reference period in order to improve the healthcare care system such as: the creation of the Diagnosis-Related-Groups system for the payment

of acute in-patient services; measures to strengthen the primary healthcare (such as expanded competence of family doctors giving them the opportunity to prescribe and evaluate more laboratory tests; new incentive services); cost-effective services like new consultations as well as a larger spectrum of consultations which involve research and therapeutic actions; out-patient surgery and day-care services, updated list of conditions for day-surgery services; a national early diagnosis program for colon cancer from 1 July 2014; new types of new-born screening (screening for galactosaemia and congenital kidney hyperplasia).

The report further indicates that since 2014 in the event of emergency medical care the initial ambulatory personal health care services must be provided on the date when a patient has contacted a health care institution, and in the event of scheduled medical care – within 5 calendar days from the date when the patient has registered in the health care institution. The report adds that the primary healthcare providers have to ensure that care shall be provided during the same day in urgent case and within 5 calendar days in case of exacerbation of chronic disease. Concerning the management of waiting lists and waiting times, the report mentions that in 2014 the National Health Insurance Fund (NHIF) approved the order on registration and monitoring of healthcare waiting lists. The Committee takes note of the measures taken with regard to the management and monitoring of the waiting lists. It asks updated information in the next report on the actual/average waiting times for primary and specialist care as well as for non-acute operations.

The Committee notes from Health System Review Lithuania 2013 of the European Observatory on Health Systems and Policies that while Lithuania successfully used the economic crisis as a lever to reduce the prices of medicines, out-of-pocket payments remain high (in particular for pharmaceuticals) and could threaten health access for vulnerable groups. The Committee notes from Eurostat data that in 2014 the health expenditure represented 6.2% of the GDP and the household out-of-pocket payments represented 31.5%. The OECD average for health expenditure represented 8.9% of the GDP in 2013.

The Committee recalls that the right of access to care requires *inter alia* that the cost of health care should be borne, at least in part, by the community as a whole (Conclusions I (1969), Statement of Interpretation on Article 11) and the cost of health care must not represent an excessively heavy burden for the individual. Out-of-pocket payments should not be the main source of funding of the health system (Conclusions 2013, Georgia). Steps must be taken to reduce the financial burden on patients from the most disadvantaged sections of the community (Conclusions XVII-2 (2005), Portugal). The Committee asks to be kept informed on the measures taken to reduce the out-of-pocket payments, including the costs of medicines for the population at large, and in particular for vulnerable groups, and the outcome of such measures.

In view of the persisting problem of informal payments as well as high out-of-pocket payments, the Committee considers that it has not been established that sufficient measures were taken to guarantee the right of access to healthcare in practice.

In its previous conclusions (Conclusions 2009 and 2013), the Committee asked information on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. The report indicates that through its Order of 21 August 2012, the Minister of Health has approved the description of the procedure for providing psychosocial rehabilitation services for persons with mental disorders (including those with addiction illnesses). The Order came into effect on 1 January 2014 and since 1 July 2015, these services have been covered from the Compulsory Health Insurance Fund. The report adds that outpatient and inpatient psychosocial rehabilitation services are provided. The psychosocial rehabilitation services can be provided by the following institutions: mental health centres, inpatient mental health facilities, daytime inpatient facilities, day care centres, psychosocial rehabilitation centres.

The Committee asks that the next report contain information on dental care services and treatments (such as who is entitled to free dental treatment, the costs for the main treatments and the proportion of out-of-pocket paid by the patients).

As regards the right to protection of health of transgender persons, the Committee previously asked whether in Lithuania legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other invasive medical treatment which could impair their health or physical integrity (Conclusions 2013). The report indicates that the Ministry of Justice in cooperation with the Ministry of Health and other specialists have prepared a bill to amend the provisions of the Civil Code establishing the right to a gender change registration. The bill has been submitted to the Government and discussions on this issue are on-going. The Committee takes note of the comments submitted by Transgender Europe and ILGA – Europe in the current cycle stating that in the absence of relevant legislation, transgender people are forced to litigate in the courts to obtain legal gender recognition. The Committee asks to be informed on any new developments regarding the adoption of the amendments to the Civil Code.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 11§1 of the Charter on the ground that it has not been established that sufficient measures have been taken to guarantee the right of access to healthcare in practice.

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 Lithuania.

Education and awareness raising

The Committee takes note from the report of the specific programmes developed by the Ministry of Education in order to promote health and prevent diseases, such as the Health Education Framework Programme (2012), the Health and Sexual Education and Preparation for Family Framework Programme (2016), Learning to Swim Programme (through which more than 4200 pupils were taught to swim in 2016).

The Committee recalls that informing the public, particularly through awareness-raising campaigns, must be a public health priority. The precise extent of these activities may vary according to the nature of the public health problems in the countries concerned (Conclusions 2007, Albania). Measures should be introduced to prevent activities that are damaging to health, such as smoking, alcohol and drugs, and to develop a sense of individual responsibility, including such aspects as a healthy diet, sexuality and the environment (Conclusions XV-2, the Slovak Republic). The Committee asks for updated information in the next report on the specific measures and campaigns undertaken by public health services, or other bodies, to promote health and prevent diseases.

As regards health education at schools, the Committee took note previously of a procedure for the recognition of schools that promote health on the basis of a number of criteria. It asked what proportion of schools have obtained recognition as health promoting schools under such a procedure (Conclusions 2013). The report indicates that there were 403 health promoting schools in 2015. The report adds that 14.2% of pupils are involved in non-formal education activities and the majority of them (33.8%) participate in activities related with sport.

The Committee recalls that States Parties must ensure that sexual and reproductive health education forms part of the ordinary school curriculum; that the education provided is adequate in quantitative terms; that the form and substance of the education, including curricula and teaching methods, are relevant, culturally appropriate and of sufficient quality, in particular that it is objective, based on contemporary scientific evidence and does not involve censoring, withholding or intentionally misrepresenting information, for example as regards contraception and different means of maintaining sexual and reproductive health; and that a procedure is in place for monitoring and evaluating the education with a view to effectively meeting the above requirements (International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia, Complaint No. 45/2007, Decision on the merits of 30 March 2009, §§46 – 47). The Committee asks for information in the next report on whether and how sexual and reproductive education is provided in schools in Lithuania.

Counselling and screening

The Committee took note previously of the consultation and screening services available for pregnant women and children at school (Conclusions 2013). The Committee recalls that there must be free and regular consultation and screening for pregnant women and children throughout the country (Conclusions 2005, Moldova). It asks updated information on this point.

The report indicates that the Procedure for the Prevention and Control of Non-communicable Diseases (2000) has been modified in August 2015. The procedure establishes the amount and frequency of examinations (by carrying out objective visual examinations, instrumental and laboratory tests) of the health of different-age individuals (up to 18 years, 19–40 years, 41–65 years, over 65 years old) when carrying out the prevention and control of non-

communicable diseases. The examination is carried out by a family doctor and nurse, these services being covered from the Compulsory Health Insurance Fund.

In respect of counselling and screening for the population at large, in its Conclusions 2013 the Committee concluded that the situation was not in conformity with Article 11§2 of the Charter on the ground that it has not been established that prevention through screening is used as a contribution to the health of the population (Conclusions 2013).

The Committee re-examined the situation in 2015 and concluded that the situation was in conformity with Article 11§2 on this point (Conclusions 2015). The Committee took note that there were five national screening programmes in Lithuania: four cancer screening programmes (for cervical cancer, breast cancer, prostate cancer and colorectal cancer) and one programme for cardiovascular screening. The screening programmes are financed by the Compulsory Health Insurance Fund (Conclusions 2015).

The current report adds that a Preventive Programme for Fixing Kids' Molars with Sealant Substance began in 2005. The target group of this programme is children of 6–14 years old. The programme is funded from the Compulsory Health Insurance Fund as well.

The Committee asked for up-dated information on coverage rates (number of persons screened from the target population and on the impact of the screening programmes (impact on early diagnosis rates, survival rates, etc.) (Conclusions 2015). Since the report does not provide the requested information, the Committee reiterates its question.

Conclusion

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

Healthy environment

In its previous conclusion, the Committee took note of a number of projects and regulations taken for the reduction of environmental risks, in particular in the field of water and sewage management and environmental noise. It asked the next report to provide updated information on the implementation of environmental protection measures and policies (Conclusions 2013).

The report does not provide any information on this point. The Committee reiterates its request for information on the concrete measures taken, including environmental legislation and regulations on the prevention of avoidable risks, as well as on the levels and trends with regard to air pollution, waste management, water contamination and food safety during the reference period. The Committee outlines that if such information is not provided, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Tobacco, alcohol and drugs

The Committee asked previously to be kept informed on measures taken to prevent drug addiction, as well as trends in drug consumption (Conclusions 2013).

The report provides information on the measures taken to prevent alcohol and drug addiction among pupils. A Preventive Action Coordination Group has been set up in most schools to this purpose. The report indicates that the prevalence of illegal drugs usage among pupils has decreased as well as alcohol consumption and tobacco usage among pupils. In 2015, 65% of pupils smoked at least once in a lifetime comparing with 79 percent in 2011.

The Committee asks for updated information in the next report on the legal framework and measures taken to reduce and prevent the consumption of tobacco, alcohol and drugs. It wishes to receive information on the figures and trends in consumption of alcohol, tobacco and drugs for the whole population, including young people.

Immunisation and epidemiological monitoring

The report indicates that the vaccination rate for the major communicable diseases was at least 93% in 2015.

The Committee asks for updated information and any new developments in the next report on the national immunisation programme, the trends in the coverage rate and measures taken with regard to prevention and control of communicable diseases.

Accidents

The Committee noted in its previous conclusion that the number of persons injured and dead in traffic accidents decreased (Conclusions 2013). It also took note of the participation of Lithuania in Child Safety Report Cards as part of the project Tools to Address Childhood Trauma, Injury and Children's Safety (TACTICS) and asked to be kept informed on the assessments for Lithuania under this initiative.

The report does not provide any information on this point. The Committee recalls that States Parties must take steps to prevent accidents. The Committee asks for information on the measures taken and the trend in the number of road accidents as well as domestic accidents, accidents at school and accidents during leisure time.

Conclusion

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

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

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

In the case of **family** and **maternity benefits**, the Committee refers to its conclusions on, respectively, articles 16 and 8§1 (Conclusions 2015).

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions for a description of the Lithuanian social security system, and notes that it continues to cover all the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). The system also continues to rest on collective funding: it is funded by contributions (employers, employees) and by the State budget. According to the report, 96,13% of the total population was insured for healthcare in 2014; out of an active population of 1 468 900, the percentage of persons insured was 92% as regards unemployment, 88% as regards sickness, 95% as regards old-age and 88% as regards maternity (data of 2015). The Committee asks the next report to provide updated information on the number of persons insured for these risks, but also for invalidity as well as for work accidents and occupational diseases, out of the active population.

Adequacy of the benefits

According to Eurostat data, the median equivalised annual income was €5 180 in 2015, or €432 per month. The poverty level, defined as 50% of the median equivalised income, was €2 590 per annum, or €216 per month. 40% of the median equivalised income corresponded to €173 monthly. The minimum wage was €325 per month as of 1 July 2015.

In its previous conclusions (Conclusions 2013), the Committee found that the minimum levels of sickness benefit, old age benefit and unemployment benefit were inadequate.

The Committee notes from MISSOC that, for people who have been insured for at least 3 months during the last 12 months, or 6 months during the last 24 months, **Sickness benefits** correspond to 80% of the average monthly Compensatory Wage (*Kompensuojamasis uždarbis*), that is the average wage based on the insured person's income earned in the three consecutive months before the last month preceding the one in which the temporary incapacity occurred. The Committee notes that in the case of a person working full time at minimum wage level, the benefits level would be in conformity with the Charter's requirements. The report confirms that the minimum benefits amount cannot be lower than 25% of the insured income of the year, which was €339 in 2015. In this case, the minimum benefit would fall largely below the 40% of the median equivalised income, and would therefore be manifestly inadequate. In this respect, the report explains however that such minimum is only granted to employees who work part-time or have not been insured during the three consecutive months before the temporary incapacity occurred. While taking note of this explanation, the Committee recalls that the level of income-replacement benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value. Where the minimum level of an income-replacement benefit falls below 40% of the median equivalised income (or the poverty threshold indicator), it is not considered that its aggregation with other benefits can bring the situation into conformity. Accordingly, the Committee considers that the situation is not in conformity in this respect.

Lithuanian social security system does not provide for a statutory minimum level of **old age** pensions. Under the compulsory social insurance scheme, the old-age pension consists of a basic flat-rate pension and a earnings-related pension, based on a formula comprising years of service, individual wages and average income. The authorities explain in the report that

the level of this component depends on the level of the person's average wage, the level of insured income and the record of pension insurance, which is calculated on the basis of the person's gained wage and the level of minimum wage. In order to receive a full pension, 30 contributory years are required, and the minimum qualifying period is 15 years. In practice, according to the report, for a person with 15 qualifying years, who received the minimum wage, the monthly pension (at 1st July 2015) would amount to €83.78. The pension of a person with 15 qualifying years but at the average wage, would be €112.96. For a person entitled to a full rate pension, with 30 qualifying years, the amounts would be respectively €168 for a person who received the minimum wage and €226 for a person with an average wage. The Committee notes that most of these amounts are inadequate, as they fall below 40% of the median equivalised income. As regards the non-contributory pension granted to persons who do not qualify for a social insurance pension, the Committee refers to its assessment under Article 13§1.

Are entitled to **unemployment benefits** persons who have been working for at least 18 months during the last 3 years preceding unemployment. In response to the Committee's question (Conclusions 2013), the report clarifies that the payment of the benefits is terminated if the person refuses a work offer corresponding to his/her professional skills and health condition. The suitability of the work offer in respect of the unemployed person's health condition is assessed by a medical commission. The report confirms that the decision not to grant or to terminate the payment of the unemployment insurance benefit can be appealed to the State Social Insurance Fund Board, which is a mandatory pre-litigation out of court authority, and the decisions of this authority can be appealed to a court. The Committee previously noted that unemployed benefits consist of a fixed amount and a variable component based on the person's real insured income. The variable component is paid in full during the first three months of unemployment, and it is paid at 50% for the remaining period. The duration of payment of the Unemployment Insurance Benefit depends on the length of the insurance record and varies between 6 months (for a person with less than 25 years of service) and 9 months (for a person with at least 35 years of service), which can be extended by two months in some cases (elderly persons within 5 years from pension age, municipalities with high unemployment rate). The Committee previously noted that the minimum amount of unemployment benefits corresponds to the fixed part of the benefit, which was €102 in 2015. The Committee holds that the level of this benefit is inadequate as it falls below 40% of the Eurostat median equivalised income.

As regards work injuries and occupational diseases benefits, as well as invalidity benefits, the Committee notes from MISSOC that:

- in case of **work accidents** or **occupational diseases**, the cash benefits correspond to 100% of average monthly Compensatory Wage, i.e. the average wage based on the insured person's income earned in the three consecutive months before the month preceding the one in which the temporary incapacity occurred. On the basis of the minimum wage in 2015 (€325), the Committee considers that the situation is in conformity in this respect.
- minimum **invalidity benefits**, for a person with 75-100% loss of capacity for work amounted in 2015 to 150% of the basic social insurance pension (which was €108 in 2015), that is €162. While noting that, according to the report, the average amount of state social insurance for disability was €213 in 2015, the Committee notes that the minimum level falls below 40% of the Eurostat median equivalised income. Accordingly, the situation is not in conformity in this respect.

Conclusion

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

- the minimum level of sickness benefits is inadequate;
- the minimum level of old-age benefits is inadequate;
- the minimum level of unemployment benefits is inadequate;
- the minimum level of invalidity 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 Lithuania.

It refers to its previous conclusions for the description of the Lithuanian social security system. Since Lithuania has ratified Articles 8§1 and 16 of the Charter, the Committee will assess the scope and impact of developments with regard to maternity and family benefits when it will next examine compliance with this article.

As regards other branches of social security, the Committee takes note of the legislative developments during the reference period. In particular, the report recalls that the Constitutional Court had pointed out, in a series of decisions, that a temporary reduction of pensions, wages or legally established payments was justifiable on account of the fundamental deterioration of the state's economic and financial situation only on a temporary basis, while the state's economic and financial situation was grave. In accordance with these decisions, when the economy started recovering, during the reference period, a number of improvements were introduced:

- From 1 January 2012, payment of old age, work incapacity (disability) and survivors' pensions (widow's/widower's and orphan's pensions), which had been temporarily reduced in 2010–2011 (see Conclusions 2013), was restored to the full amount. As a result, in 2012, the average amount of old-age pension increased by around 9% compared to 2011. The state social insurance pensions were increased from 1 July 2015, from €105 to €108 as regards the basic pension and from €431 to €434 as regards the insured income of the current year. The average old-age pension, for a person with the obligatory record of pension insurance, was increased by around 2% and amounted to €256.8.
- As of 1 January 2015, sickness allowances paid from the State Social Insurance Fund budget resources were increased by approximately one third, following the amendment of the Law on Sickness and Maternity Social Insurance. As a result, the sickness allowance was brought to 80% of the beneficiary's compensatory salary for the whole length of the sick leave, while until end 2014 only 40% of it was paid from the third to seventh day of sick leave.
- Sickness and maternity/paternity insurance was extended in 2015 to students and graduates under the age of 26, exempting them from the qualifying period requirements, provided that they start working within 6 months (as regards sickness insurance) or 12 months (as regards maternity/paternity insurance) from the completion of their studies. Until the end of 2014, young people starting work after completing their studies were only exempted from the qualifying period requirement if they started working within 3 months from the graduation.
- A Law on Compensation of State Social Insurance Old-Age and Lost Capacity for Work (Disability) Pensions, entered into force on 22 May 2014. The law provided for the payment of compensatory benefits to those who received reduced old-age and disability pensions in 2010–2011, because of the economic crisis, as well as to their heirs, if the beneficiaries has died after the entry into force of the law. The compensatory amounts were paid in instalments, between end 2014 and 2016, to around 500 000 persons, for a global cost of around €99 000 000. Another law (Law on Compensation of State Social Insurance Old-Age Pensions and State Pensions Reduced by Taking into Account Available Insured Income), adopted on 30 June 2015, provides for further compensatory amounts to be paid in instalments between 2016 and 2018 to some 84 400 beneficiaries of Old-age pensions which were reduced in 2010-2011 (the global amount involved is expected to be around €120 600 000).

Other measures are mentioned in the report whose impact in terms of personal coverage and benefits' levels does not appear to be clear. The Committee notes in particular that some major changes were made in 2012-2015 concerning the contribution rate and funding

of the cumulative pension (second pension pillar) introduced in 2004. As the contribution rate (2.5% in 2013) was not sufficient to ensure an adequate level of future pensions, the new system provides that the cumulative pension contribution shall consist of a portion of the state social pension insurance contribution, a supplementary contribution paid by the participant, and an incentive contribution paid from the state budget. This new procedure applies since 2014 to all those who signed their pension accumulation agreements after 1 January 2013. The first two components are calculated on the basis of the participant's income, while the third one amounts to the percentage of the gross average monthly wage of workers in the country's economy for four quarters of the year before last year published by the Lithuanian Department of Statistics. Furthermore, as of 2012, the retirement age started increasing (in 2012, it was 60 years and 4 months for women and 62 years and 8 months for men, and it will be gradually increased until reaching 65 years for both in 2026). Further amendments to the Law on Pensions, which came into force in 2013, concern the calculation of pension amounts for new pensioners and for those who, after retiring, continued working and request a new pension on that account. The Committee asks for information in the next report on the changes made, specifying the effect of these changes on the personal scope of the system and the minimum level of income replacement benefits.

The report also mentions measures coming into force out of the reference period, concerning a reform of the Unemployment Social Insurance (extension of coverage through the reduction of the qualifying period, changes in the calculation of the benefit amount). The Committee asks the next report to provide information on their implementation and impact.

Conclusion

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

Article 12 - Right to social security

Paragraph 4 - Social security of persons moving between States

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

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

Right to equal treatment

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

The Committee recalls that, having regards to the EU legislation on the coordination of social security systems of the EU Member States, governed by Regulations (EC) No. 883/2004 and No. 987/2009, as amended by Regulation (EU) No. 1231/2010, the EU Member States are considered, in principle, to ensuring equal treatment between, on the one hand, their nationals and, on the other hand, nationals of other EU Member States or member of the EEA, stateless persons, refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, their families and their survivors, as well as nationals of third countries, members of their families and their survivors, provided that they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State.

The Committee recalls that, in any event, under the Charter, EU/EEA Member States are required to secure, to the nationals of other States Parties to the 1961 Charter and to the Charter not members of the EU, equal treatment with respect to social security rights provided they are lawfully resident in their territory (Conclusions XVIII-1 (2006)). In order to do so, they have either to conclude bilateral agreements with them or take unilateral measures.

The Committee previously asked (Conclusion 2013) how equal treatment between nationals and nationals of other States Parties was ensured in respect of social security rights for all security branches and, in particular, whether the Lithuanian Government planned to conclude agreements with States Parties with which there were no such agreements or unilateral measures and, if so, when.

As regards bilateral agreements concluded with other States Parties not members of the EU or the EEA, the report recalls that Lithuania has concluded such agreements with countries with which there are, on the one hand, a significant migration flow and, on the other hand, a mutual interest in concluding such an agreement. The report states that, during the reference period, Lithuania concluded an agreement with the Republic of Moldova on social security which came into force in October 2015. It also points out that Lithuania has opened negotiations with Georgia with a view to concluding such an agreement and plans to do so with Armenia in 2017.

As regards unilateral measures taken by Lithuania, the report states that amendments to the Law on Pension which remove the length of residence requirement for old age pension, widows and survivor's benefits have been adopted, so that social security benefits are henceforth only based on the social insurance record. The amendments entered into force in 2014 provide for the payment of state social insurance pensions to any person, whether he or she is a Lithuanian national or a national of third country, who paid the compulsory contributions to the State Social Insurance Fund budget, irrespective of his or her presence in Lithuania.

In respect of payment of family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the

obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusion 2006, Cyprus).

The Committee notes from MISSOC that Lithuania applies the rule whereby the payment of family benefits is conditional on the claimant's children being resident in Lithuania.

The Committee previously asked (Conclusions 2009 and 2013) whether such agreements existed with the following countries: Albania, Armenia, Georgia, Serbia and the Russian Federation, or whether they were planned and on what timescale. The report states that such an agreement exists with the Russian Federation. It adds that Lithuania opened negotiations with Georgia and plans to do so with Armenia in 2017.

The Committee notes that the personal scope of the Law on Child Benefit was enlarged to include, *inter alia*, third-country nationals with temporary permit to reside and who have been authorised to work, those who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed. The Committee asks the next report to clarify whether the Law also apply to nationals of other States Parties with which Lithuania did not conclude any bilateral agreement. Meanwhile, it reserves its position on this point.

Right to retain accrued benefits

The Committee previously considered (Conclusions 2009 and 2013) that the retention of accrued benefits related to work accidents, occupational disease, sickness or maternity for person moving to a State Party which is not covered by EU regulations or not bound by an agreement with Lithuania was not guaranteed. It notes that no new agreement has been adopted in Lithuania in this regard.

However, it notes in the report that Clause 107 and 111 of the Regulations on Social Insurance Benefits related to Accidents at Work and Occupation Diseases, and 61 of the Regulation for Sickness and Maternity Social Insurance Benefits have been amended by Resolutions No. 1346 of 23 December 2015 and No. 1548 of 19 December 2012 in such a way to allow retention of accrued benefits in those field for persons moving to State Party which is not covered by EU regulations or not bound by an agreement with Lithuania. In other words, accrued benefits related to work accidents and occupational diseases, sickness and maternity are paid to nationals of all other States Parties, irrespective of their location.

The Committee considers therefore Lithuania to be in conformity with the Charter on this point.

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

There should be no disadvantage for persons who change their country of employment where they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. This requires, where necessary, the aggregation of employment or insurance periods completed in another territory and, in the case of long-term benefits, a pro-rate approach to the conferral of entitlement, the calculation and payment of benefit (Conclusion XIV-1 (1998), Portugal).

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

The principles of accumulation of insurance or employment periods applies to nationals of States Parties covered by the EU Regulations.

With respect to States not bound by the EU Regulations, the Committee notes from the report that insured persons who lose, either in full or in part, his/her capacity for work due to

an insured event will be paid from the social insurance funds allocated for accidents at work. There is no requirement for employee to have social insurance record for accidents at work and occupational diseases. Similarly, Lithuania requires no other condition than having a sickness social insurance record of at least 3 months over the past 12 months or at least 6 months over the past 24 months, prior to the onset of temporary incapacity for work, to be entitled for such a sickness benefit. The report also indicates that third-country nationals who are working and residing legally in Lithuania by virtue of a Single permit or EU Blue Card enjoy equal treatment as regards payment of unemployment benefit as long as their unemployment insurance record are not shorter than 18 months during the last 36 months, pursuant to Law on Unemployment Social Insurance of the Republic of Lithuania.

The Committee considers therefore that Lithuania ensures equal treatment between nationals and nationals of other States Parties in respect of maintaining accruing social insurance rights.

Conclusion

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

Article 13 - Right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

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

Types of benefits and eligibility criteria

The Committee takes note of the legislative developments during the reference period. Namely, it notes that the amendments to the Law on Cash Social Assistance for Poor Residents came into force as of 1 January 2012, which established a legal basis for cash social assistance for persons in need. Pursuant to the Law, municipalities provide cash social assistance for poor residents under equal conditions (both social benefits and compensations) as of 1 January 2015 by fulfilling their independent municipal function.

The Committee also takes note of the measures implemented with regard to reorganisation of the cash social assistance system, such as introduction of the *principle of economies of scale* (in relation to the number of family members). For the first family member, as well as for single persons 100% of the difference between State Support Income and the person's income will be granted (up from 90% in the previous reference period). The amount of compensated norms of floor space as regards additional benefit for a single person has been increased from 38 to 50 square meters.

The Committee also notes that a single person will be additionally granted *social assistance benefit* even after they find an employment. This benefit is paid for 6 months.

Moreover, according to the report, discretion was granted to municipalities to allocate social benefits also in cases when a person's income exceeds the amount of state supported income. The limits of discretion of municipal administrations have been expanded in order to create conditions to receive assistance when a person is mostly in need of it. Administrations of municipalities following an assessment of individual living conditions have been conferred the right to grant social benefit and compensations for heating and drinking and hot water expenses on an exceptional basis. In 2015 3.4 thousand persons were granted cash social assistance on an exceptional basis. In 2015 expenditure on cash social assistance on an exceptional basis stood at € 1.5 million.

Municipal administrations have been granted even more rights in the process of providing cash social assistance for poor residents. Administrations of municipalities have been conferred the discretion to grant social assistance in other cases than those established in the Law (e.g. a lump-sum benefits is granted, repayment of the housing loan etc.). In 2015 160 thousand persons were granted social assistance in other cases and the expenditure on such social assistance amounted to € 2.16 million.

Level of benefits

In order to assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: the Committee notes from MISSOC that the monthly benefit level is 100% of the State Supported Income. For single persons it stood at € 102.
- Additional benefits: according to MISSOC reimbursement of the cost of heating, hot water and drinking water is provided for the family based on a means test. A family should not have to pay more than 20% of the family income above the State Supported Income, 5% of the family income for basic standard hot water and 2% of the family income for basic standard of drinking water. The Committee notes that all these benefits together stand at around € 27 per month.
- Medical assistance: the Committee asks the next report to provide updated information regarding medical assistance to persons in need.

- Poverty threshold estimated at 50% of the median equivalised income and calculated on the basis of Eurostat at-risk-of-poverty threshold): it amounted to € 139 in 2015.

In the light of the above data, the Committee notes that the the combined level of basic and supplementary benefits available to a single person without resources is not adequate as the total amount that can be obtained falls below the poverty threshold. Therefore, the situation is not in conformity with the Charter.

Since Lithuania has not accepted Article 23, the Committee also examines the situation as regards the minimum level of pension benefit under Article 13. As regards social assistance to elderly persons (non-contributory), the Committee notes from its conclusion in Article 12§1 that its amount stood at, in July 2015, €97.2. The Committee previously noted (Conclusions 2013) that when the social insurance pension is lower than the social assistance pension, the difference is paid, and that the social assistance pension is paid to persons who do not qualify for a social insurance pension. The Committee notes that both the social assistance pension and the social insurance pension (calculated on the basis of the minimum wage), are inadequate, as the total amount of assistance that may be obtained falls below the poverty threshold. Therefore, the situation is not in conformity with the Charter.

Right of appeal and legal aid

The Committee takes note of the number of complaints for the decisions of municipal administration in 2012-2015.

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 found that the situation was not in conformity with the Charter on the ground that the granting of social assistance benefits to nationals of other States Parties was subject to a length of residence requirement.

The Committee notes from the report that according to the Law on Cash Social Assistance for Poor Residents (Official Gazette Valstybės žinios, 2011, No. 155-7353), cash social assistance shall be granted ensuring the *equality* of residents without resources, *irrespective of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion*. According to the report, Nationals of other States Parties are treated equally with nationals as long as they meet the requirements stated by the Law.

The Law on Cash Social Assistance for Poor Residents (Official Gazette Valstybės žinios, 2011, No. 155-7353) is applied to permanent residents and covers the following categories of persons:

- citizens of the Republic of Lithuania;
- aliens holding a permit of a long-term residence in the Republic of Lithuania;
- EEA nationals;
- aliens who have been granted subsidiary protection or temporary protection in the Republic of Lithuania.

However, according to the report, in accordance with the existing legal regulation, persons who are temporarily residing in the Republic of Lithuania and do not have the right to cash social assistance, are not left without any support. Municipal administrations have the right to allocate cash social assistance from their budgetary resources to persons lawfully residing.

The Committee notes from MISSOC that permanent residence is one of the conditions for eligibility to social assistance. The Committee noted in its Conclusion 2006 that in pursuance of Article 22 of the law of 1998 on the Legal Status of Foreigners, one of the conditions for obtaining a permanent residence permit is the possession of a temporary residence permit for the previous five years. The Committee understands that there have been no changes to the situation which it has previously found not to be in conformity with the Charter. Therefore, it reiterates its previous finding of non-conformity on the ground that nationals of other States Parties are subject to a length of residence requirement to become eligible for social assistance.

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 Lithuania is not in conformity with Article 13§1 of the Charter on the grounds that:

- the levels of social assistance and of social assistance pension are not adequate;
- nationals of other States Parties are subject to a length of residence requirement of five years to become eligible for social assistance.

Article 13 - Right to social and medical assistance

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

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

The Committee recalls that under Article 13§2 of the Charter any discrimination against persons receiving social and medical assistance that might result – directly or indirectly – from an express provision must be eradicated. The Committee asks whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

Conclusion

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

The Committee recalls that Article 13§3 concerns free of charge services offering advice and personal assistance specifically addressed at persons without adequate resources or at risk of becoming so. The social services covered by Article 13§3 must play a preventive, supportive and treatment role. This means offering advice and assistance to make those concerned fully aware of their entitlement to social and medical assistance and how they can exercise those rights. In assessing national situations under this provision the Committee specifically examines whether there are mechanisms to ensure that those in need may receive help and personal advice services free of charge and whether such services and institutions are adequately distributed on a geographical basis. The Committee asks the next report to provide updated information on how these requirements are met in legislation and practice.

Conclusion

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

Organisation of the social services

In its previous conclusion (Conclusions 2013) the Committee asked to provide an up-to-date description of the organisation of social services.

The report indicates that according to the Law on Social Services (Official Gazette 2006, No.17-589) municipalities are in charge of ensuring provision of social services to residents of its territory by planning and organizing social services. In order to determine the scope of provision and types of social services in line with residents' needs, municipalities annually draw up and approve a plan of social services. Plans of social services are drawn up in compliance with the methodology of planning of social services as approved by the Government. The Ministry of Social Security and Labour analyses and assesses the condition of social services in the country and submits proposals to municipalities on the planning and organization of social services. The Ministry establishes social care establishments, as well as reorganizes them according to the needs and liquidates those social care establishments which are not needed any more.

The report indicates that, in order to ensure persons with mental disabilities right to community-based services according to their individual needs, in Lithuania the care system reform is carried out with a specific focus on de-institutionalization. The Action Plan of the Transition from Institutional Care to the Provision of Services in a Family and Community for the Disabled and Children Deprived of Parental Care 2014–2020 was adopted in 2014. In the period 2014–2020, the Action Plan aims to envisage consistent and coordinated actions that promote the creation of the system for transition from institutional social care to community-based services for disabled persons (including children and youth), with mental and/or psychic disability, children deprived of parental care, including babies, as well as families, and assistance to the family, guardians (foster parents). The Committee asks the next report to provide information on implementation of this Action Plan.

The report indicates that in 2012 the Minister of Social Security and Labour approved Integrated Assistance Development Program. The main goals of the Program are as follows: to ensure the accessibility (to expand social care services and include nurse care services) and variety of services of integrated help at home for elderly, disabled adults and children and for family members by consulting and involving informal carers (volunteers, neighbours and other) into process. From the middle of 2013, the pilot projects started in 21 municipalities. During the program implementation period (2013–2015), integral assistance was provided to over 1500 disabled and elderly people; consultations were provided to about 1400 family members. Funding for program (2013-2015) was about 5.8 million EUR. In this respect the Committee asks the next report to provide information on implementation of the Integrated Assistance Development Program also for other categories of vulnerable groups such as young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, battered women and former detainees.

Effective and equal access

In its previous conclusion (Conclusions 2013), the Committee asked to provide an up-to-date description on the measures taken to ensure equal and effective access to social services.

The Committee moreover recalls that users of social services must have means of making complaints and referring urgent cases of discrimination and infringements of human dignity to an independent body. The Committee therefore asks which remedies are available for users in such cases.

Quality of services

In its previous conclusion (Conclusions 2013) the Committee asked to provide an up-to-date description on the quality of social services.

The report indicates that according to the Law on Social Services, the municipalities are responsible for the supervision of common social services and social attendance services. The Law also states that the Department of Supervision of Social Services under the Ministry of Social Security and Labour (hereinafter referred to as the "Department") assesses, monitors and controls the quality of social services (provides methodological assistance on the application of social care norms, provides methodological assistance regarding control of the quality of social services of general interest and social attendance, form a general practice of application of social care norms and the requirements set forth for social services of general interest and social attendance; assesses the quality of social care, issues licenses to provide social care, monitors and controls compliance with the conditions of licensing activities, controls the establishment of a person's (family's) need for the social services financed from special targeted subsidies of the state budget to municipal budgets, granting and provision thereof as well as assessment of the person's (family's) financial possibilities to pay for these services).

The report underlines that from 2015 onwards, only licensed establishments are entitled to provide social care. Licensing of social care institutions and assessing the quality of social care falls within the responsibility of the Department. The assessment of social care is made in compliance with the rules on the licensing of social care establishments (Official Gazette 2012, No.57-2864) and social care norms. Social care norms set out the specific requirements for social care quality. The main specific requirements for social care quality are: – quantitative: for personnel composition (description of what personnel is needed according group of clients, minimum requirement for number of personnel according to number of clients and etc.); accommodation adjustment (description of accommodation (size, number and etc.) based on client group and number of clients, hygiene requirements, other adjustment of accommodation (elevators, layout, adjustment for disabled and etc.); – qualitative: for allocating and planning services; making agreements with clients or their representatives; making and review individual social care plans; making emotionally safe, stresses and etc. environment; providing services which enable, motivate and encourage clients, keep their social relations and etc. The report stresses out that client privacy is one of most important issue in the social care norms and organizations are obliged to fulfil the right to privacy of a person. The Department is obliged to organize and implement supervisory procedures in place to ensure that mentioned conditions are complied with in practice.

The Ministry of Social Security and Labour in year 2011-2015 implemented the program "Development of Infrastructure of Institutional Services" of Priority 2 "Quality and Accessibility of Public Services: Health Care, Education and Social Infrastructure". The aim of this measure is to ensure safe environment and high quality of community-base services provided to elderly persons, the disabled, children and persons at social risk by modernizing current infrastructure and establishing new small care homes (group homes for disabled), day care centres, crises centres and etc. Funding for program was about 159 million EUR. During the period 2014-2020 Action Plan for Development and Modernization of Social Services infrastructure will be implemented. The main aim of the action plan is to achieve better access to services in all regions of the country. Funding for action plan is about 20 million EUR. In this respect the Committee asks that the next report provides information on development and implementation of the 2014-2020 Action Plan for Development and Modernization of Social Services infrastructure.

The report indicates that in 2012, the Minister of Social Security and Labour approved the Program of Competence Trainings for the Employees of Social Services Establishments. The Program enhanced the quality of employees providing services and their ability to adopt theoretical knowledge into daily work in social establishments, identify the need of trainings.

More than 4 thousand employees of social services establishments participated in the trainings. The report indicates also, that according to the information of the Department of Statistics in Lithuania in 2015 social services were provided by almost 11 thousand workers. In this respect the Committee asks that the next report provides updated information on the developments of the Program of Competence Trainings for the Employees of Social Services Establishments.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 14§1 of the Charter.

Article 14 - Right to benefit from social services

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

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

In its previous conclusion (Conclusions 2013) the Committee asked for details on criteria used by the State to award grants to voluntary organisations including the amount of these grants.

The report indicates that the National Progress Programme 2014-2020 approved by Resolution No 1482 of the Government of the Republic of Lithuania of 28 November 2012 (Official Gazette No 144-7430, 2012) anticipates that in 2020 15% of all public services in municipalities should be provided by local communities and non-governmental organizations. Main services being provided through non-governmental organizations are: social rehabilitation for disabled, day care centres (from 2002), specialized assistance centres (provides assistance to victims of violence). Number of volunteers working for the social services increased from 3335 in 2011 to 4627 in 2015. In accordance with the Law on Volunteering, volunteering-related expenses are subject to reimbursement. State financial assistance is granted to youth voluntary organisations and the amount of these grants was equal to 270590 EUR for the period of 2013-2015. In this respect, the Committee asks that the next report provides updated information on implementation of the National Progress Programme 2014-2020.

In its previous conclusion (Conclusions 2013) the Committee noted that the report did not answer to its request for information on the involvement of civil society in areas of welfare policy which affect the social welfare services.

The report indicates that in 2014, while implementing the provisions of the Law on Development of Non-governmental Organizations, the Ministry of Social Security and Labour approved the Council of Non-governmental Organizations. The Council of Non-governmental Organizations is an advisory body seeking to ensure participation of the non-governmental organizations; it consists of representatives from 10 state institutions and 10 non-governmental organizations; the term of office of the members of the Council is 2 years. According to the Law on Social Services issues of the management, granting and provision of social services must be settled in co-operation with recipients of social services and/or representatives thereof and the organizations defending the interests and rights of social groups of people.

The report indicates that the Ministry of Social Security and Labour is constantly encouraging public participation of the civil society and the community into planning and providing help and services for those in need. For instance, in 2014, the Ministry approved the group of experts who monitor and evaluate the implementation of de-institutionalization process according to the Action Plan of the Transition from Institutional Care to the Provision of Services in a Family and Community for the Disabled and Children Deprived of Parental Care 2014–2020.

According to the report, delegated experts from non-governmental organizations constitute about 40 percent of all experts in the group. Furthermore, in the mentioned Integrated Assistance Development Program, one of the aims is to involve informal carers (volunteers, neighbours and other persons) into the process of providing integrated assistance. Volunteers, neighbours and other persons are responsible for informal help. The report indicates also that in 2011 the Minister of Social Security and Labour approved the Lithuanian Social Work Board, which has an advisory function on social work issues. The Lithuanian Social Work Board consists of municipalities' representatives, social workers, teachers from higher education schools for social work, social services institutions etc. Almost half of Board members are from public or non-governmental organizations.

The Committee recalls that States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers

involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required (Conclusions 2005, Bulgaria). In this respect asks to know what kind of supervisory quality control mechanisms are in place to ensure the quality of services.

Conclusion

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

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

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

The Committee takes note of the information submitted by Lithuania in response to the conclusion that:

- it had not been established that there were measures in place to prevent persons having lost their right to municipal subsidised housing from becoming homeless;
- it had not been established that there was legal protection for persons threatened by eviction; and
- it had not been established that the right to shelter was adequately guaranteed.

Preventing homelessness

The Committee recalls that preventing homelessness as enshrined by Article 31§2 implies for the States Parties to intervene at two levels: They must, on the one hand, reduce homelessness by providing, for example, immediate shelter and care for the homeless as well as helping such people overcome their difficulties and prevent a return to homelessness. On the other hand, they must prevent categories of vulnerable people from becoming homeless by establishing a housing policy for all disadvantaged groups of people to ensure access to social housing (Conclusion 2005).

The Committee noted in its previous conclusion (Conclusion 2011) that families and persons who are granted a state supported housing loan but subsequently lose their housing for specific reasons due to their faulty behaviour, are no longer entitled to municipal subsidised during 5 years. In this regard, the Committee asked twice (Conclusions 2011 and 2015) whether there were structures in place to avoid that during these five years these persons or families who were in precarious situation become homeless. In other words, it asked whether Lithuania helped these persons or families to find a new dwelling, like a social housing.

According to the report, several measures have been undertaken to remedy the situation of homelessness. In this connection, the new Law on housing benefits of October 2014 which entered into force on the 1st January 2015, provides, *inter alia*, financial assistance for individuals and families on low income to acquire or rent dwelling. The report adds that individuals and families who rent social housing but have been subsequently deprived of this right due to higher income may continue renting the same housing for market prices.

While taking note of this information, the Committee notes that these measures do not apply to individuals and families in need who are no longer entitled to municipal subsidised housing during five years because of their faulty behaviour. It understands that there is no measure or structure aiming to prevent these persons or families from becoming homeless during that period of time. It asks the next report to clarify this issue. It also asks whether it is envisaged to repeal this ban or to adopt measures which would prevent the persons or families concerned to become homeless. In the meantime, it considers that situation is not in conformity with the Charter on this point.

Forced eviction

The Committee points out that in order to comply with Article 31§2 of the Charter, legal protection for persons threatened by eviction must include:

- an obligation to consult the parties affected in order to find alternative solutions to eviction;

- an obligation to adopt measures to re-house or financially assist the persons evicted in case of eviction justified by the public interest
- an obligation to fix a reasonable notice period before eviction;
- prohibition to carry out evictions at night or during winter;
- access to legal remedies;
- access to legal aid;
- compensation in the event of illegal eviction.

As regards the obligation to adopt measures to re-house or financially assist the persons evicted due to the public interest, the report indicates that there is no such an obligation under the Code of Civil Procedure; the persons threatened with eviction can, however, receive social assistance. The Committee asks the next report to provide further information on this social assistance, in particular its kind, whether it is, in practice, systematically offered and whether it leads to re-house the persons concerned. The Committee recalls that when evictions are justified by the general interest, the authorities must take steps to rehouse or financially assist the persons concerned (European Roma Right Centre (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006).

As to the obligation to consult the parties affected, the report contains no information on this matter. It merely indicates that the persons concerned shall be informed about eviction not later than 5 working days before (it was 5 days before the amendment of the Code of Civil Procedure in 2011). In case there is no alternative accommodation and there are children evicted, the State Institution of Child Rights Protection shall be informed not later than 30 days before eviction (previously it was 5 days). The Committee also note from the report that eviction shall be performed after a term of, at least 30 days following the court ruling and no later than 45 days (the period was 15 and 30 days, respectively). The Committee notes the efforts made by Lithuania but recalls however that a notice period is considered to be reasonable as from 2 months before eviction (European Federation of National Organisations Working with the Homeless [FEANTSA] v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 86-87; International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 78-79).

As regards the prohibition to carry out evictions at night or during winter, the report states that a bailiff shall perform execution actions on business days not earlier than from 6 a.m. and not later than until 10 p. m. However, it shall be allowed to enforce judgments during night time or on days off only in urgent cases when the failure to enforce the judgment immediately may make the enforcement thereof more difficult or completely impossible. The report points out that there is no prohibition to carry out evictions during winter. According to the Code of Civil Procedure, it is nevertheless allowed to request the eviction to be postpone or suspended if the person concerned is ill or due to other circumstances.

In respect of legal aid offered to those who are in need of seeking redress from the courts, the reports refers to paragraphs 1 and 2 of Article 11 of the Law on State-Guaranteed Legal Aid which list categories of people eligible for primary and secondary legal aid, respectively. The Committee notes that this Law which serves at transposing Directive 2002/8/EC, provides in principle for a solid basis for access to justice for those who cannot pay legal fees themselves.

As regards compensation for illegal evictions, the report indicates that such compensations exist without further explanation. The Committee asks the next report to provide further details on this issue, in the light of any relevant case-law. It also wishes to receive information on accessibility to legal remedies.

In the light of the above, the Committee considers that persons threatened with eviction are not provided with adequate legal protection.

Right to shelter

Since the report provides no information on this issue, the Committee reiterates its conclusion of non-conformity with the Charter on the ground that it has not been established that the right to shelter is adequately guaranteed.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 31§2 of the Charter on the grounds that:

- measures in place to prevent persons having lost their right to municipal subsidised housing from becoming homeless are inadequate;
- the legal protection for persons threatened with eviction is not adequate;
- it has not been established that the right to shelter is adequately guaranteed.