



January 2010

European Social Charter

European Committee of Social Rights
Conclusions XIX-2 (2009)
(CROATIA)
Articles 11,13 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 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 European Social Charter as well as the 1988 Additional Protocol were ratified by Croatia on 26 February 2003. The time limit for submitting the 3rd report on the application of this treaty to the Council of Europe was 31 October 2008 and Croatia submitted it on 17 February 2009. On 25 May 2009, a letter was addressed to the Government requesting supplementary information regarding Article 13§4. The Government submitted its reply on 1 July 2009. On 7 July 2009, another letter was addressed to the Government requesting supplementary information regarding Article 13§1. The Government submitted its reply on 25 September 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).

Croatia has accepted Articles 11, 13 and 14 from this group.

The applicable reference period was 1 January 2005 – 31 December 2007.

The present chapter on Croatia concerns 9 situations and contains:

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

In respect of the other situation concerning Articles 11§2, the Committee needs further information in order to assess the situation. The Government is therefore invited to provide this information in the next report on the articles in question.

The next Croatian 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 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 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 Croatia.

State of health of the population - General indicators

Article 58 of the Constitution guarantees everyone the right to health care.

Life expectancy and principal causes of death

The Committee notes that average life expectancy in Croatia increased somewhat during the reference period reaching 72.5 years for men and 79.3 years for women in 2006.¹ The mortality rate was 8.39 per 1,000 inhabitants in 2006 (EU-27 average 6.48 per 1,000 inhabitants).² The main causes of death remained circulatory diseases and cancer accounting respectively for 44.3% and 29.3% of male deaths and 57.4% and 21.5% of female deaths in 2006 according to information provided in the report.

Infant and maternal mortality

The infant mortality rate has been brought down considerably in recent years: from 7.7 per 1,000 live births in 2001 to 5.2 per 1,000 live births in 2006.³ The EU-27 average in 2006 was 4.7 per 1,000 births.⁴

Although the maternal mortality rate decreased during the reference period it still remains quite high at 7 per 100,000 in 2005.⁵ It is however no longer one of the highest among the States Parties (see Conclusions XVIII-1, Croatia). The Committee takes note of the detailed information in the report on the situation as regards maternal mortality and notes in particular the measures taken under the Programme of Health Care Measures (financed by compulsory health insurance) to improve antenatal, partum and postpartum care.

Health care system

Access to health care

The 2003 Health Care Act as amended regulates the principles, the measures and the manner of implementing and organising health care, sets out the rights and obligations of persons using health care and defines the contents, the manner of performance and the supervision of medical activities. Access to health care is provided through a network of health institutions and health workers covering the whole territory, which according to the report allows for equal conditions of health care for the entire population.

The right to health care is acquired under a compulsory health insurance scheme in which every citizen and permanently resident foreigners must register. Foreigners who have been granted temporary stay are obliged to register for health insurance under the Act on the Health Care of Foreigners. In 2007, the compulsory health insurance scheme covered on average 4,361,008 persons.

In reply to the Committee's question on private schemes, the report explains that the compulsory scheme is supplemented by a voluntary health insurance schemes pursuant to the 2006 Voluntary Health Insurance Act. Voluntary health insurance is divided into three categories: supplementary, additional and private insurance schemes run by insurance companies licensed by the supervisory insurance authority pursuant to the Insurance Act. Supplementary insurance is used to cover a portion of health care costs up to the full price of services received under the compulsory scheme. According to the report additional insurance provides for a higher standard of health care and for broader rights than those provided under the compulsory scheme. Finally, private health enables access to health care for "natural persons" staying in Croatia who are not obliged to insure themselves either under the compulsory scheme or pursuant to the Act on the Health Care of Foreigners. The Committee asks that the next report contain figures on the take up of the different forms of voluntary health insurance, in particular as regards disadvantaged groups of the population and including on the number of persons covered by private insurance. It also asks to receive more detailed information on the notions of "higher standards" and "broader rights" applicable under additional health insurance.

The Committee notes the information on coverage of health care costs for persons insured under the compulsory scheme which varies according to target group and according to the diagnostic procedures and treatments involved: the coverage ranges from full coverage of costs for children up to the age of 18 and the severely disabled down to 50% coverage of certain types of dental treatment and certain medicines for adults. With respect to the cost of food and accommodation in hospital the report states in reply to the Committee's question that there is 75% coverage during treatment of chronic diseases and 70% coverage during treatment of acute diseases. However, the report further states that the obligation to participate in the costs of food and accommodation is waived in case of chronic psychiatric illness, radiation and chemotherapy, organ transplants and intensive care. The Committee asks what, if any, measures are taken to alleviate the financial burden of persons belonging to the most disadvantaged groups of the population, in particular persons who may not have taken out supplementary insurance.

The Committee notes that a number of measures were taken with a view to improving access to health care of the Roma population, primarily research and survey activities to identify health status and health care needs of

Roma, but also more practice-oriented activities such as targeted vaccination campaigns, deployment of so-called health visitors to Roma communities and dissemination of information to Roma on their health rights. The Committee asks that the next report contain detailed information on the situation in law and in practice as regards access to health care of Roma, including any measures taken on the basis of the various research and survey activities undertaken. It refers in this respect to the principles laid down in Committee of Ministers Recommendation Rec(2001)12 on "the adaptation of health services to the demand for health care and health care services of people in marginal situations".

In reply to the Committee's question on waiting lists and waiting times the report indicates that the situation is being carefully monitored and that various measures have been taken to improve the situation, such as employment of new medical staff, supplementary education of health workers, work reorganisation, acquisition of new medical equipment, refurbishment of inadequate facilities, etc. The report states that waiting lists for diagnostic tests and specialist examinations have been reduced by 21.6% and 20.7% respectively during the reference period.

The Committee acknowledges the Government's commitment to continue the efforts to reduce waiting lists and waiting times, however it observes that the situation remains problematic. As an example the average waiting time for hip and knee replacements exceeds one year, which the Committee considers to be long. It holds that access to treatment must be based on transparent criteria and that waiting time should not exceed a medically acceptable period having regard to the patient's condition and clinical needs. It asks that the next report contain up-dated information in this respect indicating that further progress has been made in reducing waiting lists and waiting times.

Finally, the Committee notes that total expenditure on health represented 7.5% of GDP in 2006.⁶

Health care professionals and facilities

The report provides detailed information on health care staff and equipment as requested by the Committee. At the end of 2007 there were more than 70,000 staff in the public health system. The number of doctors has increased significantly over the past 30 years but is still below the EU-27 average at 266 doctors per 100,000 population in 2007 (however this figure is almost identical to the average for the 12 new EU member states). The number of nurses was 537 per 100,000 compared to an EU-27 average of 741 per 100,000. The Committee notes the information on the measures taken to increase the number of health care staff.

In 2007, there were 73 hospitals and sanatoria in Croatia and the total number of hospitals beds corresponded to 5.49 beds per 1,000 population which is just

below the EU-27 average of 5.91 beds per 1,000 population (the EU-15 average was 5.84).⁷ Bed occupancy averaged just over 83% in 2007.

Conclusion

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

¹*Eurostat. The EU- 27 average in 2004 was 75.2 years for men and 81.5 years for women.*

²*Ibidem.*

³*Ibid.*

⁴*Ibid.*

⁵*WHO.*

⁶*Ibidem.*

⁷*Eurostat.*

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 Croatia.

Encouraging individual responsibility

Public information and awareness-raising

The report states that health policy in Croatia includes efforts to promote healthy life styles, reduction or elimination of preventable health risks and improvement of the quality of life of the chronically ill and disabled. Since 1999 the Department for Health Promotion of the Croatian National Institute of Public Health has been responsible for these efforts and its tasks include following:

- to propose and implement programmes to promote health;
- to publicise the necessary recommendations and promote a healthy way of life (non-smoking, correct eating habits, regular physical exercise, responsible sexual behaviour, strengthening the ability of individuals to overcome crises, etc.);
- to provide expert assistance and support for programmes to change health threatening habits;
- to improve co-operation with other sectors (education, the food industry, agriculture, etc.);
- to monitor and evaluate individual programmes.

The Committee asks that the next report contain examples of the activities implemented to promote public health, including projects organised by other organisations and financed by the State budget.

Health education in schools

The Committee notes the information on health education in schools, including the statistics on the pupils, parents and teachers involved. Health education begins in primary school, during the first to fourth school years with topics such as personal hygiene, correct nutrition and behavioral issues, in the fifth and sixth school years focus is on puberty-related psychological and somatic changes and in the seventh and eighth school years topics such as sexually transmitted diseases and healthy maturing are introduced. The secondary school curriculum includes topics such as family planning, abortion, contraception, responsible sexual behaviour, etc. According to the report health education for parents is organised at various points throughout compulsory school. Teachers participate regularly in continuing training related to health issues.

With respect specifically to sexual and reproductive health education in schools the Committee refers to its comments below on the follow-up to INTERIGHTS v. Croatia, Collective Complaint No. 45/2007.

Counselling and screening

Population at large

The report provides detailed information on counselling and screening in respect of women implemented under the "Programme of Measures for the Health Protection of Women", including ante-natal, partum and post-partum care (see also below on pregnancy check-ups) and counselling and screening for malignant diseases (for instance breast cancer and ovarian cancer). The Committee asks that the next report contain information also on counselling and screening activities aimed at the rest of the population.

Pregnant women, children and adolescents

The Committee notes the detailed information on pregnancy check-ups and the special monitoring of high-risk or pathological pregnancies. It further notes the information on regular medical supervision of children, both prior to school age and throughout compulsory schooling. The supervision includes counselling to resolve basic problems faced by children, adolescents and their parents, guardians and teachers. The Committee considers that situation is in conformity with the Charter in these respects.

Follow-up to INTERIGHTS v. Croatia, Collective Complaint No. 45/2007, decision on the merits of 1 April 2009

The Committee recalls that in its decision on the merits in this complaint, it found that certain specific elements of the educational material relating to sexual and reproductive health education used in the ordinary school curriculum (*in casu* a Biology course textbook), were manifestly biased and discriminatory, notably in how persons of non-heterosexual orientation were described and depicted. The Committee held that the inclusion of these elements in standard educational materials constituted a violation of Article 11§2 in the light of the non-discrimination clause of the Preamble to the Charter. The Committee further noted that by approving or allowing the use of textbooks containing anti-homosexual statements, the Croatian authorities had failed in their positive obligation to ensure the effective exercise of the right to protection of health by means of non-discriminatory sexual and reproductive health education (see paras. 60-61 of the Decision on the merits of 1 April 2009).

In its Resolution CM/ResChS(2009)7 the Committee of Ministers took note of information provided by the Croatian Government according to which the Biology textbook in question had been withdrawn from the list of standard educational material. Thus, as from the school year 2009/2010 this textbook would no longer be used in the ordinary curriculum. In addition, the Government indicated that the National Textbook Standard sets out "clear criteria for eradicating any form of discrimination by promoting gender equality, equality of individuals and social groups and right to diversity."

The Committee notes the measure taken to implement the decision on the merits in this complaint. However, it asks that the next report provide information on the enforcement of the National Textbook Standard in general and in particular on whether a thorough review has been undertaken to ensure that biased and discriminatory statements do not appear in other educational material. The Committee also wishes to receive detailed information on the reforms of sexual and reproductive health education which have been initiated in recent years according to Government's submissions in the complaint.

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 Croatia.

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

Air pollution - According to the report progress has been made in reducing pollutants such as sulphur, and lead emissions. A plan for protecting and improving air quality 2008-2011 is currently in force.

A State Network for the Permanent Monitoring of Air Quality monitors air quality; 22 stations are envisaged for the country, 8 have been established so far. In addition 10 counties have local networks for establishing air quality.

The Committee asks the next report to provide information on progress made in curbing greenhouse gas emissions.

Water - The report provides updated information on measures taken to prevent water pollution and to improve public access to the public water supply. Monitoring of the quality of drinking water is monitored according to EU requirements.

Noise - As regards noise mapping some progress has been made but according to the report 84% of those required to prepare a noise map have not taken any steps towards this. The Committee asks to be kept informed of all developments in monitoring noise.

Ionising radiation - Information is provided on the legal texts in the area, and confirms that the radiation dose limits are in accordance with the recommendations of the International Commission on Radiological Protection.

Asbestos - The Committee had previously noted that in 2006 the sale and use of asbestos was banned. The Committee asks whether there is legislation requiring the owners of residential property and public buildings to search for any asbestos and where appropriate remove it.

Food safety

The EU Food Hygiene Regulation(EC) No 178/2002 of the European parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety was transposed by Croatia in 2007.

A new Directorate, the Food Safety and Quality Directorate, has been organised within the Ministry of Agriculture, Forestry and Waste Management in order to coordinate the activities of the institutions involved in the food safety system.

Information is provided on the results of food safety tests for the years 2005 and 2006. The percentage of food found to be unfit for human consumption dropped between 2005 and 2006.

Measures to combat smoking, alcoholism and drug addiction

Smoking - The Committee previously found the legislation on the sale and use of tobacco to be in conformity with the Charter. Information is provided on the sale of tobacco and average expenditure on tobacco products per household. The Committee notes that the sale of tobacco decreased between 2003 and 2004 but asks for more detailed information in the next report on the trends in tobacco consumption.

Alcohol - The law prohibits the sale of alcohol to minors, regulates the advertising of alcoholic drinks, as well as its sale in general. Several campaigns have been undertaken on the harmful effect of alcohol abuse. The Committee asks the next report to provide information on the trends in alcohol consumption.

Drugs- the Committee notes that the information provided in the report and asks that the next report continue to provide such information.

Prophylactic measures -Epidemiological monitoring

The report provides detailed information on the system for the epidemiological monitoring of infectious diseases and epidemics

The Committee had previously requested specific information on reporting and notifying of certain diseases in particular AIDS. The monitoring and reporting of this disease is regulated by the Act on Protecting the Population from Infectious Diseases (OG 79/07), individual; reports of persons infected with HIV, suffering from AIDS and deaths resulting from AIDS are notified to the Croatian National Institute of Public Health.

Accidents

States must take steps to prevent accidents such as road accidents, domestic accidents, accidents at school, accidents during leisure time, including those caused by animals and accidents at work. Therefore the Committee asks the next report to provide information on the most common types of accidents and measures taken to prevent them.

Immunisation

The Committee previously found the situation to be in conformity as regards immunisation in terms of the illnesses covered and the coverage rate for the different vaccines. The information provided in the report demonstrates that this situation has not changed.

Conclusion

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

The social assistance system is defined by the Social Welfare Act (official Gazette 73/97, as amended) which regulates social assistance, defines its beneficiaries, rights and the procedure to exercise these rights. Social assistance is provided to vulnerable persons as well as others who are unable to meet their basic needs due to adverse circumstances, such as unemployment. The Committee notes in particular the Strategy for Social Benefits Reform 2007-2008 adopted in 2007 within the framework of which new social welfare regulations were adopted in July 2007 including the Act on Amendments to the Social Welfare Act (Official Gazette 79/07) which simplified the granting of benefits, merged some of the benefits and amended certain rights in terms of categories of beneficiaries and aims to be achieved. The Committee notes that one of the outcomes of these amendments is that the base rate which is used to calculate social assistance benefit was increased to HRK 500 (€ 69) in November 2008.

The Committee notes from the report that in 2008 the Government adopted the National Implementation Plan for Social Inclusion which aims, among others, to improve the provision of social services, strengthen the social welfare management system and improve the infrastructure of social welfare institutions.

According to the report in 2007 social welfare allowances and benefits amounted to 0,57% of GDP.

Types of benefits and eligibility criteria

According to the report social assistance is granted to two categories of beneficiaries. Persons belonging to the first category are those who consider themselves to be poor and have no personal income or their income is below the prescribed threshold. The second category are persons with disabilities, age, children without appropriate parental care etc. Following the Act on Amendments to the Social Welfare Act some of the benefits and forms of assistance have been amalgamated resulting in simplified procedures and easier administration.

In its previous conclusion (Conclusions XVIII-1) the Committee noted that beneficiaries or claimants of social assistance had to register with the Employment Institute and were obliged to accept any offer of job, regardless of their qualifications or experience, including temporary and seasonal jobs. The report states that the decisions on granting and maintaining the benefits are based on the assumption that everyone makes efforts to prevent their own social deprivation as well as that of their family, either by finding a job or by using their income or property. The Social Welfare Act provides that an unemployed person, in receipt of social assistance, should register with the competent employment

service and should not reject the job offered. Failure to register or accept a job offered will result in cancellation of the right to social assistance. In reply to the Committee's question whether in such cases the assistance is withdrawn in its entirety leaving the person without means of subsistence, the Committee notes from the supplementary information provided by the Government that in rare situations, when a person refuses an employment offer and cannot provide proof to the social welfare centre of being registered with the employment service, the benefit is cancelled. However, refusing employment is often an indicator that a person is already employed. The Committee reiterates its question on what means of subsistence are available to those whose social assistance is withdrawn as a penalty for having refused a job offer and whether there are legal provisions that would guarantee such means of subsistence. The Committee 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.

According to the report the following types of allowances are granted: *permanent allowance*, granted to those who are unable to earn income by selling, leasing or renting their property. A single person who has been granted this assistance, is entitled to 100% of the base rate. i.e HRK 400 (€ 55) in 2007. This benefit is considered to be the most important welfare benefit in the fight against poverty and was paid to 98,747 persons in 2007. *Assistance for covering housing costs* is granted in the amount of up to 50% of the permanent allowance. *One-time allowance* is granted to a single person or a family who, due to current material difficulties is not able to satisfy some specific needs. This benefit may be granted up to the amount necessary to satisfy the need for which it was approved. If it exceeds the base rate by five times, the social welfare centre must seek approval of the competent ministry.

In its previous conclusion the Committee asked what forms of health care were available to people without resources. It notes from MISSCEO that health care rights may be acquired by certain categories of recipients of social assistance. The Committee notes from the report that medical assistance is available under the compulsory insurance scheme only by persons who have acquired the status of an insured person according to the procedure and under the conditions prescribed by the law and general legal acts.

The Committee recalls that under Article 13§1 everyone who lacks adequate resources must be able to obtain medical care free of charge in the event of sickness as necessitated by his/her condition. In this context, medical assistance includes free or subsidised health care or payment to enable persons to pay for the care required by their condition. In reply to its question what measures exist to ensure that persons who do not fall within the compulsory health insurance scheme and are without resources have effective access in practice to medical care in case of need, the Committee notes from the supplementary information provided by the Government that persons without resources who are registered with the employment service also have the right to health security. The Law on Compulsory Health Insurance stipulates that all persons with legal residence in Croatia should be covered by the compulsory system and should be entitled to

health protection on equal conditions. Persons with no income may also be ensured as unemployed persons or family members of an insured person which entitles them to health protection under the compulsory health system to the full extent. The Committee asks whether the individuals who are not covered under the general insurance scheme and are not registered at the employment service are entitled to medical assistance in case of need.

Level of assistance

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

-basic benefit: according to the report the permanent allowance for a single person without resources amounted to the 100% of the base rate, i.e. € 55. According to MISSCEO two adults with one child received HRK 1000 (€ 137).

-supplementary benefits: the report states that there are various supplementary benefits paid to persons without resources, such as assistance for covering housing costs which is intended to cover the rent and utilities and represents 50% of the permanent allowance, or € 27,5 per month. As regards assistance and care supplement, the beneficiaries may claim these benefits either at 70% of the base rate or in full, depending on the their state of health. This benefit is granted to persons in receipt of the permanent allowance who require care from another person.

-medical assistance: [see above];

-the Committee notes from the supplementary information provided by the Government that at risk-of-poverty threshold, defined as 50% of median equivalised income was estimated at HRK 1665 (€ 228) per month in 2007.

In the light of the above information, the Committee considers that the level of social assistance is manifestly inadequate on the basis that the minimum assistance that can be obtained is not compatible with the poverty threshold.

Right of appeal and legal aid

In its previous conclusion the Committee asked whether it was possible to appeal to administrative courts against a decision to refuse or suspend benefits as a sanction against a person who refuses a job or training offer and whether free legal aid was available to enable applicants to fully exercise their right of appeal. The Committee notes from the report that the right to free legal aid is available to parties at social welfare centres where they will be given instruction on how to lodge their appeals with the assistance of expert worker who will help them formulate their appeals. The Committee asks whether there is a free legal representation and assistance in the appeals process before administrative courts or similar appeal mechanisms concerning social assistance. It 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 has previously noted that social assistance is only granted to foreigners with permanent residence status and asked how long a person must be resident in Croatia to be granted permanent resident status. The Committee notes from another source⁸ that to apply for permanent residence permit a foreign national must have lived in Croatia for 5 years as a temporary resident. The Committee considers that this situation amounts to the length of prior residence requirement imposed on foreign nationals to become eligible for social assistance and therefore is not in conformity with the Charter.

Conclusion

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

- the level of social assistance is manifestly inadequate;
- foreign nationals in Croatia are subject to an excessive length of residence requirement to be eligible for social assistance.

⁸*Ministry of Interior of the Republic of Croatia:*
<http://www.mup.hr/main.aspx?id=1266#Permanent%20stay>

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 Croatia.

The report mentions some of the categories of recipients of social welfare services and also explains that the staff working in social welfare institutions has the obligation to perform their duties in accordance with the professional conduct and respect the beneficiary's personality, dignity and inviolability of their personal and family life, and also to keep secret everything they learn about the beneficiary's personal and family life. The Committee notes that although these obligations contribute to a fair and dignified treatment of the beneficiaries of social services, there is no mention of the guarantees provided under Croatian legislative or institutional framework to the protection of the social and political rights of the beneficiaries of social and medical assistance.

In its last conclusions (Conclusions XVIII, Croatia, p. 173), the Committee asked Croatia to indicate the existence of any other legal instruments that include positive guarantees of the right of persons receiving assistance not to suffer, as a result of this, from any diminution of their political or social rights, such as, the right to vote and stand for election. The report did not contain information as to the question posed by the Committee.

In order to establish the compliance of Croatia with Article 13§2, the Committee reiterates its question.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity on the ground that it has not been established that persons receiving social and medical assistance do not suffer from a diminution of their political or social rights.

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 Croatia.

In its previous conclusion (Conclusions XVIII-1) the Committee asked several questions regarding the functioning of social services for persons without resources. It notes from the report that the Act on Amendments to the Social Welfare Act (Official Gazette, no. 79/07) provides that in addition to social welfare rights, beneficiaries are also entitled to other forms of assistance free of charge, including counselling and help to overcome special difficulties. The Committee notes that the procedure for granting social welfare rights is governed by the provisions of the General Administrative Procedure Act and by expert social work rules. Pursuant to Article 5 of this Act, staff from social welfare centres are obliged to help parties exercise their rights as efficiently as possible. Social welfare centres provide their services free of charge. The costs of proceeding incurred in connection with the exercise of social welfare rights are financed from the state budget through by the Ministry of Health and Social Welfare. Social welfare centre will inform the individual approaching it about his/her social welfare rights and requirements that should be met to exercise these rights.

According to the Social Welfare Act, administrative supervision of the work of social welfare centres is carried out by the competent ministry, within the Directorate for Social Welfare by a commission for administrative supervision. This commission monitors the legality and organisation of work of social welfare centres.

The Committee asks whether social welfare centres are provided with sufficient means to give assistance as necessary.

Conclusion

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

In its previous conclusion (Conclusions XVIII-1) the Committee asked which foreigners were covered by Section 11.3 of Social Welfare Act No 73/97 and

what assistance they were provided. It notes from the report that social welfare rights as defined by the Social Welfare Act are available to every Croatian citizen and foreign national with permanent residence in Croatia. These categories of persons are provided with temporary accommodation in case of need. Other persons who do not fall under these categories may also exercise welfare rights if their circumstances so require.

The Committee further asked whether foreign nationals, legally (e.g. tourists, students etc.) and unlawfully present in Croatia were entitled to emergency medical and social assistance (food, clothing, shelter) in case of need. It notes from the supplementary information provided by the Government that as a result of the Act on Health Insurance of Foreigners in the Republic of Croatia (Official Gazette No 114/97), medical assistance is provided to foreigners who cannot prove with a required document that their health care is provided through health insurance system in Croatia or from other health institutions. The Committee also notes that pursuant to the Asylum Act (Official Gazette No 79/07) the asylum seekers have a right to health care including emergency medical treatment. However, the report and the additional information provided by the Government do not establish that emergency medical assistance is provided to unlawfully present foreigners, including those whose claim for asylum status has been rejected.

In this connection, the Committee recalls that the personal scope of Article 13§4 differs from that of other provisions of the Charter. The beneficiaries of the right guaranteed by this provision are foreign nationals who are lawfully present in a particular country but do not have resident status, and also foreign nationals who are unlawfully present in that country. The Committee further recalls that legislation or practice which denies entitlement to emergency medical assistance to foreign nationals within the territory of a State Party, even if they are there illegally, is contrary to the Charter (International Federation of Human Rights (FIDH) v. France, Complaint No.14/2003, decision on the merits of 8 September 2004).

As regards emergency social assistance, the Committee notes that the report and the supplementary information provided by the Government do not establish that all persons whether or not legally present in Croatia have a right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency, as again required by the Charter. The Committee asks what legal basis exists for the provision of this form of assistance.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 13§4 of the Charter, as it has not been established that all legally and unlawfully present foreigners in need are entitled to emergency medical and social assistance.

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 Croatia.

Organisation of the social services

As part of the current process of reform of the social protection system, which is centred mainly on “de-institutionalisation”, precedence is given to service in smaller facilities. So-called family units have been set up, covering a small number of beneficiaries (generally between five and twenty) and providing services in particular for elderly people and people with disabilities in conditions similar to a family environment. Social welfare homes have been converted with this goal in mind.

Social welfare homes are managed by an administrative board appointed by the home’s founder. Their aim is to help people with disabilities to regain a degree of autonomy, chiefly through psychological counselling and rehabilitation programmes. There are services for families, which mainly provide psychological counselling and support. The report does state that these services are not yet sufficiently developed.

Effective and equal access

The Committee understands that the main eligibility criterion for access to social services is need. According to the report, the system for the assessment of users’ needs is inadequate. The Committee asks what measures are planned to rectify the situation. The Committee asks again for more detailed explanations in the next report on how decisions on the provision of social services are taken.

Under the general code of administrative procedure, anyone wishing to apply for a social service must be given information about his or her rights. An administrative remedy can also be lodged against decisions rejecting applications for a social service. All applicants are entitled to free legal aid and exempted from fees.

Access to the social services provided by social welfare centres, which are the main providers of social services, is free of charge. Everyone is entitled to free information and advice services with regard to social assistance within the meaning of Article 13§3 of the Charter. Fees are charged, however, for accommodation in a specialised home. The Committee asks for information about fees concerning the access of social services provided by other service providers.

The Committee asks again for confirmation that nationals of other States Parties are guaranteed equal treatment as regards access to social services.

Quality of services

The Committee notes that an administrative board appointed by the Ministry responsible for social welfare matters is in charge of the administrative and professional supervision of social welfare centres and of the lawfulness of the procedures to assess eligibility for social services. The board has nine members, most of whom are lawyers, social workers, psychologists or education experts. Inspections may be organised and the board prepares regular reports for the attention of social welfare centres.

Under the Social Welfare Act of 2007, it is the Social Welfare Centres' task to supervise the activity of social services for families.

The Social Welfare Act has also established bodies to represent social service staff and ensure that they are complying with professional rules of conduct and ethics.

According to the report, social service providers in 2007 included 80 social welfare centres, 69 social welfare homes, 16 assistance and care centres, 123 regional homes for the elderly and people with disabilities and 14 homes for children and young adults. A total of 8 764 people took advantage of the services provided by social welfare homes and 17 071 benefited from the care offered by specialised homes for the elderly and disabled people.

In 2007, 11 668 staff were employed by Croatia's various social service providers; 2 019 worked for social welfare centres and 9 649 for social welfare homes.

The Committee asks how much is spent on social services in total.

Under the Social Welfare Act of 2007, social service staff are under a duty of confidentiality when processing users' personal data.

Conclusion

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

The Committee notes the adoption of the Volunteer Act (No. 58/07 of 6 June 2007), which lays down the principles and conditions for the activities of volunteers, along with their rights and obligations and the arrangements for supervising their activities.

The main focus of the voluntary organisations' work in co-operation with the local authorities and public service providers is to provide local services for elderly people and people with disabilities (primarily home help including housework, psychological counselling, child care, educational and cultural programmes and language courses). These organisations also work in co-operation with other non-profit-making organisations (such as foundations and religious associations) to provide disadvantaged families and other vulnerable categories (such as children, drug addicts, victims of violence and homeless people) with psychological advice and information and advice services with regard to social assistance within the meaning of Article 13§3 of the Charter. They are generally recruited through a call for tenders and are awarded state grants. In 2005, 13 voluntary organisations were recruited in this way. The Committee asks what is the total annual amount allocated to those organisations.

In 2007, an advisory body representing voluntary organisations, called the National Committee for the Development of Voluntary Work, was set up. Its main aim is to promote the development of the voluntary sector. A code of ethics for the work of volunteers is currently being drawn up.

The Committee asks again the activities of voluntary organisations are monitored.

Conclusion

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

