



January 2010

European Social Charter (revised)

European Committee of Social Rights

Conclusions 2009 (BULGARIA)

Articles 3,11,12, 13 and 14
of the Revised Charter

This text may be subject to editorial revision.

Introduction

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter, the 1998 Additional Protocol and the Revised Charter. In respect of national reports; it adopts "conclusions" in respect of collective complaints, it adopts "decisions".

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions¹.

The Revised European Social Charter was ratified by Bulgaria on 7 June 2000. The time limit for submitting the 7th report on the application of this treaty to the Council of Europe was 31 October 2008 and Bulgaria submitted it on 10 March 2009.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Health, social security and social protection":

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

Bulgaria has accepted Articles 3, 11, 12, 13 and 14 from this group.
The applicable reference period was:

- 1 January 2005 – 31 December 2007 for Article 3, 12 and 13;
- 1 January 2003 – 31 December 2007 for Article 11 and 14.

The present chapter on Bulgaria concerns 14 situations and contains:

- - 9 cases of conformity : articles 3§1, 3§2, 3§4, 11§2, 12§3, 13§2, 13§3, 14§1, 14§2
- - 5 cases of non-conformity : articles 3§3, 11§1, 11§3, 12§1, 13§1;

The next report of Bulgaria deals with the accepted provisions of the following articles belonging to the third 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 the report was 31 October 2009.

¹*The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).*

Article 3 - The right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General Objective of the national policy

In its previous conclusion (Conclusions 2007) the Committee examined the legal framework of the Bulgarian national policy on occupational safety and health at work and the authorities responsible for developing it, i.e. the Ministry of Labour and Social Policy. The report underlines that the main objectives remain, inter alia, the promotion of "welfare at work", a culture of prevention among workers, monitoring respect of labour legislation, training in safety and health. It is also stated that the Ministry of Health coordinates activities aiming at preserving and improving occupational health.

Organisation of occupational risk prevention

At Government level, in 2002, the Council of Ministers approved in 2002 Guidelines on developing the activity on occupational safety and health for the period up to 2006, with emphasis being placed on "welfare at work" and taking into account changes in the labour field and new occupational risks. The Committee asks whether similar guidelines have been prepared for the period 2007 onwards. In reply to the Committee's question on state support of research and training, the report states that the Ministry of Labour and Social Policy, which develops, coordinates and implements the state policy, actively supports activities aimed at promoting safe and healthy working conditions through the Working Conditions Fund, which provides free funding for projects that address concrete problems with a view to improving working conditions and occupational diseases diagnostics. It finances trainings, studies and other documentation (preparation, printing and distribution), conferences and workshops, etc.

At company level, employers assess risks and ensure that each worker receives adequate training in health and safety matters. Employers' legal obligations in this respect include assessing unavoidable risks, fighting risks where they appear, adjusting the working environment to worker (choice of working equipment, work production methods, etc.), introducing technical progress in working methods, replacement of dangerous working equipment, applying a common policy of risk prevention and providing workers with the necessary information. Risk assessment, as provided in the Healthy and Safe Working Conditions Act and Ordinance No. 5 of 1999 of the Ministry of Labour and Social Policy and Ministry of Health, covers all aspects of work: work processes, work equipment, premises, workplaces, organisation of work, etc. The employers must submit matters related to risk assessment and the measures proposed to tackle risks to the working conditions committees and groups (composed of the employer, or its representatives, and representatives of the employees) for discussion.

As regards training of workers at company level, the Healthy and Safe Working Conditions Act provide that each worker should be provided with appropriate training in conformity with the specificity of each workplace and that employers should not allow persons without the necessary knowledge, skills and qualifications to start working. Ordinance No. 3 of 1996 of the Ministry of Labour and Social Policy and the Ministry of Health sets out the requirements of the different types of training (initial training, "on-the-job" training, periodic training, etc.).

Consultation with employers' and employees' organisations

As already noted in Conclusions 2007, the National Council on Working Conditions is a tripartite body which serves as a forum for the national policy to be discussed, formulated and coordinated. This body's decisions are taken by consensus.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Bulgaria is in conformity with Article 3§1 of the Revised Charter.

Article 3 - The right to safe and healthy working conditions

Paragraph 2 - Issue of safety and health regulations

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

Content of the regulations on safety and health at work

In its previous conclusion (Conclusions 2007) the Committee examined the legal framework regarding health and safety at work and noted that Bulgaria has progressively transposed European Union acquis in this field, covering various risks on health and safety (exposure to biological agents, display screen equipment, exposure to noise, temporary or mobile construction sites, exposure to carcinogenic and mutagenic substances, risks linked to chemical agents, safety requirements on board fishing vessels, etc.). The Committee considered that the general obligation that rules on occupational health and safety must specifically cover a large majority of the risks listed in the General Introduction to Conclusions XIV-2 was met. While, in view of the report, the legal framework remains the same, the Committee nonetheless asks that the next report to provide an update on any regulations adopted during the reference period.

Protection against dangerous agents and substances

Protection of workers against asbestos

The Committee notes from the report that Directive 2003/18/EC¹ of the European Parliament and the Council of 27 March 2003 which amends Council Directive 83/477/EEC² on the protection of workers

from the risks related to exposure to asbestos by introducing new limits on exposure as well as minimum health and safety measures, has been transposed into domestic law by Ordinance No. 9 of 4 August 2006 of the Ministry of Labour and Social Policy and the Ministry of Health, which reflects the amendments regarding the levels of exposure. The situation is therefore in conformity regarding this point.

The Committee nonetheless asks whether Commission Directive 1999/77/EC³ of 26 July 1999 which bans the placing on the market and use of products containing asbestos as from 2005 has been transposed into domestic law, or whether measures to the same effect have been adopted. It further asks 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), the Committee asks for the next report to provide specific information on steps taken to this effect.

Protection of workers against ionising radiation

The Committee previously considered the situation was in conformity on the ground that domestic regulations have been brought in line with Council Directive 96/29/Euratom⁴ of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation, and maximum dose limits of ionising radiation take into account the recommendations adopted in 1990 by the International Commission on Radiological Protection (ICRP).

Protection of temporary workers

The Committee already noted that legislation on health and safety at work applies to workers irrespective of the manner, duration and other terms and conditions of recruitment, and that Ordinance No. 5 for securing the health and safety of workers in a temporary employment relationship was adopted by the Ministry of Labour and Social Policy in 2006.

In reply to the Committee's question on the initial training of temporary workers and workers on a fixed-term contract, the report indicates that, according to the above-mentioned Ordinance, employers must provide such workers, before they start working, with information on risks on health and safety and measures taken to remove or reduce those risks, as well as appropriate training and instructions on healthy and safe working conditions adapted to each workplace and their qualification and professional experience. In addition, employers have a duty to provide, at their own cost, medical supervision to workers on fixed-term contracts and temporary workers. Furthermore, enterprises that use workers from temporary agencies must inform these agencies about the specific

characteristics of the workplace, the occupational hazards and the qualifications necessary. These agencies in turn must inform workers of the working conditions and such conditions must be mentioned in the contract.

Personal scope of the regulations

The Committee previously found the situation to be in conformity as all workers and all undertakings are covered by the Healthy and Safe Working Conditions Act 1997. It asks the next report to provide an update on this question and to specify whether home workers and domestic workers are also protected by the relevant health and safety legislation.

Consultation with employers' and workers' organisations

The Committee has previously (Conclusions 2007) examined the situation regarding consultation with employers' and workers' organisations. It noted the existence of a tripartite body, the National Council on Working Conditions, which is entitled to discuss, express opinions and make proposals of amendments on draft laws and regulations in the field of occupational health and safety.

Conclusion

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

¹ Official Journal No. L 097 of 15/04/2003.

² Official Journal No. L 263 of 24/09/1983.

³ Official Journal No. L 207/18 of 06/08/1999.

⁴ Official Journal No. L 159 of 29/06/1996.

Article 3 - The right to safe and healthy working conditions

Paragraph 3 - Provision for the enforcement of safety and health regulations by measures of supervision

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

Occupational accidents and diseases

In reply to the Committee's question concerning the reliability of statistics on work accidents after the introduction of a statistical system based on the European System of Work Accidents (ESAW), the report states that such statistics are reliable notably because they are regulated by the Social Security Code, the Ordinance on the determination, investigation, registration and reporting of occupational accidents, and the Occupational Accidents Statistical System. This statistical system covers all sectors and all insured workers, and provides information on the payment of compensation, assistance and pensions for occupational accidents by the State social security as well as information from private insurance companies. The report however gives a number of possible

reasons which may lead to accidents not being reported (e.g. agreement between the employer and employees in case of light accidents; insufficient compensation from insurance companies discouraging victims to report). The Committee asks whether measures are taken to avoid such instances.

According to the report, the number of accidents at work with more than 3 days' absence went down from 3 458 in 2005 to 3 124 in 2007. The incidence rate per 100 000 insured workers followed this decrease: 154 in 2005, 141 in 2006 and 123 in 2007. The number of fatal accidents increased markedly during the same period: 108 in 2005, 128 in 2006 and 149 in 2007. The incidence rate per 100,000 workers was 5 in 2005 and 2006, rising to 6 in 2007, the highest level since 2003. By comparison, the Eurostat average incidence rate per 100 000 workers for EU-15 was 2.6 in 2006. The Committee notes that since 2003 the number of fatal accidents and the incidence rate of such accidents has steadily increased. In monitoring the implementation of Article 3§3, the Committee considers that the frequency of industrial accidents and their evolution are critical factors. The Committee finds that the level of fatal accidents is too high in Bulgaria for the situation to be in conformity with paragraph 3 of Article 3.

Activities of the labour inspectorate

The Committee examined the General Labour Inspectorate Executive Agency's role in a previous conclusion (Conclusions 2003), and the extent of the powers of investigation of its inspectors was considered in its last conclusion (Conclusions 2007). In reply to the Committee's question concerning the planned increased capacity of the labour inspectorate for the period 2004-2007, it appears from the report that the improved capacity of the labour inspectorate has been sought essentially through an adequate level of qualification of staff and the strengthening of vocational training. The number of officials of the labour inspectorate taking part in training courses increased during the reference period. According to the report, the number of staff was first increased to 610 in 2005, including 429 inspectors, before falling to 558 in 2006 and 2007, with 383 inspectors in 2007.

In reply to the Committee's question regarding the proportion of visits devoted to health and safety, the report states that the General Labour Inspectorate Executive Agency's visits cover all aspects of working conditions in an integrated manner, i.e. occupational health and safety as well as labour relationships. The number of inspection visits rose from 35 111 in 2005 to 36 036 in 2006, before falling to 33 031 in 2007. According to the report, the proportion of workers covered by inspection visits against the number of employees insured decreased from 54.3% in 2005, to 51.9% in 2006 and 48.5% in 2007.

As regards preventive and enforcement measures, the number of instances where labour inspectors provided advice during inspection visits increased from 30 142 in 2005 to 32 934 in 2007. Investigative visits following accidents increased during the reference period, from 348 in 2005 to 490 in 2007. The number of mandatory instructions establishing a breach of health and safety

regulations increased from 142 371 in 2005 to 158 018 in 2006, before decreasing to 136 361 in 2007. The number of equipments and workplaces which were shut down due to lack of safety followed a similar trend, with 1 828 in 2005, 2 809 in 2006 and 1 784 in 2007. Similarly, statements establishing penal-administrative liability went up from 5 606 in 2005 to 6 186 in 2006 before falling to 5 046 in 2007. The report indicates that the number of staff suspended from work by reason of lack of knowledge of safety rules or adequate qualifications remained around 200 throughout the reference period. The Committee asks what are the proportion of representatives of the employer and that of workers which have been suspended.

The Committee notes the decrease in the number of staff of the inspection services, the number of inspections visits and enforcement measures between 2006 and 2007. Given that labour inspection services are the main safeguard of health and safety in the workplace, it recalls the importance of allocating adequate resources to inspection services to ensure effective monitoring of the respect of health and safety regulations so that the risk of accidents be reduced to a minimum and that the largest possible number of workers benefit as soon as possible from the right enshrined in Article 3. The Committee has regarded this Article, as establishing a widely recognised principle, stemming directly from the right to personal integrity, one of the fundamental principals of human rights.

Conclusion

The Committee concludes that the situation in Bulgaria is not in conformity with Article 3§3 of the Revised Charter on the ground of the manifestly high level of fatal occupational accidents.

Article 3 - The right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

In 2007, the Bulgarian National Assembly amended the Healthy and Safe Working Conditions Act, establishing a new procedure for the registration of occupational health services, introducing specialised control over their activity and the keeping of their records. Penalties were introduced in the event that those who have registered such services or managers of such services fail to respect their obligations under the aforementioned Act. According to the Act as amended, employers must provide workers with assistance from registered occupational health services. The role of these services is essentially preventive, e.g. assessment of occupational health hazards, supervision of workers' health, proposals for removing or reducing risks, training of workers and officials on rules concerning health at work. They consult and assist employers as well as working conditions committees and groups in planning and organising activities on occupational health issues. When it is not possible for an employer to set up, alone or together with others, an occupational health service, he or she will

conclude a contract with a registered occupational health service. The Act also specifies the qualification expected from staff of occupational health services. Occupational Health Services must be duly registered with the Ministry of Health. Control over the activities of occupational health services is carried out by the State health control authorities (registration, activities agreed by contract with the employer, records on activities undertaken), and penalties are foreseen for breach of the Act.

The report recognises that small businesses with few workers still have more difficulty in providing occupational health services. It states that small enterprises are a priority for the General Labour Inspectorate and represent 83-84% of all inspected companies. According to the report, the number of employers who comply with their obligation to provide their workers with occupational health services has steadily increased from 74% of inspected companies in 2005 to 84% in 2007. The Committee takes note of this positive trend and, given the progressive nature of the requirements of Article 3§4, asks the next report to provide an update of the situation in view of the adoption of the above-mentioned amendments to the Healthy and Safe Working Conditions Act.

Conclusion

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

Article 11 - The right to protection of health

Paragraph 1 - Removal of the causes of ill-health

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

State of health of the population – General indicators

The right to health care is primarily enshrined in the Health Insurance Act of 1998 and the Health Act of 2004. Pursuant to the latter, the protection of the health of citizens is a national priority and is guaranteed by the State.

Life expectancy and principal causes of death

The Committee notes that average life expectancy in Bulgaria slightly increased during the reference period reaching 69.2 years for men and 76.3 years for women in 2006.⁵ The EU-27 average in 2004 was 75.2 years for men and 81.5 years for women.⁶ The mortality rate was 10.4 per 1 000 inhabitants in 2006 (EU-27 average 6.48 per 1 000 inhabitants).

According to WHO data the main causes of death remain to be ischaemic heart disease and cerebrovascular disease. This is confirmed by Eurostat, which shows that mortality in Bulgaria due to ischaemic heart disease is considerably above the European average: 147.9 deaths per 100 000 inhabitants compared to an EU 27 average of 96.2 deaths. The report indicates that the mortality rate for cardiovascular diseases has slightly decreased over the past years (from 66.3% of all deaths in 2000 to 65.8% in 2007). Further decreases are expected, and mention is made in this context to a National Programme for Combating Cardiovascular Diseases.

Infant and maternal mortality

In its previous conclusion (Conclusions 2005), the Committee considered that the infant mortality rate of 13.3 deaths per 1 000 live births in 2002 was manifestly too high and that the situation was not in conformity with the Revised Charter in this regard. The rate has now been brought down considerably, and stood at 9.2 per 1,000 live births in 2007⁷ (EU-27 average in 2006 was 4.7 per 1 000 births)⁸. In view of this development and the decreasing trend in the infant mortality rate, the Committee finds that the situation is no longer in breach of the Revised Charter. It nevertheless asks what measures are being taken to further improve the situation, and recalls that this indicator must be as close as possible to zero.

The Committee also previously found that the situation in Bulgaria was not in conformity with the Revised Charter on the ground that it had not been established that the maternal mortality rate had been sufficiently reduced (Conclusions 2005). The Committee notes that there has been a significant

decrease of the maternal mortality rate, from 15 per 100 000 live births in 1998, down to 10.6 per 100 000 in 2007. While this is still a high rate, it is no longer one of the highest among the States Parties. Therefore, bearing in mind the improvement of the situation, as well as the fact that the Ministry of Health and the National Health Insurance Fund have taken measures with a view to improving maternal health and further decreasing maternal mortality, the Committee finds that the situation no longer amounts to a violation of the Revised Charter. However, it wishes to be informed of measures taken to further reduce maternal mortality.

Health care system

Access to health care

Follow-up to ERRC v. Bulgaria, Collective Complaint No. 46/2007, decision on the merits of 3 December 2008

The Committee recalls from the materials examined in European Roma Rights Centre (ERRC) v. Bulgaria, Collective Complaint No. 46/2007, decision on the merits of 3 December 2008, that the right to health care in Bulgaria is based on a system of compulsory health insurance through the collection of health care contributions. Persons who perform their obligations related to payment of health contributions have access to medical care and a whole range of medical services. There is however a patient participation fee for each visit to a physician or each day of hospital treatment. Coverage under the contributory health care scheme is possible on a “non-contributory” basis for certain categories of socially vulnerable persons, namely persons entitled to social assistance, targeted assistance for heating or unemployment benefits, who are exempted from paying health care contributions, and can also obtain an exemption or reduction of the patient participation fee. Finally, there is a health scheme funded by taxes which provides benefits in-kind, other than those provided by the contributions funded scheme, to all residents irrespective of their health insurance status. This ensures medical aid in emergency cases and another range of minimum medical services.

The Committee notes from the report that a number of measures were taken with a view to improving access to health care of persons in disadvantaged situations belonging to ethnic minorities (with particular focus on the Roma population), for example practice-oriented activities to limit the disease rate of infections and parasitic diseases, preventive checks with mobile units and measures to improve sexual and reproductive health. The Committee however recalls in this respect its decision in Collective Complaint No. 46/2007, European Roma Rights Centre (ERRC) v. Bulgaria, where it

considered that there was sufficient evidence showing that Roma communities were faced with disproportionate health risks and that they did not live in healthy environments. It found that the situation could in part be attributed to the failure of prevention policies by the State, for instance the lack of protective measures to guarantee clean water in Romani neighbourhoods, as well as the inadequacy of measures to ensure public health standards in housing in such neighbourhoods. In sum, the Committee concluded that the failure of the authorities to take appropriate measures to address the exclusion, marginalisation and environmental hazards which Romani communities were exposed to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services, constituted a breach of the Revised Charter.

The Committee also recalls that in its decision on the merits in this complaint, it found that persons who did not qualify for social assistance or who had temporarily lost the right to social assistance, were left without health coverage during the period that their social assistance was interrupted. The medical services available for persons in such circumstances were mainly limited to emergency medical care (under the Health Act) or the reimbursement of the costs of hospital treatment (under Decree No. 17 of 31 January 2007). They would however be unable to obtain treatment for a sickness not considered an emergency or primary or specialised outpatient medical care. The Committee therefore concluded that the insufficient medical services available for poor or socially vulnerable persons amounted to a breach of the Revised Charter.

The Committee invites the Government to keep it informed of all measures taken to implement the decision on the merits in *European Roma Rights Centre (ERRC) v. Bulgaria, Collective Complaint No. 46/2007* and concludes that the situation is not in conformity with Article 11§1 on the grounds that: (i) the authorities have failed to take appropriate measures to address the health problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services and (ii) the medical services available for poor or socially vulnerable persons who have lost entitlement to social assistance are not sufficient.

Health care professionals and facilities

The report provides information on the number of general and specialist medical practitioners as requested by the Committee. At the end of 2007 there were 4 980 general practitioners and 12 102 specialists in the country. The number of doctors now stands at a rate around the EU-27 average, with 366 doctors per 100,000 population in 2006. The number of nurses was 46 per 10,000, which is below the EU-27 average of 74 per

10,000. The Committee asks if any measures have been taken to increase the number of nurses.

In 2007, the total number of hospitals beds corresponded to 5.8 beds per 1,000 population which is just below the EU-27 average of 5.91 beds per 1,000 population.

Conclusion

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

- the authorities have failed to take appropriate measures to address the health problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services
- the medical services available for poor or socially vulnerable persons who have lost entitlement to social assistance are not sufficient.

¹ Eurostat

² Eurostat

³ Ibidem

⁴ Ibidem

Article 11 - The right to protection of health

Paragraph 2 - Advisory and educational facilities

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

Encouraging individual responsibility

Public information and awareness-raising

The Committee noted in its last conclusion (Conclusions 2005) that various campaigns on such subjects as cardiovascular diseases, AIDS and smoking were run and asked for more information.

Within the framework of the National Programme for the Limitation of Smoking 2002-2005, advisory centres were opened to assist people who decide to stop smoking. Prevention activities are organised in schools and kindergartens. Drawing competitions on the theme "No to cigarettes!" are organised for children every year. Pamphlets were distributed nationwide. A campaign encouraging people to stop smoking ("Quit and win") is run on a regular basis. The media are also used to disseminate information on health risks related to smoking.

Information campaigns on AIDS are organised at national level on a yearly basis in co-operation with the Ministry of Health and with local partners. As part of this campaign, 300 000 flyers and 200 000 posters are distributed,

video and audio clips are recorded, concerts, theatre plays, photograph exhibitions, training of young people are organised. In 2004-2005, the focus of the campaign was on girls and young women. In 2005-2006 free of charge and anonymous testing was proposed nationwide. In 2006-2007 the campaign focused on ways of contracting HIV and how to protect oneself. In 2007-2008 it aimed at developing knowledge about protection and avoiding misconceptions concerning HIV/AIDS. Campaigns, which includes free and anonymous testing, are run every year on the Black Sea coast where most holiday resorts are situated.

The report also refers to a national programme on cardiovascular diseases which ran from 2000 to 2005 and was aimed at raising awareness of risk factors.

According to the report, the Regional Inspectorates for Public Health Protection and Control contribute to the distribution of health information materials as well as the organisation of seminars, health training, including in kindergartens and schools, and media communication.

Health education in schools

The report states that health education in schools covers all schoolchildren throughout school life and is part of the curricula. The Committee notes that health education is said to include sexual education and that a number of programmes and pilot projects concern the prevention of HIV. It asks to be kept informed on whether these projects are eventually extended throughout the country. More generally, it asks for further information on subjects covered by health education and notably whether it covers such issues as the prevention of smoking and alcohol abuse, road safety and the promotion of healthy eating habits.

Counselling and screening

Population at large

The report mentions sporadic screenings of HIV/AIDS as part of the above-mentioned campaigns. The Committee asks for up-to-date information in the next report on the screening of all diseases which constitute the principal causes of death in Bulgaria.

Pregnant women, children and adolescents

In a previous conclusion (Conclusions 2003) the Committee noted that every year all children under 18 undergo compulsory prophylactic examinations carried out by general practitioners.

The Committee notes that, in 2007, the Ministry of Health issued Ordinance No. 26 on the provision of obstetrician assistance to women without health insurance and the implementation of examinations to children and pregnant

women outside the mandatory health insurance. As part of an approved action plan on food and diets, particular attention has been paid to the nutrition of women during pregnancy. The Committee asks for more information on the consultation and screening for all pregnant women, recalling that these services must be free of charge and regular.

Conclusion

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

Article 11 - The right to protection of health

Paragraph 3 - Prevention of diseases

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

Policies on the prevention of avoidable risks-Reduction of environmental risks

Air - The Committee asks for up to date information on measures taken to prevent and reduce air pollution.

Noise - In 2006, the Protection from Noise in the Urban Environment Act entered into force transposing Directive 2002/49/EC of the European Parliament and Council relating to the assessment and management of environmental noise. As required by the new legislation, noise maps are being developed for the three largest metropolitan areas. These will then be used as the basis for drawing up action plans in order to reduce noise pollution. The Committee asks to be kept informed on all further measures taken to reduce noise pollution.

Asbestos - Since 2005, the production and use of asbestos or products containing asbestos has been prohibited. However, products that contained asbestos and which were installed or were in use before 2005 remain in circulation until their expiration. The Committee asks for further information on what products the report is referring to, or is it simply referring to asbestos in buildings. The Committee also asks for further information on the obligation of building owners to search for asbestos in the building, and on the monitoring of these products and the rules concerning the demolition/renovation of buildings etc containing asbestos. The Committee concludes that it has not been demonstrated that adequate measures have been taken in this field.

Ionising radiation - Bulgarian legislation in the field of safe use of nuclear energy has been harmonised with Community Law, with the exception of Council Directive 2006/117/EURATOM on the supervision and control of shipments of radioactive waste. It was intended to transpose the latter by the end of 2008.

In response to the Committee's previous questions, the report states that units 3 and 4 of the Kozlodui nuclear power station were shut down at the end of 2006 but given new licences to continue a new activity.

Food safety

The Foods Act and other relevant legislation was introduced in order to harmonise national legislation with EU requirements. A National Council for Food Safety has been established. The Committee asks for further information on standards on food hygiene and mechanisms for monitoring compliance with the rules.

Measures to combat smoking, alcoholism and drug addiction

Several measures were adopted during the reference period in order to try to reduce tobacco use among the population: the tax on cigarettes was increased, according to the report this led to a drop in purchasing of cigarettes - legislation banned smoking in many public places and workplaces, and the advertising of tobacco products was prohibited. The Committee asks whether the sale of tobacco to young persons is prohibited and whether smoking is banned in all public places.

The report indicates that no wide scale survey on the incidence of smoking has been carried out since 2002.

Alcohol – The Committee asks for details of the regulations on the sale and distribution of alcohol.

The Committee notes the information in the report on the National Strategy on Fighting Drugs 2003-2008, and the measures adopted as a result. It notes in particular the development of a drug addiction treatment map and the network of treatment centres and programmes, including substitution programmes, which has been expanded during the reference period. The Committee asks the next report to provide information on trends in drug abuse.

Prophylactic measures - Epidemiological monitoring

Between 2003 and 2007 Bulgaria had in place a National Plan for the Observation and Control of infectious diseases. This led to a number of activities and measures being adopted in the field. In particular, Bulgarian legislation was harmonised with EU legislation on the topic, in particular on the procedure for notification and reporting of diseases and the list of diseases.

The Committee asks to be kept informed of all developments in the area.

Accidents

The number of deaths from traffic accidents remained at around 1,000 during the reference period, which is a slight increase from the previous reference period. In 2007, the Traffic Act was amended in order, inter alia, to increase the fines that may be imposed on violators of the traffic code, and to increase the safety requirements for child passengers. The Committee asks to be kept informed of the trends in traffic accidents.

According to the report, there is currently no information available on domestic and leisure time accidents. The Committee highlights the importance of collecting this data in order to ensure that prevention measures are effective, and recalls that it had previously noted that accidents and poisonings are the third largest cause of death. In the absence of information on measures taken and trends in this area, the Committee concludes that it has not been established that adequate measures have been taken in this field.

Immunisation

There is mandatory immunisation against 12 infectious diseases: tuberculosis, hepatitis B, diphtheria, tetanus, pertussis, polio, measles, rubella, rabies, Crimean Congo fever, typhus and parotitis. The coverage rates for immunisations against these diseases remains high at around 95%.

Conclusion

The Committee concludes that the situation is not in conformity with Article 11(3) on the grounds that it has not been established that adequate measures have been taken in controlling asbestos use and reducing domestic accidents.

Article 12 - The right to social security

Paragraph 1 - Existence of a social security system

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

The report has provided partial information on the questions asked. The Committee has thus based its assessment of the situation also on other sources such as the Mutual Information System on Social Protection (MISSOC) and Eurostat.

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusion (Conclusions 2006) and the information on MISSOC⁹ and notes that the social security system covers the branches of social security corresponding to all traditional risks: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors'. The system continues to rest on collective funding as it is funded by contributions (employers and employees and the State) and also by the State budget.

To assess whether a significant proportion of the total and/or active population in Bulgaria is guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee asked for figures in percentage indicating the personal coverage of each branch of social security.

According to the report, in 2007, there were:

- 2, 772, 414 persons insured against all risks,
- 2, 623, 859 persons insured under the General Disease and Motherhood Fund,
- 2, 533, 676 persons insured under the Occupational Accident and Occupational Disease Fund.

The Committee reiterates that to assess whether a significant percentage of the total and active population in Bulgaria is guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee asks for figures in percentage indicating the personal coverage of each branch of social security. It therefore requests that the next report do so. If some of the figures are lacking, it cannot establish to what extent persons are guaranteed an effective right to social security with respect to the benefits provided under each branch.

Adequacy of benefits

A social security system must guarantee an effective right to social security with respect to the benefits provided under each branch (Conclusions XIII-4, General Introduction on Article 12). Moreover, the Committee recalls that Article 12§1 requires social security benefits to be adequate, which means that, when they are income-replacement benefits, their level should be fixed such as to stand in reasonable proportion to the previous income and it should never fall below the at-risk-of-poverty threshold defined as 50 % of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (Conclusions 2006, Bulgaria). The Committee underlines that it is therefore essential that information on all social security benefits be systematically provided in all next reports so that their adequacy may be assessed. Such information should include in particular the minimum level of benefits and the duration of their payment.

The at-risk-of-poverty threshold for 2007 was € 61.6 according to Eurostat estimation. Adjustments of benefits are done by at least the inflation rate estimated for the following budgetary year.

The sickness benefit is calculated as daily cash benefit which is 80% of the average daily gross earnings or the average daily contributory income on which contributions have been paid for the period of six calendar months preceding the occurrence of the incapacity for work but no more than the average daily net remuneration for the period on the basis of which the benefit is calculated. The qualifying period for receiving sickness benefit is 6 months of insurance. In case of termination of the labour contract or of the insurance, entitlement remains if incapacity occurs within 2 months after termination. The benefit is paid from the second day of illness until the recovery of capacity for work or the establishing of invalidity.

The unemployment benefit is calculated as 60% of reference income. The minimum amount of the unemployment benefit was BGN 90 (€46) per month. According to Eurostat, in 2007 the at-risk-of-poverty threshold in Bulgaria was € 61.6 per month when calculated as 50% of the median equivalised income, and € 49.28 when calculated as 40% of the median equivalised income which places the minimum unemployment benefit below the at-risk-of-poverty threshold. Therefore the Committee notes that the minimum unemployment benefit is manifestly inadequate.

The Committee recalls that the adequacy of unemployment benefits is *inter alia* also established by considering whether there is a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefits. In its previous conclusion (Conclusions 2006), the Committee noted that unemployment benefit could be withdrawn if the beneficiary unjustifiably refused a job offer or an activation measure. The Committee asked whether it was possible to appeal against a decision to suspend benefits. The report explains that the decision of the official of the respective territorial unit of the National

Social Security Institute to suspend the benefit may be appealed before the director of the unit, whose decision in turn may be appealed before the administrative court of first and second instance. Administrative deadlines for the submission of the appeals apply accordingly.

Regarding the old age benefit, the Committee notes that the minimum amount of the contributory old-age pension is determined annually in the Law on the Budget of the State public insurance. Until 30.06.2007 it amounted to BGN 85 (€43). After that it was adjusted by 8.5% and reached the amount of BGN 92.20 (€47). The minimum old age benefit is below the at-risk-of-poverty threshold (please see above). Therefore the Committee notes that the minimum old age benefit is manifestly inadequate.

The survivors' benefit is calculated as a percentage of the old-age pension of the deceased person amounting to 50% of the old age pension for one survivor, 75% for two survivors and 100 % for three survivors. The survivor's pension is granted to all entitled persons and is divided equally between them. The Committee notes that the minimum amount of the total of all survivor's pensions may be no less than 75% of the minimum amount of the contributory old-age pension, i.e. BGN 85 (€43). The minimum survivors' benefit is below the at-risk-of-poverty threshold (please see above). Therefore the Committee notes that the minimum survivors' benefit is manifestly inadequate.

Regarding the employment injury benefit, the minimum amount of the pension is expressed as a percentage of the minimum amount of the contributory old-age pension (currently BGN 85 (€43)) as follows:

- Group I: 125% of the minimum amount of the contributory old-age pension, which is BGN 106.25 (€54).
- Group II: 115% of the minimum amount of the contributory old-age pension, which is BGN 97.75 (€50).
- Group III: 100% of the minimum amount of the contributory old-age pension, which is BGN 85.00 (€43).

The amount of a pension for invalidity due to employment injury or occupational disease cannot be less than the amount calculated for a pension for invalidity due to general disease. The minimum employment injury benefit is below the at-risk-of-poverty threshold (please see above). Therefore the Committee notes that the minimum employment injury benefit is inadequate.

Regarding the invalidity benefit, the Committee notes that for persons of the 3rd category of invalidity, with working capacity reduced between 50% and 70.99%, the invalidity benefit is 85% of the minimum amount of the contributory old-age pension which was BGN 78.37 (€40). The minimum invalidity benefit is below the at-risk-of-poverty threshold (please see above). Therefore the Committee notes that the minimum invalidity benefit is inadequate.

The Committee recalls that as regards maternity benefits their scope and level are assessed under Article 8, and as regards family benefits their scope and level are assessed under Article 16.

Conclusion

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

- the minimum unemployment benefit is manifestly inadequate.
- the minimum old age benefit is manifestly inadequate.
- the minimum survivors' benefit is manifestly inadequate.
- the minimum employment injury benefit is inadequate.
- the minimum invalidity benefit is inadequate.

¹http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do

Article 12 - The right to social security

Paragraph 3 - Development of the social security system

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

The report informs that the National Revenue Agency is the responsible institution for the collection of the mandatory social security contributions as of 1 January 2006. The National Social Security Institute carries out the compensations for temporary inability to work, pregnancy and birth and child care, unemployment, occupational accidents and diseases as well as other compensations.

The Committee notes that as of 1 January 2007 significant changes in social security legislation have been introduced for the calculation and payment of financial compensations for temporary inability to work, maternity benefits and assistance from state social security. Also the Ordinance on the Calculation and Payment of Financial Compensations and Assistance from the State Social Security has entered into force. The Committee asks for a description of the changes that these institutional and legislative measures have brought about.

The report explains that while until 31 December 2006 the sickness benefit was paid as a financial compensation, under the new version of Article 40 paragraph 4 of the Social Security Code, the insurer pays the insured person for the first day of temporary inability to work the average gross salary for the month during which the inability to work occurred, but no less than the average daily salary that has been agreed to. From the second day of inability to work the insured person

receives a compensation for temporary inability to work which is paid by the National Social Security Institute.

The Committee asks that the next report contains a thorough description of the changes occurred in the social security system.

Conclusion

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

Article 13 - The right to social and medical assistance*Paragraph 1 - Adequate assistance for every person in need*

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

Types of benefits and eligibility criteria

The Committee takes note of the legislative developments which have taken place during the reference period. It notes in particular amendments (SG No 18/2006, in force as of 01/07/2007 and SG No 58/2008, in force from 01/07/2008) to Article 12c of the Social Assistance Act, according to which unemployed persons in working age, may receive monthly social assistance continuously only for a period of 12 months without interruption. The entitlement to monthly social assistance is restored after 12 months from the date of its termination. The Committee notes that before these amendments, social assistance benefits were unlimited in time and conditioned only on the needs of the beneficiaries.

In this connection, the Committee recalls that in Complaint No. 48/2008 European Roma Rights Centre (ERRC) v. Bulgaria, decision on the merits of 31 March 2009, it held that under Article 13§1 access to social assistance benefits cannot be made subject to time-limits, if the persons affected continue to meet the basic condition for eligibility established by this provision. Reducing or suspending social assistance benefits may only be in conformity with the Charter if they do not deprive persons in need of their means of subsistence. The amendments that establish the interruption of social assistance for unemployed persons of active age could not be considered to be a permissible restriction on the right to receive social assistance, as such persons would face the risk of the loss of basic means of subsistence. The loss of minimum income would leave them without sufficient means to meet the necessary costs of living in a manner consistent with human dignity. In this decision, the Committee considered that there was insufficient evidence to indicate that alternative forms of social assistance existed in Bulgaria to ensure that persons denied monthly social assistance could obtain adequate resources. In the absence of any new information in the report, the Committee considers that this situation amounts to a breach of the Charter.

The Committee also notes from the report that according to the amendment to Article 10 (1) of the Social Assistance Act (SG 40/03; and SG 101/07) the unemployed must be registered in the employment service for at least 9 months before filing an application for social assistance. In this regard, the Committee recalls that in its previous conclusion (Conclusions XVIII-1) it noted that the rule to the effect that a person had to be registered with the local employment centre for at least six months before he or she could apply for monthly social assistance benefits had been repealed in 2003. It now notes that this rule has been

reintroduced. The Committee asks what forms of assistance exist for a person without resources, who has registered with the employment service but has to wait nine months to apply for social assistance. In the meantime, the Committee reserves its position on this point and holds that if this information is not provided in the next report, there will be nothing to establish that the right to social assistance is effectively guaranteed to all persons in need.

As regards supplementary benefits, the Committee takes note of the amendment to Article 2(1) of the Social Security Code (Suppl. SG- 67/2008, in force from 29/07/08) which has established the right to targeted assistance for heating for persons whose income over the previous six month period is lower than or equal to the differentiated minimum income for heating. The latter is determined on the basis of the Guaranteed Minimum Income (GMI) and is set at 210% of GMI for a person living alone, and at 274% of the GMI for a person over the age of 65 living alone. According to MISSOC the amount varies between 110% to 220% of the GMI depending on the individual case. The report states that the targeted assistance is paid as a lump sum per year, in advance of the whole heating season (5 months). The claimant having such a right receives 282,50 lv (€ 149) per year or 23,5 lv (€12) per month on average.

The Committee also takes note of one-off benefits in kind, designed to assist individuals in overcoming special needs, such as to meet their transportation costs, urgent medical needs, education etc.

As regards medical assistance, the Committee noted in its previous conclusion (Conclusions XVIII-1) that the health insurance contributions of those in receipt of social assistance are paid by the state (Article 40, §3 of the Health Insurance Act). It further notes from the report that the Decree N. 17 of 31 January 2007 establishes the conditions and procedures for the payment of hospital treatment of those persons who do not have any income or property, through allocating budgetary resources for this purpose.

In this connection, however, the Committee recalls that in Complaint No. 46/2007, European Roma Rights Centre (ERRC) v. Bulgaria, decision on the merits of 3 December 2008, it assessed the situation of persons who do not qualify for social assistance or who have temporarily lost the right to social assistance and are therefore left without health coverage during the period when social assistance is interrupted. In this decision the Committee noted that the Health Insurance Act links eligibility for 'non-contributory' state health coverage to being a recipient of social assistance benefits. Although the Committee noted that certain types of medical services are available to all citizens outside the scope of mandatory health insurance, these are mainly confined to emergency care and obstetrical care for women (Article 82 of the Health Act). The Committee found that Decree No 17 of 31 January 2007 was a step towards improving the health of poor or socially vulnerable persons who did not have general health coverage and were not in receipt of social assistance, but its scope was limited to covering expenses for hospital treatment and did not include primary or specialised outpatient medical care that such persons might require.

Therefore, bearing in mind that Article 13§1 of the Revised Charter provides that persons without adequate resources should be granted treatment in the event of sickness, not necessarily emergency care, the Committee considered that the measures adopted by the Government do not sufficiently ensure health care for poor or socially vulnerable persons who become sick, thus amounting to a breach of this provision. The Committee therefore holds that the situation is not in conformity with Article 13§1 of the Revised Charter concerning medical assistance.

Level of assistance

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

- basic benefit (differentiated minimum income): according to the report and MISSOC a single person under the age of 65, living alone, receives 73% of the GMI, i.e. 40,15 lv (€ 20,6), while a single person over 65 years of age receives 100% of GMI, i.e. 55 lv (€ 28,2). The Committee notes that the level of the GMI has not changed since the last examination of the situation in 2006. The report states in this regard that the Ministry of Labour and Social Policy has been considering raising the level and is currently analysing its possible impact on the whole system of GMI-linked benefits.

- supplementary benefits: the Committee understands from the report that the average heating allowance, calculated per month amounts to 23,5 lv per month (€ 12).

- medical assistance: (see above)

- the poverty threshold, defined as 50% of medical equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: it was estimated at €61,6 per month in 2007.

In the light of the above data, and having taken note of the measures implemented with a view to better assisting vulnerable groups through improved targeting of available resources, the Committee considers that the GMI level and hence the level of social assistance remain low, both for a person under 65 living alone as well as for a person over 65 years of age. The Committee holds that the level of assistance is manifestly inadequate on the basis that the minimum assistance that can be obtained is not compatible with the poverty threshold.

In its previous conclusion, the Committee asked for information on the total assistance, including the basic assistance and the supplements paid to elderly persons without resources. It notes that the report does not provide this information. Therefore, it holds that it has not been established that elderly persons without resources receive adequate social assistance.

Right of appeal and legal aid

In its previous conclusion, the Committee found that the situation concerning the right of appeal and legal aid was in conformity with the Charter. It asked for examples of administrative and judicial appeals and decisions taken following the refusal of social assistance benefits. It takes notes of such examples presented in the report and considers them to comply with the requirements of Article 13§1.

Personal scope

In its previous conclusion, the Committee held that the situation was not in conformity with the Revised Charter because the granting of social assistance to foreign nationals was conditional on a continuous presence in Bulgarian territory which was excessive. In this regard it notes that the report does not provide any new information. However, it notes from the Governmental Committee Meeting report (T-SG (2007) 11 § 342) that permits for continuous residence (up to one year) are granted to foreigners who have met certain requirements, such as having secured accommodation, allowance, insurance and social security under the legislation of Bulgaria. If such requirements are not met, the foreigner concerned will not be granted legal residence. The Committee understands this statement as implying that conditions for granting short-term residence permits are such that a person without resources is not likely to meet them. Therefore, those persons who have been granted short-term permits will not be in need for social assistance.

In this connection, the Committee recalls that Article 13§1 does not regulate the rules governing the granting of 'resident' status. It requires that once a foreigner has been granted such a status, he/she should be able to apply for social assistance in case he/she is no longer self-sufficient.

The Committee considers that there are no changes to the situation whereby foreigners can only apply for social assistance if they have been legally resident in Bulgaria for five years. Therefore, the Committee maintains its previous conclusion of non-conformity on this ground. The Committee further asks whether foreign nationals, legally resident, can be repatriated on the sole ground that they are in need.

In its previous conclusion, the Committee asked about the situation in practice with regard to access by Roma to social assistance. It notes from the report that no direct or indirect discrimination is allowed in this respect. The Committee would like to draw the Government's attention to the fact that the subject matter of both above mentioned complaints (Complaints No 46/2007 and 48/2008) concerned access by Roma to social and medical assistance. The Committee invites the Government to keep it informed of all measures taken to implement these decisions, namely what measures are being taken to remove the obstacles that Roma face in accessing social and medical assistance.

Conclusion

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

- it has not been established that persons in need, whose social assistance is interrupted after 12 months, can obtain adequate resources to meet the necessary costs of living in a manner consistent with human dignity;
- persons who lose entitlement to social assistance are not provided with medical assistance which they might require;
- the level of social assistance is manifestly inadequate;
- it has not been established that elderly persons without resources receive adequate social assistance;
- the granting of social assistance to foreigners is conditional on a continuous presence in Bulgarian territory that is excessively long.

Article 13 - The right to social and medical assistance

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

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

In its last conclusion (Conclusions 2006), the Committee asked whether the Act on Protection against Discrimination (2003) also covered social welfare protection. In reply to the question by the Committee, the report explains that according to Article 4 of the above-mentioned Act, any direct or indirect discrimination, based on personal or public status, disability, age, marital status, property status or any other signs, established by law or in an international agreement to which the Republic of Bulgaria is a party, is prohibited.

The report also cites Article 3 of the Act on Social Assistance (amended) which provides for protection from discrimination during the process of allocation of social assistance. The Committee notes that although the provision of Article 3 contributes to an equal treatment of the beneficiaries of social assistance, it makes no specific mention of the guarantees for the protection of the social and political rights of these persons.

Conclusion

The Committee concludes that the situation in Bulgaria is in conformity with Article 13§2 of the Revised Charter.

Article 13 - The right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

The Committee has considered social services in general from the perspective of Article 14§1 and concluded that the situation is in conformity with the Charter as regards organisation and quality of social services, as well as effective and equal access. Regarding Article 13§3, the Committee notes from the report that the National Health Insurance Fund provides regular information services to inform persons of their rights. The Committee asks whether services and institutions are provided with sufficient means to give appropriate assistance and advice to make those concerned fully aware of their entitlement to social assistance.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Bulgaria is in conformity with Article 13§3 of the Revised Charter.

Article 14 - The right to benefit from social welfare services

Paragraph 1 - Provision or promotion of social welfare services

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

Organisation of the social services

The Committee refers to its previous conclusions (Conclusions 2003 and 2005) for a description of the organisation and functioning of Bulgaria's social services.

The Committee notes that the provision of services and care for children, families and elderly people outside an institutional framework ("de-institutionalisation") was a priority during the reference period. For instance, when elderly people are placed in special homes, interdepartmental committees are charged with assessing their situation and may recommend, in some cases, that they should be placed in protected residences or reintegrated into a family environment. The aim is to help elderly people become more autonomous.

To improve the co-ordination of the special measures governing social services, particularly for children, new units were set up within the regional directorates for social assistance, under Act No. 14/2005.

Effective and equal access

The Committee understands that the main eligibility criterion for access to social services is need. Anyone wishing to make use of social services must be informed of the conditions for entitlement and the procedures followed by the service provider.

In reply to the Committee, the report states that as a result of the amendments to the 2002 Social Assistance Act (pursuant to Act No. 52/2007), permanent residents, refugees, asylum seekers and foreign nationals granted "temporary protection" have access to social services on an equal footing with Bulgarian nationals. The Committee asks what is meant by "temporary protection" and if this notion also covers foreign nationals who reside legally and work regularly on the Bulgarian territory.

Quality of services

The Committee notes that under Act No. 40/2003, a "Public Council", appointed by each municipality and made up of representatives of the various service providers, is responsible for monitoring the quality of social services, along with users' committees.

Amendments have been made to the Child Protection Act No. 36/2003 (pursuant to Act No. 38/2006) which make provision, in relation to care for children with disabilities, for the National Child Protection Agency to arrange inspections of all

the social services and specialised institutions providing services and care in this field. Inspections began in 2007. Under Act No. 38/2006, if it is established that quality standards have not been respected in service provision and it is proposed that a specialised children's home should be closed, it is for the Social Assistance Agency to decide what should be done, on the basis of an opinion drawn up by the National Child Protection Agency within two weeks.

The report describes the main infringements that have occurred in homes for disabled people. There were a total of 76 inspections in 2005 and 81 in 2006. Most infringements were related to living and care conditions and a lack of material resources (equipment, premises, etc.). Recommendations were made to the establishments concerned. Training was also provided for the staff of these homes, staff numbers were increased, renovation projects were launched and extra efforts in terms of the provision of proper equipment were made by municipalities. Five new homes were also built. The Committee asks if additional funds were allocated by the State to the local authorities to help them carry out these tasks.

The Committee asks again for information on the total number of staff of the social services.

Total annual spending on social services increased during the reference period from 54 659 000 Bulgarian leva (BGN) (about € 28 million) in 2005 to BGN 69 199 (about € 35.4 million).

The Committee asks again if the legislation on social assistance also covers personal data protection.

Conclusion

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

Article 14 - The right to benefit from social welfare services

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

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

The Committee refers to its previous conclusions (Conclusions 2003 and 2005) for a description of the legal framework on the participation of non-public service providers in the establishment and maintenance of social services.

Non-public bodies may provide social services on an equal footing. They are generally recruited through a call for tenders and may be granted state funding.

For example, voluntary organisations co-operate in particular with local authorities in organising training courses for the staff working in homes for the elderly. They also run projects aimed at fostering the reintegration of people with

disabilities into the labour market. In 2005, 48 voluntary organisations provided social services of this type.

Voluntary organisations also take part in devising social service policies for children. Two advisory bodies, the Child Protection Commission and the National Council for Child Protection, were established by Acts No. 38/2006 and 36/2003 (amending the Child Protection Act). Members include representatives of various Government departments and of civil society.

Conclusion

The Committee concludes that the situation in Bulgaria is in conformity with Article 14§2 of the Revised Charter.

