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European Social Charter

European Committee of Social Rights

Conclusions XIX-2 (2009)
(HUNGARY)

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

This text may be subject to editorial revision.

Introduction

The function of the European Committee of Social Rights is to assess the conformity of national law and practice with the European Social Charter and the Revised Charter. In respect of national reports, it adopts “conclusions” and 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 Conclusions.¹

The European Social Charter was ratified by Hungary on 8 July 1999 and the 1988 Additional Protocol on 1 June 2005. The time limit for submitting the 6th report on the application of this treaty to the Council of Europe was 31 October 2008 and Hungary submitted it on 2 October 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 4 of the Additional Protocol).

Hungary has accepted all of these articles with the exception of Articles 12§2, 12§3, 12§4 and Article 4 of the Additional Protocol.

The applicable reference periods were:

- 1 January 2005 - 31 December 2007 for Articles 3 and 13.
- 22 July 2004 - 31 December 2007 for Article 12.
- 1 January 2004 - 31 December 2007 for Articles 11 and 14.

The present chapter on Hungary concerns 13 situations and contains:

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

In respect of the 5 other situations concerning Articles 3§2, 11§2, 13§1, 13§4 and 14§1, the Committee needs further information. The Government is therefore invited to provide this information in the next report on the articles in question.

The next Hungarian report 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 2 of the Additional Protocol),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

The deadline for the report was 31 October 2009.

¹The 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 - Issue of safety and health regulations

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

Content of the regulations on health and safety at work

As noted in the last conclusion (Conclusions XVIII-2), the general regulatory framework in the area of health and safety is Act XCIII of 1993 on Labour Safety. It has been amended during the reference period by Act CXXXIX of 2006 which has brought together labour safety and labour health and unified control of both branches by a single body, the National Work Safety and Labour Inspectorate (see under Article 3§2), and Act CLXI of 2007 which provides essentially for specific obligations on employers to ensure safe working conditions for their employees, and increases the powers of labour inspectors (see under Article 3§2).

The Committee also found in its previous conclusion (Conclusions XVIII-2) that the requirement 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. The report indicates that ministerial decrees transposing EU legislation were adopted on exposure to vibration, to noise, and asbestos (see below). The Committee thus continues to consider that the national situation is in conformity with the Charter on that point.

Protection against dangerous agents and substances

Protection of workers against asbestos

Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 and exposure levels foreseen have been transposed into domestic law in Decree 12/2006 of 23 March 2006 of the Ministry of Health. Commission Directive 1999/77/EC 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 by Joint Decree 41/2000 of the Ministry of Health and the Ministry of Environmental Protection which is applied in practice.

The Committee 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), it asks for the next report to provide specific information on steps taken to this effect.

Protection of workers against ionising radiation

Decree 16/2000 of the Ministry of Health on the implementation of provisions of Act CXVI of 1996 on nuclear energy is in compliance with Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health

of workers and the general public against the dangers arising from ionizing radiation. The situation is therefore in conformity with the Charter on that point.

Protection of temporary workers

Act XCIII of 1993 on occupational safety does not contain special provisions for temporary workers but covers employees irrespective of the nature of the contractual relationship. Article 50 of Act XCIII states that all employees should be assigned to posts which correspond to their state of health, knowledge, skills and experience in safe working protocols for their health not to be jeopardised.

Personal scope of the regulations

The report merely states that Act XCIII of 1993 on occupational safety does not cover the self-employed. The Committee recalls that all workplaces and all activities must be covered by occupational health and safety regulations. This also includes self-employed workers and domestic workers. In the absence of any information establishing that some form of protection is offered to these categories of workers, the Committee cannot consider that the situation in Hungary is in conformity with Article 3§2 on that point.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 3§2 on the ground that it has not been established that the self-employed and domestic workers are protected by occupational health and safety regulations.

Article 3 - The right to safe and healthy working conditions

Paragraph 2 - 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 Hungary.

Occupational accidents and diseases

According to the report, the number of occupational accidents has decreased between 2005 and 2007 from 23 971 accidents to 20 922; this trend is also reflected by Eurostat data.¹ According to the 2007 annual report of the National Work Safety and Labour Inspectorate (OMMF), the incidence rate per 1 000 workers has decreased uninterruptedly since 2003 and was 5.3 in 2007. Similarly, the number of fatal accidents has decreased during the same period from 160 fatalities to 118, a trend which is confirmed by Eurostat data.² The OMMF 2007 annual report shows an incidence rate per 100 000 workers of 3.0 in 2007, in decrease compared to previous years.

The number of occupational diseases appears to have to have decreased significantly from 473 reported cases in 2005 to 187 in 2007. The Committee asks for explanations on this rapid decrease. It also notes that the report only

refers to intoxication and cases of increased exposures, and asks whether it is considered to take account of other common occupational diseases such as musculoskeletal troubles.

Activities of the Labour Inspectorate

Act CXXXIX of 2006 amended Act XCIII of 1993 on labour safety reformed the control mechanism by entrusting a single body, the National Work Safety and Labour Inspectorate (OMMF), with the monitoring of both occupational health and occupational safety, previously carried out by different bodies. The aim is to gain efficiency notably by ensuring that requirements to be respected by employers be more consistently monitored. Act CLXI of 2007 also modified Act XCIII by adding new requirements for employers (obligation to carry out a work hygiene examination as part of risk assessment; stricter regulations concerning risk assessment) and extending the powers of labour inspectors (increased powers for investigations into medical data and the imposition of sanctions). It will enter into force in 2008. The Committee had previously noted the broad range of powers of labour inspectors (Conclusions XVIII-2).

Mindful of the transition having taken place during the reference period which saw the reform of the OMMF, the Committee asks that the next report gives updates figures of the number of staff of this body since the absorption of the National Public Health and Medical Officer Services (ÁNTSZ) which used to deal with occupational health. For the same reason, it is difficult for the Committee to assess the efficiency of the OMMF as reformed in 2007 in terms of inspection coverage of enterprises and workers. The Committee notes however that, since April 2007, 20 126 employers have been subjected to inspections, 15% of which concerned only health and safety issues. The number of employees covered by these inspections was 422 544, 41% of whom were concerned by occupational health and safety issues. Since the take-over, 63 935 administrative action have been taken, 18% of which concerned health and safety. As regards enforcement measures, the Committee notes that, globally, the number of fines increased during the reference period.³

In view of the transition the labour inspection services have undergone during the reference period and given that the situation was found previously found unsatisfactory, the Committee reserves its position regarding their effectiveness and asks the next report to provide all the relevant information indicated above.

Conclusion

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

¹ *Index of the number of serious accidents at work per 100 thousand persons in employment (1998=100): 79 (2004): 79 (2005); 74 (2006)*

² *Index of the number of fatal accidents at work per 100 thousand persons in employment (1998=100): 96 (2004); 73 (2005), 68 (2006).*

³ *The number of preventive fines remained above 3 000 from 2005 to 2007, the number of fines for offences increased from 669 in 2005 to 1 487 in 2007, the number of fines imposed in situ*

grew from 4 952 to 5 355, and the number of procedural fines from 123 in 2005 (amounting to HUF 3 178 000) to 283 in 2007 (amounting to HUF 24 653 000).

Article 3 - The right to safe and healthy working conditions

Paragraph 3 - Consultation with employers' and workers' organisations on questions of safety and health

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

The Committee already examined consultation with employers' and workers' organisations on questions of occupational safety and health, both at national and company levels, in previous conclusions (Conclusions XVII-2 and XVIII-2) and found satisfied that requirements of Article 3§3 of the Charter were satisfied. The report indicates that the same tripartite body is in place (Labour Safety Committee) at national level, and provides an update on additional tasks entrusted to it.

Conclusion

The Committee concludes that the situation is in conformity with Article 3§3 of the 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 Hungary.

State of health of the population - General indicators

Life expectancy and principal causes of death

Average life expectancy at birth in 2006 was 69.2 for men and 77.8 for women¹ average in 2004 was 75.2 for men and 81.5 for women²). The mortality rate in 2006 was 9.69 per 1 000 inhabitants³ (the EU 27 average was 6.48 per 1 000 inhabitants in 2006⁴).

According to the report the main causes of death are cancer, cardiovascular disease and ischemic heart disease.

In reply to the Committee, the report describes measures taken to combat activities that are damaging to health (alcohol, smoking and drugs) and promote healthy eating, including information and prevention campaigns, all of which form part of the national decade of health programme. In its previous conclusion (Conclusions XVII-2), the Committee asked for information on the percentage of the population covered and the results obtained. This information is missing from the report again. Furthermore, these measures are most frequently aimed more at children and young people than at adults. The Committee refers to its conclusion under Article 11§2 on screening for the main causes of death. It considers that it has not been established that measures taken to reduce the mortality rate are adequate. The Committee considers that the situation in Hungary is not in conformity with Article 11§1 of the Charter.

Infant and maternal mortality

The infant mortality rate fell from 6.2 deaths per 1 000 live births in 2005 to 5.9 deaths per 1 000 live births in 2007⁵ (the EU 27 average was 4.7 per 1 000 in 2006⁶). Among the measures implemented are campaigns to promote breastfeeding. The Committee notes that the infant mortality rate is still higher than the European average and apart from campaigns to promote breastfeeding, asks for information on the other measures taken to improve the situation.

The maternal mortality rate was 6 deaths per 100 000 births in 2005⁷, which is comparable to that in several other European countries.⁸ The Committee notes that the maternal mortality rate fell substantially during the reference period.

Health care system

Access to health care

The Committee notes that the health system has undergone additional reforms. The report mentions in particular the adoption of a new act on the development of the health care system, under which it is aimed to improve primary care and rationalise secondary and tertiary care. The health system has now been divided

into three levels: Priority hospitals, which have the most modern equipment and are used for major operations, regional hospitals, which are preferred for the treatment of less serious conditions, and regional health centres, which provide outpatient services.

With regard to disadvantaged groups including Roma and people with disabilities, the report describes the launch in 2005 and 2006 of various programmes designed to improve their access to health care. For example, in 2006, 2 877 Roma children were involved in a programme on equal health care opportunities.

Under a new act adopted in 2006 establishing general rules on the distribution of medicine, access to non-prescription medicines is to be improved by increasing the ratio of pharmacies to people throughout the country.

The Committee asks again for a list of medical services provided free of charge under the compulsory health insurance system. It also asks again for information on the management of waiting lists and waiting times for health care. If the next report does not provide the necessary information, there will be nothing to show that the situation in Hungary is in conformity with Article 11§1 of the Charter in this respect.

The health care budget was 7.6% of GDP in 2006⁹, which places Hungary among the average for European countries.¹⁰

Health care professionals and facilities

There were 7.9 hospital beds per 1 000 inhabitants in 2006¹¹ (the EU 27 average in 2005¹² was 5.9 beds per 1 000 inhabitants). There were also 0.3 psychiatric hospital beds per 1 000 inhabitants in 2006¹³ (the European average in 2005¹⁴ was 0.6 beds per 1 000 inhabitants).

In 2006¹⁵, Hungary had a total of 30 575 doctors, or 30 doctors per 10 000 inhabitants. There were also 4 997 dentists, 5 364 pharmacists, and 92 171 nurses and midwives¹⁶ representing rates of 5 dentists, 5 pharmacists and 92 nurses and midwives per 10 000 inhabitants. These figures are similar to those of other European countries¹⁷.

The Committee reiterates that living conditions in hospitals, including psychiatric institutions and other care centres, must be adequate and preserve human dignity (Conclusions XVII-2 and 2005, statement of interpretation of Article 11, §5; Conclusions 2005, Romania). It asks for the next report to describe patients' living conditions in hospitals, including psychiatric institutions and other care centres.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 11§1 of the Charter because there is nothing in the report to show that sufficient measures have been taken to reduce the mortality rate.

¹ Eurostat

² Ibidem

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ WHO

⁸ Ibidem

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

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 Hungary.

Encouraging individual responsibility awareness-raising

Public information and awareness-raising

In 2005, information campaigns were conducted throughout the country to prevent activities that are damaging to health such as smoking, alcohol and drugs, and to encourage healthy eating and physical activity. Some were run by non-governmental organisations in co-operation with the Ministry of Health. Various calls for tenders containing proposals to organise such events were sent out by the Ministry of Health. The National Sport Office also organises related sporting events and there are more specific activities for elderly and disabled people. In this connection the Committee refers to its conclusion and question under Article 11§1.

Health education in schools

The Johan Béla Decade-of-Health Programme continued, promoting measures to combat smoking, alcoholism and drug addiction in schools, and a training programme was set up to help teachers raise these questions with pupils. The Committee notes that the theme of promoting healthy eating and sporting activities has now been addressed. The National Sport Office organises various activities in this connection, and 60 000 pupils took part in such activities in 2005. The subjects of sex education, personal hygiene and road safety were also raised at a conference in Budapest in 2006.

Counselling and screening

Pregnant women, children and adolescents

Medical counselling was organised for children and young people, in particular when the National Sport Office ran campaigns to promote physical activity among these people. Tests included measurements of blood pressure and weight.

The Committee asks again for up-to-date information and figures in the next report on screening actually carried out. If the next report does not provide the necessary information, there will be nothing to show that the situation in Hungary is in conformity with Article 11§2 of the Charter.

Population at large

Medical counselling is organised for pensioners when the National Sport Office runs campaigns to promote physical activity among these people.

There is screening for cardio-vascular disease and cervical, colon, prostate and breast cancer. In 2006, 41.7% of women between the ages of 45 and 65 underwent a mammography (37.2% in 2005). A considerable number of women prefer to be screened by their family doctor. In 2006, 6.57% of women were screened for cervical cancer whereas 30 to 45% of the population were tested for colon cancer. However, the Békéscaba screening centre also organises numerous colon cancer tests.

The report mentions examinations carried out in 2006 on 2 877 people from disadvantaged groups including Roma, but fails to specify exactly what was involved. The Committee asks for further information on the subject.

Conclusion

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

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 Hungary.

Policies on the prevention of avoidable risks

Reduction of environmental risks

Air - The National Air Pollution Measuring network is responsible for monitoring air pollution, in 2005 a country wide programme was introduced for monitoring certain pollutants in the air. The Committee asks that the next report provide further details on monitoring of air pollution as well as overall results in reducing such pollution.

Soil and Waste management - The report provides details of measures taken in the field of soil protection and waste management over the reference period.

Water - Measures have been taken in order to improve the quality of drinking water, more than 2.5 million persons were affected by this programme

Asbestos - The programme for identifying public buildings containing asbestos commenced in 2005 and is ongoing. The Committee asks whether once the presence of asbestos has been identified there is an obligation to remove it.

Noise - New legislation was enacted during the reference period on environmental noise and the process of drawing up noise maps has begun.

Ionising radiation - The Committee asks for updated information to be provided on this topic in the next report.

Food safety

New legislation in this domain continues to be enacted and the implementation of the National Food safety Programme continues.

Measures to combat smoking, alcoholism and drug addiction

During the reference period Hungary ratified the WHO Framework Convention on Tobacco Control. The Committee asks the next report to provide details of the legislation on the sale and advertising of tobacco products as well as any restrictions on smoking in public places and places the public has access to. The Committee recalls that to be effective, any prevention policy must restrict the supply of tobacco through controls on production, distribution, advertising and pricing. In particular, the sale of tobacco to young persons must be banned as must smoking in public places, including transport, and advertising on posters and in the press should also be prohibited.

The Committee refers to Article 11§2 for details of awareness raising measures on the dangers of tobacco, alcohol and drug abuse and asks to be provided with information on trends in tobacco and alcohol use.

Prophylactic measures -

Epidemiological monitoring

Reference laboratories used in epidemiological monitoring were upgraded during the reference period.

Accidents

Under Article 11§3 states must take steps to prevent accidents. The main sorts of accident covered are road accidents, domestic accidents, accidents at school, and accidents during leisure time, including those caused by animals.

The Committee asks the next report to provide information on measures taken to prevent accidents and information on trends in accidents.

Immunisation

The Committee wishes to receive updated information on recommended/compulsory vaccinations along with the coverage rates for these.

Conclusion

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

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 Hungary.

Risks covered, financing of benefits and personal coverage

Under Article 12 of the Charter the right to social security encompasses the right to access and maintain benefits without discrimination in order to secure:

- affordable health care;
- benefits in case of loss of earnings caused by sickness, unemployment, old age, employment injury, disability, and maternity;
- family support, particularly for children and adult dependents.

The Committee observes that Article 70/E of the Constitution of Hungary (Act XX of 1949) recognises the right to social security to all Hungarian citizens. According to Article 8 of the Constitution, the exercise of the right to social security may not be suspended or restricted (not even in the event of national crisis, state of emergency or state of danger).

The report informs that the main legal acts regulating the system are the following:

- Act LXXXIII of 1997 on benefits of the statutory health insurance and Governmental decree 217/1997 (Dec 1) about the implementation of this Act;
- Act IV of 1991 on the promotion of employment and services to the unemployed;
- Act LXXX of 1997 on the persons entitled to obtain the services of social insurance and private pension, and the coverage of such services and Governmental decree 195/1997 (Oct 5) about the implementation of this Act;
- Act LXXXI of 1997 on social security pension provision and Governmental decree 168/1997 (Oct 6) about the implementation of this Act;
- Act LXXXII of 1997 on Private Pension and Private Pension Funds;
- Act XCIII of 1993 on occupational safety;
- Act XXXI of 1997 on the Protection of Children and on Guardianship Administration;
- Act LXXXIV of 1998 on Family Support and Government Decree 223/1998 (Dec 30) on the enforcement of this Act;
- Government Decree 102/1995 (Aug. 25) on the medical evaluation of disability and ability to work, as well as the supervision thereof

The Committee notes from the report that the Hungarian social security system (which consists of mandatory social security schemes and state managed schemes of social services as well as a separate system for unemployment services) covers the branches of social security corresponding to all traditional risks: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors.

In order to assess to what extent persons in Hungary are guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee has to regularly be provided with percentage figures concerning the coverage of the population for all social security branches. The Committee thus requests the next report to contain such data. Meanwhile, it reserves its position in this regard.

The social security system of Hungary rests on collective funding: it is funded by contributions (employers, employees) and also by the State budget. The Committee recalls that the principle of collective funding is a fundamental feature of a social security system as foreseen by Article 12 as it ensures that the burden of risks are spread among the members of the community, including employers, in an equitable and economically appropriate manner and contributes to avoiding discrimination of vulnerable categories of workers (Conclusions 2006, the Netherlands).

Adequacy of the 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). The Committee recalls that Article 12§1 requires that social security benefits are 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 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). 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 Committee refers to the report for a description of the various social security schemes. It notes that there is no specific program for work injury and occupational diseases. Benefits in this regard are provided under old age, disability, survivor's and sickness.

The Committee notes that benefits are adjusted annually in January and corrections to the adjustments may be made in November according to the annual changes in the consumer price index and net average monthly earnings. The Committee also notes that the minimum monthly wage was Fornts (HUF) 69 000 (approximately € 256,30) during the reference period.

The Committee recalls that the adequacy of maternity benefits is assessed under Article 8 and that of family benefits is assessed under Article 16.

The Committee notes from the report that entitlement to health care of dependant family members was revoked as of 1 April 2007. The Committee asks the next report to clarify the reasons for this change, the conditions attached to the revoking of the entitlement and that the report describe the impact of the change.

As to the adequacy of sickness cash benefit, the Committee notes from other sources²¹ that in 2007 this was approximately € 155 per month (60% of the minimum wage) for the insured with less than 2 years coverage. The Committee observes that this minimum stands between 40% and 50% of the median equivalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (which were respectively estimated at € 131 and € 164 in Hungary in 2007). It therefore asks the Government to clarify whether other benefits may be taken into consideration to top up such minimum. Meanwhile, it reserves its position on its adequacy.

As to the adequacy of other benefits, the Committee notes from the report and from other sources²² that in 2007 the minimum monthly:

- old age (social insurance) pension was € 107 (HUF 26 830) with at least 20 years of contributions;
- disability pension was about € 116 (HUF 29 070 for Group I), about € 112 (HUF 28 040 for Group II) and about € 107 (HUF 26 830 for Group III);
- survivor's pension being 60% of old age pension, if the deceased was receiving the minimum pension, this would be about € 64;
- orphan's pension was about € 91 (HUF 22 780).

The Committee observes that all the above rates fall below the poverty threshold even when defined as 40% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (€ 131 per month in 2007). The Committee recalls that it considers that when the amount of a benefit is below such poverty threshold, its aggregation with means-tested kinds of benefits, including social assistance, does not bring the situation into conformity with Article 12§1 (Conclusions 2006, Estonia).

As to unemployment benefits, the Committee notes from MISSOC that in 2007 the minimum monthly:

- job-seeker benefit was € 156 (HUF 39 300);
- job-seeker aid was € 104 (HUF 26 200);
- entrepreneurial benefit was € 97 (HUF 24 417).

As to the minimum amount of the job-seeker benefit, it stands between 40% and 50% of the median equivalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (which were respectively estimated at € 131

and € 164 in Hungary in 2007). The Committee notes from MISSOC that payment of job-seeker benefit is suspended if the unemployed person draws any other social security benefit (with the exception of family allowance). It therefore asks the Government to clarify whether this is the case or whether other benefits may be taken into consideration to top up the minimum job-seeker benefit. Meanwhile, it reserves its position on its adequacy.

As to the rates of minimum job-seeker aid and entrepreneurial benefit, since they stand below the poverty threshold even when defined as 40% of median equivalised income calculated as mentioned above, they are not in conformity with the Article 12§1 of the Charter.

As to the adequacy of unemployment benefits, the Committee recalls that it 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.

The Committee notes from MISSOC that job-seeker benefit and aid may be terminated if the unemployed does not accept an appropriate job or fails to enrol in a free training course offered by the labour centre.

The report specifies that the labour centre deems a job offer to be appropriate under the following circumstances:

- it corresponds to the level of qualification of the job-seeker, or any other school qualification that has been offered by the governmental employment body and can be attained with the use of the training opportunity for the given level of qualifications, or it corresponds to the level of qualification relating to the job that was last occupied for at least six months,
- the job-seeker is fit to work in the light of his/her health conditions,
- the foreseeable wage or salary reaches the amount of the job-seeking allowance, or if the amount of the job-seeking allowance is smaller than the statutory minimum wage, it reaches the amount of the statutory minimum wage,
- the duration of the daily commutation between the workplace and the place of residence by means of public transport does not exceed three hours, or two hours in the case of women raising children under the age of 10 or single men raising children under the age of 10,
- the job-seeker is engaged in a labour relation.

The Committee asks whether professional qualifications are taken into account when training is offered. Moreover, the Committee asks the next report to indicate how often jobseeker benefit and/or aid are terminated on the ground of refusal of an appropriate job or a free training. The report should indicate whether the decision to terminate job-seeker benefits and/or aid may be appealed. In the

affirmative, the report should contain information on any relevant case law. Pending receipt of all the above clarifications, the Committee reserves its position as to the actual guarantee of the unemployment risk for which every worker has contributed during his working activity.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 12§1 of the Charter on the ground that the minimum monthly old age, survivor's, orphan's and disability pensions as well as the minimum monthly job-seeker aid and entrepreneurial benefit are manifestly inadequate.

¹Eurostat, *database on minimum wages*, January 2007 and *International social Security Association (ISSA), Country Profile, description of social security schemes*.

²US Social Security Administration, *Social Security programmes throughout the world: Europe, Hungary, 2008*: <http://www.ssa.gov/policy/docs/progdesc/ssptw/2008-2009/europe/hungary.html> and the *Mutual Information System on Social Protection, Comparative table for 2007*.

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 Hungary.

Types of benefits and eligibility criteria

In its previous conclusion (Conclusions XVIII-1) the Committee asked what was the eligibility criteria for the so-called 'transitional assistance' benefit, whether it was paid for as long as the need existed and what was the its exact level. It also asked what was the level of the minimum old age pension. Regarding medical assistance it asked how Article 54 of the Social Benefits Act, providing for medical assistance, was applied in practice and what were the criteria that applied to the granting of public health care cards to single persons.

The Committee reiterates that the information provided in the report concerning family allowance, childcare support, maternity support, child protection support, job-seeker's allowance are not relevant for the assessment of compliance with Article 13§1 of the Charter. For the purposes of assessing compliance with Article 13§1, the Committee only takes into account social assistance payments, such as what appears to be classified in Hungary as 'temporary aid' and 'regular social aid', their amount and eligibility criteria. In connection with the former type of benefit ('temporary aid'), the Committee notes from the report that local governments may decide to grant such aid to persons who have found themselves in extraordinary life situations and who are not able to provide for themselves or their families in any other manner or occasionally are in need of financial support due to certain extra costs or natural disasters. The Social Benefits Act does not restrict the duration of the disbursement of 'temporary aid', it can be provided for as long as the extraordinary life situation exists. The Committee understands from the report that a person with no income who meets the eligibility criteria for 'temporary aid' received € 160 in this benefit in 2007

(150% of the minimum old-age pension). The Committee asks whether its understanding of the amount paid in 'temporary aid' is correct.

As regards 'regular social aid', the Committee notes from the report that the average amount paid in 2007 stood at HUF 25,703 (€ 94). However, the report fails to provide information as regards eligibility criteria for this benefit, its duration and the minimum amount paid. Therefore, the Committee requests that the next report provide this information.

As regards medical assistance, the Committee has previously asked about the number of beneficiaries who benefit from medical aid and the coverage of medical assistance. According to the report, following the modifications to the Social Benefits Act, the special form of support is deemed to be a contribution to the compensation of expenses incurred when accessing healthcare services that are connected with the preservation and restoration of health condition of persons in social need. The Committee recalls that under Article 13§1 of the Revised Charter persons without adequate resources should be granted medical assistance in the event of sickness, not necessarily only of an emergency type. It asks whether all persons without resources receive necessary treatment that they might require. It holds that if this information is not provided in the next report, there will be nothing to establish that the right to medical assistance is guaranteed for all persons without resources.

Level of assistance

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

- basic benefit: the Committee notes that 'regular social assistance' and 'temporary aid' are available in certain circumstances, as outlined above.

- supplementary benefits: according to MISSOC home maintenance support is paid to persons for whom the costs of home maintenance are equal to 20% or more of the total monthly income of the household and the latter does not exceed 150% of the current minimum amount of Old-age Pension (€ 160). The minimum amount of this benefit is HUF 2,500 (€ 9,94).

- medical assistance: see above

- the poverty threshold defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: estimated at € 164 in 2007.

Pending reply to its question concerning the minimum amount of 'regular social aid', the Committee reserves its position as regards the level of social assistance and holds that if this information is not provided in the next report, there will be nothing to establish that the level of social assistance is adequate.

Right of appeal and legal aid

In its previous conclusion the Committee held that the situation in Hungary was not in conformity with the Charter on the ground that there was no right of appeal on the merits of the individual claim in question, to an independent administrative body, against decisions relating to the granting of social assistance, as required under this provision of the Charter. The Committee notes that the appeals may be lodged against the decisions of local governments refusing to grant social assistance, to the courts of justice. However, it understands that such appeals may only to be made on points of law. It also understands from the report that the process of judicial reviews are lengthy and during this period applicants in need of subsistence support, who may be living in very bad conditions, remain without services.

The Committee notes from the report that to remedy this situation changes have been made to the Social Benefits Act, with the effective date of 01 January 2007: in particular, some of the powers to grant assistance benefits have been transferred from the scope of competence of the general assemblies of local governments to the responsibility of notaries. The notaries of local governments have become entitled to establish some regulated services, which have previously belonged to the scope of competence of the general assemblies of local governments: allowances to elderly people, regular social aids and the so-called automatically furnished nursing fees. The Committee asks whether an appeal on the merits is possible from a decision by a local notary to refuse to grant such forms of social assistance. The Committee also asks whether an appeal on the merits is possible in respect of decisions by general assemblies of local government where such bodies have retained competency for the provision of specific forms of social assistance, such as housing maintenance support and temporary aid. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the right of appeal is effectively guaranteed.

Personal scope

The Committee notes that there have been no changes to the situation which it previously found to be in conformity with the Charter.

Conclusion

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

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 Hungary.

In its last conclusion the Committee noted that the Constitution and electoral legislation provide for equal treatment in the exercise of social and political rights

of people in social and economic disadvantage and it asked whether social assistance beneficiaries have access to central and local government services without discrimination. In response the report confirms that persons receiving social assistance can have access to the governmental and local governmental services without any discrimination.

The report also informs that for persons in need the Central Office of Justice offers legal assistance in the form of legal counselling and legal representation in court proceedings and explains the details of the granting of this assistance.

Conclusion

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

In its previous conclusion (Conclusions XVIII-1) the Committee wished to be informed about social information services that were introduced in 2005. It notes that the report does not provide this information. It observes from the report on Article 14§1 that as independent services, social information services were terminated with the effective date of 01 January 2007. With a view to improving the efficiency of certain social monetary and in-kind services and the provision of information, the amendments to the Social Benefits Act have assigned information service obligations to the bodies exercising social authorities towards clients (i.e. general assemblies of local governments, notaries of local governments). According to the modification, the bodies exercising social authorities are to provide information in relation to the conditions of the use of monetary and in-kind services provided for in the Social Benefits Act, the documents needed for application, the scope of these services and procedural issues concerning their use in relation to the benefits and services for personal care as defined in the Social Benefits Act.

The Committee recalls that 13§3 requires the states to guarantee that persons without resources are offered advice and assistance to make them fully aware of their rights to social and medical assistance and of the ways to exercise these rights. The Committee asks whether following the above mentioned amendments to the Social Benefits Act the institutions concerned (bodies exercising social authorities) have fully acquired this function and whether they are provided with sufficient means to give assistance as appropriate.

Conclusion

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

Article 13 - The right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

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

In reply to the question of the Committee asked in the previous conclusion (Conclusions XVIII-1) the report states that no foreign nationals may be repatriated on the sole ground that they are in need of social or medical assistance.

In its previous conclusion the Committee held that since Section 77 of the Health Insurance Benefits Act makes everyone eligible for emergency medical

assistance irrespective of their status, the situation was in conformity with Article 13§4 of the Charter. In this connection the Committee now asks what is the nature and extent of emergency medical assistance provided to unlawfully present foreigners in case of need.

As regards emergency social assistance, the Committee takes note of Section 7 of the Social Benefits Act which requires local authorities to provide temporary assistance, meals and accommodation to anyone in need, if the absence of such assistance would pose a threat to their life or health. The Committee however notes from the report that the personal scope of this provision does not explicitly cover unlawfully present foreigners. In connection with the latter, the Committee notes from the report that pursuant to paragraph (a) of Section (3) of Article 61 of the Act II of 2007 on the entry and stay of persons from third countries that third country nationals in custody are entitled to social assistance. The Committee asks whether all persons unlawfully present are entitled to emergency social assistance (shelter, food, clothing) in case of need. It also asks what is the nature of assistance that may be provided in such circumstances.

Conclusion

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

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 Hungary.

Organisation of the social services

The Committee refers to its previous conclusions (Conclusions XVII-2 and XVI-2) for a detailed description of the Hungarian social services system.

Effective and equal access

The main eligibility criterion for social services is need. Additional factors that may be taken into account, depending on the nature of the service, are age, state of health and degree of disability or dependence. Various amendments were made to the social services legislation during the reference period to extend the eligibility criteria and facilitate access to various services, including domiciliary care and the provision of meals and various forms of specialist provision, such as homes for elderly persons and day nurseries.

The Committee again asks whether some social services are free of charge and, in respect of services which are not free of charge, what criteria regulate fees. It also asks once more what length of residence is required for nationals of other States Parties to be eligible for services other than residential care, the provision of meals and temporary assistance. If the next report does not provide the necessary information, there will be nothing to show that the situation in Hungary is in conformity with Article 14§1 of the Charter.

Quality of services

The report supplies information on the number of employees of several social services by type of provision. The Committee asks for information in the next report on total staffing figures for all the social services.

The Committee again asks how much is spent on social services in total. If the next report does not provide the necessary information, there will be nothing to show that the situation in Hungary is in conformity with Article 14§1 of the Charter.

The Committee refers to its previous conclusion for a description of the system for monitoring the quality of the services provided by the different agencies.

Conclusion

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

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 notes the information in the report submitted by Hungary.

In the absence of information the Committee repeats its previous questions (Conclusions XVII-2).

The Committee therefore again asks whether there is guaranteed equal and effective access to social services offered by non-public service providers. It also asks once more what steps have been taken to strengthen dialogue with civil society in sectors of social policy that affect the social services.

Conclusion

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