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European Social Charter (revised)

European Committee of Social Rights

Conclusions 2009 (TURKEY)

Articles 3, 11, 12, 13, 14, 23 and 30
of the Revised Charter

This text may be subject to editorial revision.

Introduction

The function of the European Committee of Social Rights is to rule on the conformity of the situations in States with the European Social Charter, the 1998 Additional Protocol and the Revised European Social Charter. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure.

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 Revised European Social Charter was ratified by Turkey on 27 June 2007. The European Social Charter had been ratified by Turkey on 24 November 1989. The time limit for submitting the 15th report on the application of the Charter and 1st report on the application of the Revised Charter to the Council of Europe was 31 October 2008 and Turkey submitted them on 25 March 2009.

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

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

Turkey has accepted all of these articles.

The applicable reference periods were:

- 1 January 2003 - 31 July 2007 (Charter) and 1 August 2007 - 31 December 2007 (Revised Charter) for Articles 11, 12, 13 and 14;
- 1 August 2007 - 31 December 2007 (Revised Charter) for Articles 3, 23 and 30.

The present chapter on Turkey concerns 18 situations and contains:

- 4 conclusions of conformity: Articles 12§§2, 3 and 4, 13§2

- 4 conclusions of non-conformity: Articles 11§§1 and 2, 13§1, 14§1

In respect of the 10 other situations concerning Articles 3§§1, 2, 3 and 4, 12§1, 13§§3 and 4, 14§2, 23, and 30, 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 Turkish 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.**Error! Hyperlink reference not valid.**

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

Article 3 - The right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General objective of the national policy

According to the report, the Ministry of Labour and Social Security is committed to the improvement of working conditions. The Directorate General for Occupational Health and Safety (DGOHS) determines the national policies and programmes. The National goals for occupational health and safety for the period 2006-2008 were, inter alia, to draw up a new law on occupational health and safety which covers all workers, to ensure that shared occupational health and safety services are established, to reduce the number of occupational accidents by 20%, to improve the system of diagnosis of occupational diseases and to increase by 20% occupational health and safety technical support from public institutions. In addition, the Labour Inspection Board (LIB) identifies measures to be taken to ensure occupational health and safety on the basis of inspection reports and relevant statistical data, and the Labour and Social Security Training and Research Centre (CASGEM) organises training courses and seminars on occupational health and safety (see below).

The Committee underlines that, in accordance with paragraph 1 of Article 3 of the Revised Charter, the main policy objective must be to foster and preserve a culture of prevention in respect of occupational health and safety. Occupational risk prevention must be incorporated into the public authorities' activities at all levels and form part of other public policies (on employment, persons with disabilities, equal opportunities, etc.). The policy and strategies adopted must be regularly assessed and reviewed, particularly in the light of changing risks. The Committee asks that the next report focuses on these particular aspects.

Organisation of occupational risk prevention

At company level, employers must carry out an assessment of work-related risks and on the basis of this assessment decide on the protective equipment to be used. They must take account of changing circumstances and aim to improve situations. They should develop an overall prevention policy, adapt work to technical progress, give appropriate instructions to workers, etc. Workers must also be provided with information and training on safety and health risks, protective and prevention measures - training will take place upon recruitment, in case of change of post, or change of equipment or introduction of new technology, and will take into account new or changed risks (Regulation on Occupational Health and Safety of 9 December 2003, No. 25311).

At government level, insofar as the development of an appropriate system of public prevention and supervision is concerned, the report refers to the Labour Inspection Board whose duties include the collection and assessment of statistics about working conditions. The Committee enquires whether, in accordance with

Article 3§1 of the Revised Charter, labour inspectors of the LIB also have a duty to share their knowledge about risks and risk prevention in light of their inspection experience and as part of preventive activities (information, education, prevention).

Improvement of occupational health and safety (research and training)

The CASGEM organises seminars on occupational health and safety, and provides training for occupational health and safety professionals (doctors, nurses, occupational safety experts) and delivers professional certificates. In addition, the DGOHS also carries out training and counselling, as well as studies and research activities on occupational health and safety and the prevention of occupational accidents and diseases. They also authorise and evaluate institutions undertaking such activities. The Committee asks that the next report provides concrete examples of such activities. It also enquires whether quality assurance (professional qualifications, certification systems for facilities and equipments) is foreseen.

The report also indicates that since 1987 the Ministry of Labour and Social Security organises every year the "Occupational Health and Safety Week". The Committee asks for more information on what types of activities are organised during such weeks. The report also refers to the 4th International Occupational Health and Safety Regional Conference which was held in November 2005 and to regional conferences and seminars held on the same subject the same year. The Committee notes that these events took place before the reference period and asks the next report to provide up-to-date information.

Consultation with employers' and workers' organisations

The report refers to the setting-up, in 2005, of the National Occupational Health and Safety Council as an advisory body and platform for dialogue on issue of health and safety at work. It is composed of representatives of the states, employers and worker, and takes advisory decisions. The Committee asks that the next report provides more information on the functioning and remit of this body, in particular in connection with occupational health and safety prevention policies.

Conclusion

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

Article 3 - The right to safe and healthy working conditions

Paragraph 2 - Issue of safety and health regulations

The Committee takes note of the information contained in the report submitted by Turkey. However it notes that much of the information needed to assess the

situation was lacking. It considers that if the information requested below is not provided in the next report there will be nothing to show that the situation in Turkey is in conformity with this provision of the Revised Charter.

Content of the regulations on safety and health at work

The report refers to Article 56 of the Constitution which guarantees the right of everyone to live in a healthy and balanced environment as a fundamental legal basis of occupational health and safety legislation. According to the Code of Obligations (Article 332), employers have a duty to take all necessary measures against hazards which workers may be exposed to and provide healthy and suitable workplaces. Definitions are given of occupational accidents and diseases and the obligation for the employer to provide compensation is foreseen in the Social Insurance Law. The Labour Law, together with regulations linked to it, provides for obligations of employers and workers in terms of health and safety at work, on suspension or closure of enterprises where the life of workers are endangered, on the rights of workers whose health and safety may be at risk, on the prohibition of heavy and dangerous work for young workers, etc. The Labour Law was revised to prohibit the use of workers without appropriate training qualifications in heavy and dangerous work. The regulation on risks related to chemical agents was amended and entered as amended in March 2008. The Committee asks for further details on the content and ambit of this regulation and any other specific regulations on health and safety. While taking note of the information provided and the reference to a future Occupational Health and Safety law, the Committee recalls the general requirement under Article 3§1 that State Parties should cover by regulation a large majority of the risks listed in the General Introduction to Conclusions XIV-2:

- Establishment, alteration and upkeep of workplaces — Work equipment: workplaces and equipment, particularly the protection of machines, manual handling of loads, work with display screen equipment; hygiene (shops and offices); maximum weight; air pollution, noise and vibration; personal protective equipment; safety and/or health signs at work.
- Hazardous agents and substances: chemical, physical and biological agents, particularly carcinogens, including white lead (in paint), benzene, asbestos, vinyl chloride monomer, metallic lead and its ionic compounds and ionizing radiation; control of major accident hazards involving dangerous substances.
- Risks connected with certain sectors: indication of weight on packages to be transported by boat; protection of dockers against accidents; dock handling; building safety rules, temporary or mobile construction sites; mines, extractive industries using drilling and opencast or underground mining; ships and fishing vessels; prevention of major industrial accidents.
- Risks connected with agriculture and transport must also be controlled.

Most of the risks listed above must be covered by specific regulation which set out rules in sufficient detail for them to be applied properly and efficiently. Limits

must be aligned with those adopted in the above-mentioned international reference standards, e.g. in respect of benzene.

States are required to pay particular attention with regard to asbestos and ionising radiation, producing evidence that workers are protected up to a level at least equivalent to that set by international reference standards.

- With regard to asbestos:
 - the international standards are 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 ILO Convention No. 162 on asbestos of 1986;
 - exposure limits must be equal to or lower than those laid down by these international instruments;
 - these limits must be regularly reviewed and updated to keep pace with technological progress and developments in technical and scientific knowledge;
 - use in the workplace of asbestos in what are recognised as its most harmful forms (amphiboles) must be prohibited. Article 3§2 does not yet require a total ban on asbestos although it is considered that such a measure “will ensure that the right provided under Article 3§1 of the Charter is more effectively guaranteed” and a development of this sort is expected as soon as technical knowledge allows;
 - the relevant authorities must draw up an inventory of all contaminated buildings and materials.
- National standards with regard to ionising radiation must take account of the recommendations made in 1990 by the International Commission on Radiological Protection (ICRP, publication No. 60), relating in particular to maximum doses of exposure in the workplace but also to persons who, although not directly assigned to work in a radioactive environment, may be exposed to radiation occasionally. The transposition into domestic law of Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation is sufficient as this Directive takes up the ICRP’s recommendations.

Protection of temporary workers

The report does not provide specific information regarding temporary workers. The Committee recalls that all workers in all workplaces, regardless of the sector of activity, must be covered by occupational health and safety regulations. It therefore asks for specific information on this aspect.

Personal scope of the regulations

No information is available in the report as to whether the self-employed, home workers and domestic workers are covered by health and safety regulations. As above, the Committee recalls that all workers in all workplaces, regardless of the sector of activity, must be covered by occupational health and safety regulations. It also underlines that health and safety regulations must apply at all workplaces without exception, including private homes. It thus asks for specific details on these issues.

Consultation with employers' and workers' organisations

The Committee recalls that regulations on health and safety at work must be drawn in consultation with employers' and workers' organisations. It therefore asks that the next report provides specific information on this point.

Conclusion

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

Article 3 - The right to safe and healthy working conditions

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

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

Occupational accidents and diseases

In 2007, which corresponds to the end of the reference period, the report indicates that there were 6 893 work accidents, 1 084 resulting in death. The Committee is struck that these figures are extremely low compared to other States Parties and enquires how statistics on occupational accidents are compiled. It further asks that the next report provides not only the number of accidents but also standardised rates in relation to the total workforce in order to assess whether the national situation is in conformity with Article 3§3. It also requests that sectoral statistics be provided in order to identify which sectors of activity are more prone to accidents. Figures on occupational diseases should also be given.

Activities of the labour inspectorate

Inspection work is based on ILO Convention No. 81 on Industry and Trade, the Constitution, labour legislation, the Law on the Structure and Duties of the Ministry of Labour and Social Security and the Labour Inspection Regulation. It is the responsibility of the Ministry of Labour and Social Security to monitor compliance with labour legislation. It carries out this duty through the Labour

Inspection Board (LIB). The LIB's activities cover labour relations as well as health and safety issues. It inspects workplaces for compliance with relevant legislation and investigates workers' complaints. Both private and public sectors are subject to labour inspection visits of the LBI.

The duties and responsibilities of inspectors are the following: (i) examine production methods, working conditions and labour relations at workplaces; (ii) collect information from employers, workers and other relevant persons; (iii) examine or copy relevant documents (records, reports, periodic control charts of machinery, etc.); (iv) take documents relevant to investigations; (v) check whether working conditions represent a risk to workers' health, examine machines, raw and processed materials, in order to determine if they comply with law; (vi) when they detect an infringement related, inter alia, to health conditions, prevent those workers from continuing work, stop the machines, installations and work where workers' health and safety are at risk; (vii) enter freely, without prior notice, and at any time any workplace; (viii) impose sanctions on persons who do not comply with the relevant legislation. The Committee asks for further information on the different types of sanction which labour inspectors have at their disposal in the event of occupational health and safety breaches.

The LBI counts 603 inspectors, 277 of which are responsible for health and safety questions. Those inspectors dealing with health and safety at work are graduates with engineering and medical backgrounds. Access to the profession is done through a competitive examination. Those who pass become assistant labour inspectors and follow a special education programme while working with senior inspectors for 3 years. Following this period and the preparation of a thesis on a relevant topic, assistant inspectors undergo a competency examination after which they may become inspectors. Regular training seminars are organised by the LBI geared to the changes in legislation and technology. The report indicates that it is foreseen to hire an additional 100 assistant labour inspectors. The Committee asks to be kept informed and enquires about the proportion of the new assistant inspectors who will be assigned to health and safety matters. Overall, it finds the number of inspectors, in particular those responsible for occupational health and safety, particularly low. Given that labour inspection services are the main safeguard of health and safety in the workplace, it recalls the importance of allocating adequate resources to inspection services to ensure effective monitoring of the respect of health and safety regulations so that the risk of accidents be reduced to a minimum and that the largest possible number of workers benefit as soon as possible from the right enshrined in Article 3. The Committee has regarded this Article, as establishing a widely recognised principle, stemming directly from the right to personal integrity, one of the fundamental principals of human rights.

In addition to the LBI, the Social Insurance Inspection Board (SIIB) also carries out inspection visits regarding occupational accidents and diseases. The main duties of the SIIB are (i) to widen the social security scheme coverage, (ii) to inform employees and employers of rights and obligations in terms of social security, (iii) to prevent social security fraud, (iv) to detect or investigate work

accidents, occupational diseases, (v) to collect relevant information, and interview persons concerned. There were 360 Social Insurance inspectors in 2005. Social Insurance inspectors are graduates in social sciences and the process to become inspectors is comparable to that of labour inspectors. The Committee asks for more information on how the SIIB and LIB interact in the event of investigations into work accidents.

In 2007, there were 27 500 inspection visits dealing with occupational health and safety, including 6 782 which followed work accidents and 551 complaints, reaching 1 083 002 workers, approximately 17.5% of the total workforce which amounted to 6 181 251 in 2005. The total amount of administrative fines imposed this same year for health and safety breaches was 10 107 931 YTL.

Conclusion

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

Article 3 - The right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

The information provided in the report deals with occupational health and safety management rather than specifically with occupational health services which is the object of Article 3§4 of the Revised Charter. However, a short reference is made to the Law on the Protection of Public Health which states that employers have to recruit an occupational doctor for the purpose of supervision of workers' health where more than 50 employees are employed. Article 81 of the Labour Law also provides for such an obligation in enterprises of more than 50 employees, and adds that a health-care unit must be set up, taking account of the number of employees and the degree of danger of the work performed. This Article further states that employers should take occupational health and safety measures to provide first aid, emergency therapy and protective health-care services, in complement to the health care services provided by the Social Security Insurance Organisation.

The Committee asks more information on the practical implementation of the above-mentioned legal obligations. It recalls that under this provision all workers in all branches of economic activity and all companies must have access to occupational health services. These services may be run jointly by several companies. States Parties are required to promote the progressive development of such services. It means that "a State must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available

resources" (*Association internationale Autisme-Europe (AIAE) v. France*, Complaint No. 13/2002, Decision on the merits of 4 November 2003, §53). Therefore, if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. The Committee therefore asks that the next report focuses on these issues for the national situation under Article 3§4 to be assessed.

Conclusion

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

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 Turkey.

State of health of the population – General indicators

Life expectancy and principal causes of death

Life expectancy in Turkey was 75 years for women and 71 for men in 2006¹, showing an increase compared to the last reference period (respectively 72.2 and 67.9 in 2002). This remains nonetheless below the majority of States Parties (for example, the EU27 average was 81.5 years for women and 75.2 for men in 2004²).

In spite of the Committee's specific request, the report again fails to provide information, including facts and figures, on the main causes of death and steps taken to improve the situation. The Committee thus asks again that the next report provides this information, failing which there will be nothing to establish that the situation is in conformity with the Revised Charter.

Infant and maternal mortality

The infant mortality rate went down from 26 per 1 000 births in 2005 to 21 in 2007.³ While noting the regular decrease of this rate in Turkey, notably compared to the previous reference period (43 deaths per 1 000 births in 2002), the Committee nonetheless underlines that it remains well above the great majority of States Parties⁴ and significantly above EU27 average, which was 4.7 per 1 000 births in 2006.⁵

The maternal mortality rate in 2005 was 44 deaths per 100 000 births, down from 70 in 2000.⁶ The Committee notes the significant decrease during this period but underlines that this rate remains a matter for concern as it is still far above the great majority of States Parties.⁷

The Committee recalls that infant and maternal mortality are an avoidable risk which States must deal with if they are to comply with Article 11§1 of the Charter (Conclusions 2005, Moldova). Consequently, indicators related to infant mortality and maternal mortality should be as close as possible to zero (Conclusions 2005, Lithuania). In view of the above, the Committee is compelled to conclude that while the measures taken have contributed to reducing both the infant and maternal mortality rates, further efforts need to be made to bring them further down to levels comparable to the great majority of State Parties.

Health care system

Access to health care

The Health Transformation Programme (HTP) launched a major reform of the health care system in 2003 which is still ongoing.⁸ The HTP aims at facilitating and improving access to health services, including by establishing a universal

health insurance system (UHI). Before this reform, there used to be different types of public hospitals (mainly hospitals of the Social Insurance Organisation (*Sosyal Sigortalar Kurumu*, SSK), and other public hospitals answerable to the Ministry of Health or other public bodies) serving different sections of the population depending on their social security schemes (workers of the private and public sectors by the SSK, special social insurance scheme for the self-employed, special retirement fund for retired civil servants, uninsured persons with low income by the "green card" government programme). Following the HTP, most public hospitals have been brought together under the umbrella of the Ministry of Health. At the same time, pursuant to the UHI (2007 Health Budget Law and Law No. 5510 on Social Insurance and Universal Health Insurance), all beneficiaries who before came under different schemes, including persons in need ("green card" holders), have become entitled to the same benefits package within the framework of a common body, the Social Security Institute (*Sağlık Güvenlik Kurumu*, SGK). Enrolment with the UHI is compulsory for all. Before this part of the reform, the uptake of "green cards" by those with the poorest incomes had increased from 24% in 2003 to 68% in 2006.⁹ Since 2008 no payment is required for primary health care, even from citizens who are not covered by the social security scheme (above-mentioned Law No. 5510). As a result of these different aspects of the reform, UHI beneficiaries, notably those with low incomes, have access to a wider range of hospitals and institutions and better access to pharmaceutical products than under the old system. Overall, the number of hospitals, both public and private, has increased from 1 156 in 2005 to 1 276 in 2007.¹⁰

As regards access to health care in rural areas, the number of health centres, which come under the Ministry of Health, increased from 5 055 in 2002 to 5 846 in 2006. Such centres which are staffed with physicians and nurses provide primary health care and preventive services essentially in rural areas. The Ministry of Health also reports that 16 000 of the new health staff recruited between 2003 and 2007 have been assigned to areas with lower health staff rate per capita, but significant discrepancies between regions remain.¹¹ According to the report, emergency services, which covered only 20% of the rural population in 2002, covered 95% in 2006.

In addition, since 2005, in both urban and rural areas, the development of a strong preventive and primary health-care system based on a model of family medicine (doctors working for public hospitals or health centres who, following adequate training, take up a position as independent family doctors) has also contributed to improving the quality of health care; it has so far been run in 23 provinces (covering 20% of citizens) as a pilot strategy but aims at being applied in further provinces in the years to come, working alongside health centres.

According to the report, public hospitals have gradually been given more autonomy over resource allocation, which allows them for example to purchase private sector services in order to shorten queues for medical tests and diagnosis. Under UHI, the SGK can outsource the delivery of outpatient and inpatient services with private facilities; around 1 000 contracts have been

concluded with private facilities, including 350 with private hospitals.¹² Since the launching of the HTP, the management of waiting lists appears to have improved.¹³ The Committee takes note of this but nonetheless asks for more specific information on the management of waiting lists and waiting time.

The Committee considers that it is still early to fully assess the impact of the part of the reform already carried out within the framework of the HTP. Therefore it asks for specific information and assessments, including up-to-date statistics and other relevant data, on the concrete effects of the reform on access to health care, notably of those in need, and of access to health care in urban and rural areas alike as well as in different regions.

According to the report, the budget allocated to preventive and primary health care services increased from 755 million dollars in 2003 to 1 720 million dollars in 2007. However, while health expenditure per capita (calculated according to purchasing power parity) increased from 272 US\$ in 2002 to 423 US\$ in 2006, it remained well below the great majority of States Parties.¹⁴ The State health care budget in 2007 represented 5.7% of GDP.¹⁵ The Committee notes that public spending on health stayed low compared with other States Parties.¹⁶ Given the conclusions reached above regarding life expectancy as well as infant and maternal mortality, a further increase in health care spending would be likely to contribute to the effectiveness of measures taken to further improve the general health situation.

Health care professionals and facilities

In 2006 there were 2.7 hospital beds per 1 000 inhabitants¹⁷ (the average number of hospital beds in Europe (EU 27) in 2005 was 5.9 per 1 000 inhabitants¹⁸).

Where physicians are concerned, a total of 116 014 medical doctors were registered in 2007, viz 16 physicians per 10 000 inhabitants,¹⁹ which represents a significantly lower density of coverage compared to other States Parties which on average have around 30 physicians per 10 000 inhabitants.²⁰

In 2007, a total of 23 798 dentists (viz 3 per 10 000 inhabitants) and 217 685 nurses and midwives (viz 29 per 10 000 inhabitants). In 2006, pharmaceutical staff amounted to 24 740 (viz 3 per 10 000 inhabitants). These densities of coverage are below to those in other States Parties, especially with regard to nurses and midwives.²¹ The Committee underlines the part played by midwives in contributing to reducing the high levels of infant and maternal mortality (see section above).

The Committee would like to know what measures are planned to increase the number of hospital beds and health professionals, in particular physicians, nurses and midwives. Furthermore, in its previous conclusion (Conclusions XVII-2), it noted the uneven distribution of doctors between urban and rural areas and, therefore asks again for information on measures taken to improve this situation.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 11§1 of the Revised Charter on the ground that the rates of infant and maternal mortality are still manifestly too high.

¹ World Health Organization (WHO).

² Eurostat.

³ WHO.

⁴ WHO.

⁵ Eurostat.

⁶ WHO.

⁷ WHO.

⁸ In addition to the national report, see OECD "Reviews of health systems - Turkey", February 2009.

⁹ OECD "Reviews of health systems - Turkey".

¹⁰ Turkish statistical institute, http://www.tuik.gov.tr/yillik/1st_gostergeler.pdf

¹¹ OECD "Reviews of health systems - Turkey".

¹² OECD "Review of health systems - Turkey".

¹³ OECD "Reviews of health systems - Turkey".

¹⁴ WHO.

¹⁵ OECD.

¹⁶ WHO.

¹⁷ WHO.

¹⁸ Eurostat.

¹⁹ WHO.

²⁰ WHO.

²¹ WHO.

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 Turkey.

Encouraging individual responsibility

Public information and awareness-raising

A programme on sexual and reproductive health is run in co-operation with the European Union in order to improve access to the relevant health services that can provide information on sexual health and family planning. The Ministry of Health and the Turkish Armed Forces have carried out a joint project with a view to informing servicemen, including conscripts, on sexual health and family planning matters.

The Committee underlines that it has repeatedly asked to receive information allowing it to assess whether health education programmes and information campaigns on unhealthy lifestyles and on diseases with high mortality rates cover the entire population (Conclusions XIII-4, XV-2 and XVII-2). It already

considered in the last conclusion (Conclusions XVII-2) that, in the absence of relevant information, it was not established that this was the case. Given the lack of information in the report, the Committee finds no reason to find otherwise this time either and considers that there is nothing to establish that the situation is in conformity with Article 11§2 on this point.

Health education in schools

The report fails to give any information in respect of health education in schools or to answer the questions raised in the last conclusions (Conclusions XVI-2 and XVII-2). Therefore, the Committee reiterates its request for up-to-date information on programmes and campaigns to make pupils more aware of the need for individual responsibility for avoiding harmful lifestyles. It underlines that health education in schools should be provided at all stages of school education and included in school curricula. In view of the lack of information in the report, the Committee asks for precise and detailed information in the next one. It also wishes to be informed of the situation in every region, in rural and urban areas. Given the repeated lack of information under this theme, the Committee considers that there is nothing to establish that the situation is in conformity with Article 11§2 on this point.

Counselling and screening

Population at large

Preventive screening must play an effective role in improving the population's state of health. Consequently, the Committee believes that, in fields where it has proved to be an effective means of prevention, screening must be used to the full (Conclusions XV-2, Belgium). In particular, there should be screening, preferably systematic, for all the diseases that constitute the principal causes of death (Conclusions 2005, Moldova).

In the absence of specific information and data, the Committee asks again for detailed information in the next report on examinations and screenings carried out, and their frequency and accessibility, particularly in relation to diseases responsible for the highest mortality rates. Given the repeated lack of information in previous conclusions (Conclusions XV-2 and XVII-2), the Committee cannot consider that the situation is in conformity with Article 11§2 in this respect.

Pregnant women, children and adolescents

The programme on screening of newborns has progressed. Screening for phenylketonuria covers 88% of newborn infants. Screening for congenital hypothyroidism also takes place. Newborns are tested for hearing deficiencies as well. 16 000 health staff have been trained as part of a newborn reanimation programme. A programme has also started to inform mothers on basic issues regarding their and their baby's health before they leave hospital, including by giving them guidelines ("Guidelines for conscious mothers and healthy babies"); almost 2 million women have so far benefited from this programme. It appears that 92% of mothers received some antenatal care during their last pregnancy

and 90% of births were delivered in a hospital or health centre.¹ Iron support is also given free of charge to pregnant women to protect them and their babies from anaemia. Each year one million women benefit from it. Vitamin D is also provided free of charge. The Committee asks for an update on how these programmes are followed through and whether other similar programmes are led to improve infant and maternal mortality (see relevant section under Article 11§1).

In its last conclusion (Conclusions XVII-2) the Committee asked for information as to medical check-ups in schools and their frequency. Given the lack of specific information in the report, the Committee considers that the situation is not in conformity with Article 11§2 in this respect.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 11§2 of the Revised Charter on the grounds that:

- it has not been established that public information and awareness-raising on health matters as well as health education in schools were adequate;
- it has not been established that counselling and screening of the population at large as well as of children and adolescents, through school medical check-ups, were adequate.

¹ *Turkey 2009 Progress report, European Commission.*

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 Turkey. However, it notes that much of the information needed to assess the situation was lacking. It considers that if the information requested below is not provided in the next report there will be nothing to show that the situation in Turkey is in conformity with this provision of the Revised Charter.

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

Air - As regards air pollution the report states that 67 stations monitor air quality continuously. The Committee asks the next report to supply information on all new legislation in this area and again asks for information on the pollutants monitored as well as the findings of air monitoring and measures taken to improve the situation. If this information is not provided in the next report there will be nothing to show that the situation is in conformity with the Revised Charter.

Noise and water pollution - The Committee asks the next report to provide information on measures taken to address water and noise pollution.

Ionising radiation - The Committee takes note of the information provided in the report on radiation safety. However it seeks confirmation that the dose limits laid down by law are in accordance with the recommendations established by the International Commission for Radiation Protection.

Asbestos - Article 11 requires that the use, production and sale of asbestos and products containing it are banned. There must also be legislation requiring the owners of residential property and public buildings to search for any asbestos and where appropriate remove it, and placing obligations on enterprises concerning waste disposal. The Committee asks that all relevant information on asbestos be provided in the next report.

Food safety

The report provides substantial information on the bodies responsible for ensuring and monitoring of food safety at the State level (Ministry of Agriculture and Rural Affairs, General Directorate of protection and Control (GDPC) as well as in the provinces and districts. The Committee notes that a substantial number of legal texts in the area have been adopted. The Committee asks what progress has been made in transposing and implementing the EU acquis in the area of food safety. It also asks for information on the occurrence of food borne diseases.

Measures to combat smoking, alcoholism and drug addiction

Smoking - Legislation was adopted during the reference period which, inter alia prohibits smoking in healthcare, education and cultural centres, in indoor sporting venues, on public transport, in workplaces in the public sector, and in indoor buildings to which the public have access. Further restrictions were adopted on the advertising of tobacco products and it is illegal to sell tobacco related products to persons under 18 years of age. Tobacco products must contain health warnings.

Turkey also ratified the WHO Framework Convention on Tobacco Control during the reference period.

The Committee asks the next report to provide information on trends in smoking.

Alcohol - It is illegal to sell alcohol to persons under 18 years of age and the consumption of alcohol is banned in many public domains. It is prohibited to advertise alcohol on TV and radio. Alcohol consumption is low in Turkey with only 3% of the population over 20 years being regular drinkers, and according to WHO total per capita consumption of alcohol is 1, 4 litres.

Drugs - The Committee asks for updated information to be provided in the next report on trends in drug consumption.

Prophylactic measures - Epidemiological monitoring

Information is provided on efforts to eradicate or control communicable diseases, as well as information on blood and blood components.

Accidents

States must take steps to prevent accidents. The main sorts of accident covered are road accidents, domestic accidents, accidents at school, accidents during leisure time, including those caused by animals and accidents at work. The Committee asks to receive information on trends in road accidents domestic accidents, accidents at school etc, as well as information on any information campaigns taken to prevent certain types of accidents.

Immunisation

The Committee previously considered that the situation was not in conformity with the Charter on the grounds that it had not been established that the immunisation coverage was adequate. The Committee notes from the information provided in the report that vaccination coverage rates have increased significantly since 2003; the coverage rate for the vaccine against measles, mumps and rubella increased from 75% to 96% likewise the coverage rate for the vaccine against diphtheria, tetanus and whooping cough increased from 68% to 96%. Only the coverage rate for neonatal tetanus remains low, 68%, however, the Committee notes that the programme for the elimination of neonatal tetanus remains in place. The Committee now finds that the situation is in conformity with the Revised Charter on this point.

Conclusion

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

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 Turkey.

The Committee notes that since the second half of the reference period (as of May 2006) new legislation deeply reformed the social security system. Changes affecting the number of risks covered, the personal coverage of the various schemes and the level of the benefits granted will be assessed below. For other changes, the Committee refers to its assessment under Article 12§3.

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions (Conclusions XVIII and XVII-1) for a description of the Turkish social security system before the 2006 reform. In particular it recalls that in Conclusions XVIII it observed that a general family branch was missing. In this regard, the Committee recalls that under Article 12§1, the social security system should protect a significant proportion of the population in the following branches: health care, sickness, unemployment, old age, employment injury, family, and maternity (Conclusions 2006, Bulgaria). It therefore asks the next report to clarify whether the reform of the system started in 2006 includes developments as to the right to access and maintain benefits without discrimination in order to secure adequate provision of family support, particularly for children and adult dependents.

The Committee further recalls that in Conclusions XVIII it held that the Turkish social security system was not in conformity with the Charter on the grounds that:

- none of the social security schemes covered all the branches;
- the existing social security schemes did not cover a significant percentage of the population;
- there was a high percentage of working people not covered by any social security.

The report acknowledges that the system was deficient in many ways, including those mentioned by the Committee in its Conclusion quoted above. The 2006 reform was indeed a response to endeavour to remedy the situation.

The Committee thus considers that during 2005 and the first half of 2006 the situation in Turkey continued not to be in conformity with Article 12§1 of the Charter.

It however also acknowledges (see Article 12§3) that since May 2006 the situation has changed. It has noted that the aim of the reform is to streamline the numerous social security and insurance schemes with a view to offer equal and increased coverage to the active/total population with respect to all branches of the system.

In particular, the Committee observes that since the entry into force of :

- Law No. 5502 on the Social Security Institute (May 2006), the three former social security institutions, i.e. the SSK (the Social Security Organisation), the BAG-KUR (the Social Security Organisation for Craftsmen and Artisans and the Self-Employed) and the Pension Fund (*Emelli Sandigi*) were merged into one, the Social Security Institute (*Sağlık Güvenlik Kurumu*, SGK). The Committee understands from the report that unemployment insurance is still the competence of ISKUR (the Turkish Employment Organisation provided by Law No. 4904).
- Law No. 5510 on Social Insurance and Universal Health Insurance (October 2008), a compulsory universal health insurance for all citizens is gradually being put in place (see Article 11§1 and Article 12§3 for more details).

To assess whether a significant proportion of the total and/or active population in Turkey is guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee asked for figures in percentage indicating the personal coverage of each branch of social security. Given the particular context of a radical ongoing reform during the second half of the reference period, the report does not contain all the requested figures. It however indicates that the target of the 9th Development Plan (2007-2013) is that:

- the social security system be extended to cover the entire population;
- the social insurance system be extended to cover the entire working population and informal employment be prevented.

The Committee requires the next report to contain the relevant up-to-date figures. Pending receipt of such figures, it reserves its position as to the proportion of persons in Turkey guaranteed an effective right to social security with respect to the benefits provided under each branch.

As to the financing of the system, the Committee notes that it continues to rest on collective funding: it is funded by contributions (employers and employees) and by the State budget. In its previous conclusion (Conclusions XVIII), the Committee had noted that the rate of non-collection of contributions was high. It therefore asked what measures were envisaged to improve the situation. The report informs that in April 2006 following the entry into force of Law No. 5458 concerning the restructuring of social security premium claims, instalments of contributions that have not been paid on time should be paid at the latest on the last day of the following year. The Committee asks what sanctions or mechanisms are in place to ensure that this occurs.

Adequacy of benefits

A social security system must guarantee an effective right to social security with respect to the benefits provided under each branch (Conclusions XIII-4, General Introduction on Article 12). 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).

Although the report indicates the minimum and maximum level of some benefits, the lack of the poverty threshold as defined above prevents the Committee from assessing the adequacy of such benefits. Moreover the Committee reiterates that it should be provided with information on the level of all income replacement benefits. The Committee thus requests the next report to provide all this information (level of minimum benefits and poverty threshold). Meanwhile, it reserves its position as to the adequacy of benefits.

Conclusion

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

Article 12 - The right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that required for ratification of the International Labour Convention No. 102

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

Turkey has ratified the European Code of Social Security on 7 March 1980 and has accepted parts II, III, V, VI and VIII to X of the Code.

The Committee notes from Resolution CM/ResCSS(2008)19 of the Committee of Ministers on the application of the European Code of Social Security by Turkey (period from 1 July 2006 to 30 June 2007) that the law and practice in Turkey continue to give full effect to all the parts of the Code which have been accepted, subject to receiving detailed replies to questions raised in its previous resolutions and repeated in the present resolution, on the application of several parts of the Code (regarding medical care, sickness benefit, maternity benefit and the reform of social security system).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Turkey is in conformity with Article 12§2 of the Revised Charter.

Article 12 - The right to social security

Paragraph 3 - Development of the social security system

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

The Committee notes that in the second half of the reference period (after May 2006) as well as outside the reference period (2008) new legislation substantially amended the social security system by:

- providing for a new institutional set-up with the creation of a single Social Security Institute (*Sağlık Güvenlik Kurumu*, SGK) merging previous existing institutions (see Article 12§1);
- establishing a compulsory universal health insurance (UHI) for all citizens (see Article 11§1);
- introducing new retirement conditions.

Since the report informs that the implementation of the 2006 social security reform has only just started and will occur gradually, the Committee will assess its impact in practice on the effective social protection of all members of society against social and economic risks when it will next assess Article 12. The Committee recalls that it will consider the impact of such changes in the light of the criteria listed in the General Introduction to Conclusions XVI-1 using the previous levels of social protection provided as a point of reference. Meanwhile, it takes note of the efforts made to develop the social security system and asks the Government to respond to the questions of clarification it raises below with respect to the various developments occurred.

Health care

The Committee notes that with the entry into force of Law No. 5510 on Social Insurance and Universal Health Insurance (October 2008), all beneficiaries who before came under different schemes, including persons in need ("green card" holders), have become entitled to the same benefits package within the framework of the Social Security Institute (*Sağlık Güvenlik Kurumu*, SGK). Enrolment with the Universal Health Insurance (UHI) is compulsory for all. No payment is required for primary care for persons not affiliated with a social security scheme.

The Committee asks the next report to contain specific information, including up-to-date statistics and other relevant data, on the concrete effects of the reform on the right to access and maintain benefits without discrimination in order to secure protection from unaffordable health care.

Old Age

The Committee notes from the report that with the entry into force of Law 5502 on the Social Security Institute, (May 2006), all different retirement schemes were merged into a single one, which will offer equal rights and obligations. The

minimum retirement age will gradually be raised to 65 for both men and women by 2048. The number of working days required for retirement eligibility will be raised from 7,000 to 7,200 for private workers and to 9,000 for civil servants and the self-employed. Pensions will be adjusted on an annual basis, based on a combination of the consumer price index and Gross Domestic Product figures announced in December every year. However, the Committee understands from the report and from the International Social Security Association (ISSA)¹ that these new conditions will only be applicable for new entrants to the labour market.

To ascertain the effects of the reform on the right to access and maintain old age pensions, the Committee asks the next report to contain information on the results obtained by the changes introduced, including statistical data. In this regard, it recalls that any modifications to the social security system should not undermine the effective social protection of all members of society against social and economic risks and should not transform the social security system into a basic social assistance system (Conclusions XIV-1, Statement of Interpretation on Article 12).

Conclusion

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

¹ *International Social Security Association (ISSA) Country Profile on TURKEY available at: <http://www.issa.int/index.php/aiss/Observatory/Country-Profiles/Regions/Asia-and-Pacific/Turkey>*

Article 12 - The right to social security

Paragraph 4 - Social security of persons moving between states

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

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

Right to equal treatment

The Committee points out that nationals of other States Parties are entitled to equal treatment with regard to social security under bilateral or multilateral agreements. Turkey, however, has no bilateral agreements offering such guarantees with Andorra, Armenia, Estonia, Finland, Iceland, Ireland, Cyprus, Croatia, Lithuania, Latvia, Hungary, Malta, Moldova, Poland, Greece, Slovakia, Slovenia or Ukraine. Agreements are being negotiated currently with Croatia, Moldova, Slovakia and Ukraine. The Committee points out that States Parties can comply with their obligations not only through bilateral or multilateral agreements, but also through unilateral measures. It asks for the next report to state whether there are agreements on social security with the countries cited

above and how the principle of equal treatment is guaranteed in practice for nationals of these countries. The Committee notes that Turkey has ratified the European Convention on Social Security.

In its previous conclusion (Conclusions 2006), the Committee noted that the application of the Foreign Workers' Social Insurance Act (No. 506 of 1964) was subject to the existence of bilateral or multilateral agreements. Nationals of States Parties with which Turkey had not negotiated any agreement were not covered for long-term risks because, under section 3/II-A of Act No. 506, foreigners were not automatically affiliated to the social security scheme for such risks but had to register themselves. Likewise, equal treatment was not guaranteed for nationals of States Parties with which Turkey had not negotiated any agreement on unemployment benefits, as the eligibility of foreign workers for unemployment insurance depended on reciprocal arrangements arising from bilateral agreements. The situation was considered incompatible with the Charter in both these respects.

The report states that as a result of the repeal of Section 3/II-A of Social Insurance Act No. 506, foreign nationals with a permit to work in Turkey are now automatically covered against long-term risks, including unemployment. The application of this Act is no longer subject to the existence of bilateral or multilateral agreements. Under Act No. 495 of 2003, foreign nationals who are employed have to be covered by all the branches of insurance (work accident, occupational disease, sickness, maternity, invalidity, old age and death) whether they asked to be or not. Under Social and Health Insurance Act No. 5510, foreigners working in Turkey have also been covered by unemployment insurance since 1 October 2008. The Committee considers therefore that equal treatment is guaranteed for all foreigners, including in respect of unemployment insurance, and that the situation is now in conformity as regards the two points where it was previously considered not to be.

Right to retain accrued benefits

The Committee points out that in its previous conclusions (Conclusions XVI-1 and XVII-1), it considered the situation to be in conformity as far as the retention of accrued benefits was concerned.

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

The Committee points out that Turkey has ratified the European Convention on Social Security, thus demonstrating that Turkey has undertaken to apply the accumulation of insurance or employment periods to non-nationals. The Committee considers the situation to be in conformity in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation is in conformity with Article 12§4 of the Revised Charter.

Article 13 - The right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

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

Types of benefits and eligibility criteria

In its previous conclusion (Conclusions XVIII-1) the Committee held that the situation in Turkey was not in conformity with the Charter as all persons without resources were not guaranteed an individual right to social and medical assistance.

The Committee notes from the report of the Governmental Committee meeting (T-SG (2007) 10 § 291) that the Social Security reform in Turkey in force as of January 2007 aims at establishing a system where social benefits and services are based on objective criteria and can be reached by all groups who are in need. The Committee observes that this reform has three pillars: the social security system, general health insurance reform and the reform of the system of social transfers that are not based on contributions. While the first two pillars are already in force, the third pillar, social assistance, is still in a draft law stage. It envisages bringing social assistance under the Social Security Institute thus making the Ministry of Labour and Social Security responsible for combating poverty and social exclusion. The draft law in question is expected to change the entire system of social assistance by creating a single institutional structure and optimising the use of resources. It will give a definition to the term 'poverty' and set up a registry of persons in need. 'A Social Development Fund' is envisaged to be established as the only public authority responsible for assisting people in need. The draft law also covers non-contributory access to health services.

The Committee wishes to be kept informed about legislative developments regarding the draft law on social assistance, including the right of appeal against the decisions of refusal of assistance and legal aid. In the meantime, it reiterates its previous assessment of the situation where it held that Turkey does not comply with the requirements of Article 13§1 on the ground that all persons in need do not have entitlement to social assistance as a subjective, enforceable right.

The Committee notes from the report that during the reference period social assistance took the form of food aid, clothing, educational aid as well as fuel, one-time or periodical cash benefits etc. The General Directorate of Social Assistance and Solidarity (SYDGM) was responsible for providing social assistance. Its activities were implemented by the Social Assistance and Solidarity Foundations in the regions. The Committee notes that in 2007 NTL 140 million (€ 64 million) was paid in food aid and 1,894,000 families received fuel aid.

As regards medical assistance, the Committee noted in its previous conclusions (Conclusions XVI-1 and XVIII-1) that those persons whose income constitutes

only one third of the minimum wage established by law and who are not covered under the general social security schemes receive a green card entitling them to medical treatment, including inpatient care, consultation, medical examinations and outpatient treatment. In its conclusion XVI-1 the Committee asked what were the eligibility criteria under Act No. 3294/96 which provides medical assistance to those persons who are not entitled to a green card and are without adequate resources. Having found no reply in the report, the Committee concludes that it has not been established that all persons without resources have effective access to medical care that they may require.

Level of assistance

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

- basic benefit: according to MISSCEO Turkey does not have a general social assistance scheme and therefore there is no legal basis for a minimum amount of social assistance that would be paid to a single person without resources;
- medical assistance: see above.

In the light of the above information the Committee concludes that Turkey fails to comply with the requirements of Article 13§1 concerning the right to social and medical assistance. **Error! Hyperlink reference not valid.**

Right of appeal and legal aid

The Committee recalls that in Conclusions XVII-1 it noted that individuals who believe that they have a right to assistance can apply to an organisation or an establishment responsible for providing such assistance and can submit a petition indicating their claim. In case of refusal the persons concerned can litigate. The Committee asked for more information concerning the procedures involved and the situation in practice, in particular the number of appeals lodged and the possibility of obtaining legal aid. The Committee now reiterates these questions in the light of the above-mentioned reforms in the social assistance field.

Personal scope

In its Conclusion XVI-1 the Committee noted that the entitlement to a green card is reserved only to Turkish nationals. It asks whether foreign nationals legally resident in Turkey can be entitled to it in case of need. It also asks whether foreign nationals lawfully resident in Turkey will be eligible to social benefits under the new law on social assistance.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 13§1 of the Revised Charter on the ground that there is no legally established enforceable right to social and medical assistance.

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 Turkey.

According to the report, Turkish legislation prohibits discrimination in social and medical assistance. The report explains that there is no limitation of political and social rights of people in need and there are no provisions that prevent beneficiaries of social assistance from enjoying political and social rights. The Committee notes that in its last conclusions it found the situation to be in conformity with Article 13§2.

Conclusion

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

Article 13 - The right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

The Committee notes from the report and from the Governmental Committee meeting report (T-SG (2007) 10, §303) that the General Directorate of Social Assistance and Solidarity is charged with the task of preventing or alleviating need through several health, social protection and educational programmes, such as the Social Risk Mitigation Project, Conditional Cash Transfer, social support in rural areas etc. It performs its functions through 931 foundations established in provinces and sub-provinces. As regards the staffing of the General Social Service and Child Protection Directorate (SHÇEK), which is also responsible for social services that fall within the scope of Article 13§3, the Committee notes from the report that there are 1054 social workers already employed. However, 6,258 new personnel have been requested from the Prime Ministry, 700 of whom will work as social workers and psychologists.

According to the report, in the framework of the on-going social security reform in Turkey it is planned to bring the various social services which are now dispersed, under the same institutional framework, with a view to establishing a system where they are based on subjective benefits criteria and can be reached by all groups in need. The Committee wishes to be kept informed about these developments. It recalls that services which fall within the scope of this provision are different from those covered by Article 14 as the former are specifically designed to inform individuals of their rights concerning social assistance, provide advice on how to exercise these rights and enable them to overcome

difficulties arising from their need, avoid benefit dependency and re-establish their autonomy.

The Committee also refers to its conclusion under Article 13§1 and the reforms that are planned, such as the establishment of the 'Social Development Fund' as the only public authority responsible for helping people in need. The Committee requests that the next report reply to the following questions, in the light of these reforms:

-what mechanisms exist to ensure that those in need may receive help and personal advice services?

-are services and institutions adequately distributed on a geographical basis?

- are services and institutions provided with sufficient means to give appropriate assistance as necessary?

Conclusion

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

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 Turkey.

In its previous conclusion (Conclusions XVIII-1) the Committee asked whether emergency social and medical assistance was available to unlawfully present foreigners. In notes from the supplementary information provided by the Turkish Government that in the light of Article 56 of the Constitution of the Republic of Turkey as well as international agreements and conventions to which Turkey is a party, such as the European Social Charter and the European Convention on Social and Medical Assistance, unlawfully present foreigners are eligible for emergency medical and social assistance (food, shelter, clothing). In some cases such assistance is provided through the Social Solidarity and Assistance Fund, municipalities, Red Crescent and state hospitals.

The Committee asks what is the nature and extent of the assistance which is provided to unlawfully present foreigners and whether a specific legal basis exists for the provision of this form of assistance in cases of urgent need.

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 in the Turkish report.

Organisation of the social services

The State, namely the Directorate General of Social Services and Child Protection (SHÇEK), works in co-operation with private bodies to provide vocational rehabilitation and guidance services for people with disabilities. Private service providers also take part in the provision of social services for children (such as care facilities for children who cannot be looked after by their parents, crèches and day-care centres) and for women suffering from domestic violence (including work placement services, legal advice and psychological counselling).

The SHÇEK and its local offices provide care facilities for families with particular needs. During the reference period, there were 41 structures of this type, covering a total of 37 provinces.

The Committee recalls that the right to benefit from social welfare services within the meaning of Article 14§1 of the Charter requires State Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment. The right to benefit from social welfare services must potentially apply to the whole population. The provision of social welfare services concerns everybody who is in a situation of dependency, in particular the vulnerable groups and individuals who have a social problem.

The Committee notes again, on the basis of the current report, that Turkey still does not have a general social services system. It asks what reforms or other measures are planned to remedy this situation. The Committee therefore considers that the situation is not in conformity with Article 14§1 of the Revised Charter.

Effective and equal access

According to the report, the main criterion for access to social services are economic (need for financial support) combined with a social criterion (the need of professional advice). The Committee asks for more information on this point in the next report in particular as regards the services proposed by the different service providers. It asks for more detailed information on how decisions on the provision of social services are taken.

The Committee still finds no information in the report on access to social services for nationals of other States Parties. It therefore insists that such information is provided in the next report.

Social services are generally free but there is a participation for care services. Disadvantaged people may be exempted from certain taxes. The SHÇEK establishes the scales of fees for the various social services. The Committee asks for further information on services which are free of charge for users.

The Committee recalls that effective and equal access to social services implies that the geographical distribution of the services should be sufficiently wide. It notes again, on the basis of the current report, that the range of social services offered are inadequate to cater for user's needs. The Committee asks what reforms or other measures are planned to remedy this situation.

Quality of services

Provision of social services for people with disabilities by non-public service providers is governed by Act No. 26244 of 30 July 2006, under which such bodies must obtain a special licence to provide such services. It is the SHÇEK's task to monitor the quality of services provided by all service providers, whether public or non-public. Among the methods it may use are inspections.

According to the report, total spending on social services in 2003 was 2 539 million Turkish lira (YTL) (about € 1 200 million).

The Committee recalls that social services must have resources matching their responsibilities and the changing needs of users. This implies that staff should be qualified and in sufficient numbers. It asks again for information on the staffing of social services.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 14§1 of the Charter on the ground that there is no general social services system.

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 in the Turkish report.

The Directorate General of Social Services and Child Protection (SHÇEK) and its local branches and other service providers encourage co-operation with voluntary organisations in the social services sector. For example, the SHÇEK and its local branches work in co-operation with a number of voluntary organisations to provide work placement services, legal advice and psychological counselling for women suffering from domestic violence, and care/crèche facilities for children who cannot be looked after by their parents. The voluntary organisations which provide the largest number of social services are still the Turkish Red Crescent and the Fund for the Promotion of Co-operation and Social Solidarity.

The Committee asks for information in the next report on the financial measures taken to promote the activities of voluntary organisations.

Voluntary organisations and users can contribute to the process of implementing and co-ordinating social services at local level. They are represented, in particular, on municipal advisory boards. Other measures of the same sort are currently being looked into. The Committee asks to be informed.

The Committee asks again for information on the procedures to be followed by non-public service providers and the requirements they must satisfy to be allowed to offer their services. It emphasises that if the next report does not provide the necessary information, there will be nothing to show that the situation in Turkey is in conformity with Article 14§2 of the Charter.

As the mechanisms for supervising the activities of voluntary organisations are the same as those applied to public service providers, the Committee refers to its conclusion under Article 14§1 on this point.

Conclusion

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

Article 23 - The right of elderly persons to social protection

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

Legislative framework

The Committee recalls that the focus of Article 23 is on social protection of elderly persons outside the employment field. Questions of age discrimination in employment are primarily examined by the Committee under Articles 1§2 (non-discrimination in employment) and 24 (right to protection in cases of termination of employment).

The report states that life expectancy was 68.5 years for men and 73.3 years for women in the 2000-2005 period. According to census results carried out in 2000, the population aged 65 and over was 3 858 949, representing 5,7% of the overall population. The projections are that Turkey will have an elderly population of around 16 million in 2050.

As regards the protection of elderly persons from discrimination outside employment, the Committee recalls that Article 23 requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services. The European Older People's Platform and other sources point to the existence of pervasive age discrimination in many areas of society throughout Europe (health care, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities) which leads the Committee to consider that an adequate legal framework is a fundamental measure to combat age discrimination in these areas. The Committee therefore asks if anti-discrimination legislation (or an equivalent legal framework) to protect elderly persons outside the field of employment exists, or whether the authorities plan to legislate in this area.

The Committee asks for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons.

Adequate resources

Pursuant to Law No. 506, persons insured for a minimum of 25 years, with at least 7 000 days of contributions, are entitled to a pension. Eligibility starts at 58 years for women, and 60 years for men.

The Committee notes from MISSCEO¹ that the minimum pension for civil servants varies according to length of service and position but was no less than 620,40 YTL (€ 292,2) at the end 2006. The minimum pension for other workers calculated using a new system is no less than 35% of the national minimum monthly wage. At the end of 2006 the minimum pension did not fall below 495,8 YTL (€ 233,6).

With a view to assessing whether pension levels are adequate, the Committee asks whether the above-mentioned minimum earnings-related pensions ensure a level of income that is above the poverty threshold in the country. It also asks if there is any type of income guarantee or benefit for elderly persons who do not receive a work-related pension, and in the affirmative, what is the amount of such a benefit. Pending receipt of such information, the Committee reserves its position as to whether the situation is in conformity on this point.

Prevention of elder abuse

The Committee recalls that elder abuse is defined in the Toronto Declaration on the Global Prevention of Elder Abuse (2002) as 'a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person'. It can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect. The World Health Organization (WHO) and the International Network of the Prevention of Elder abuse (INPEA) have recognised the abuse of older people as a significant global problem. Hundred thousands of older people in Europe encounter a form of elder abuse each year. They are pressed to change their will, their bank account is plundered, they are pinched or beaten, called names, threatened and insulted and sometimes they are raped or sexually abused otherwise.

The Committee wishes to know what the Government is doing to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and if any legislative or other measures have been taken or are envisaged in this area.

Services and facilities

The report indicates that Solidarity Centres for Elderly People have been established pursuant to Article 9 of Law No. 2828 to help elderly persons living in their homes in their daily activities and to improve their social relations and leisure time. Reference is also made to the provision of home-based nursing services through policlinics or through the Turkish Red Crescent association. The Committee asks the next report to contain more information on home help services, in particular what concrete services are available (preparation of meals, domestic work, health care, etc) and to what extent these services are funded by public- or private-sector agencies and what proportion of the cost is borne by the elderly themselves or their families.

The Committee also wishes to know whether in general the services actually provided by Solidarity Centres and home help agencies matches the demand for such services, how their quality is monitored, and if there is the possibility for elderly persons to complain about services.

Finally, the Committee notes that discounts are available for elderly persons in domestic -and certain international- transportation services.

Housing

Attachment between family members is strong in Turkey in comparison to other countries in Europe, and has an impact on the living quarters of the elderly. Surveys show that 7 out of 10 elderly persons live in the same house, building, street or neighbourhood as their children.

Despite the above-mentioned situation, the Committee asks if a housing policy has been designed for those elderly persons living in their own home, namely as regards the improvement of housing conditions. It recalls in this respect that comfortable housing conditions are very important for an old person's well-being. However, it is also aware that the improvement of housing conditions of senior citizens is not an easy task. First, it requires considerable public funding, as the average elderly person usually cannot afford the costs of modernisation of his apartment or purchasing a new apartment of higher standard. Second, improvement of housing conditions by moving elsewhere is often not a viable option in that it uproots the elderly person from his "natural" environment. Bearing in mind these constraints, the Committee asks if there are any public policies providing financial assistance for the adaptation/improvement of housing conditions of elderly persons.

Health care

Policies on "Ageing and Health of Elderly People" have been put into place (during the reference period) under the framework of the Ministry of Health. The Committee asks for details on the content of these policies and on their implementation.

The report indicates that a number of geriatric clinics have been established throughout the country. Mention is also made of the establishment of a day care centre for elderly people who suffer from Alzheimer in Ankara. The Committee asks if there are other health care programmes and services available for persons with Alzheimer and/or dementia in other parts of the country.

The Committee recalls the importance of establishing health care programmes and services (in particular primary health care services) specifically aimed at the elderly, as well as guidelines on health care for elderly persons. In particular, there should be mental health programmes for any psychological problems in respect of the elderly, adequate palliative care services and special training for individuals caring for elderly persons. The report provides no information on these questions. The Committee therefore asks for information on these matters in the next report. Information should also be provided on any measures taken on improving accessibility and quality of geriatric and long term care, or on the coordination of social and healthcare services in respect of the elderly.

Institutional care

There are several types of institutions for elderly persons: private nursing homes (total number 101, with a capacity for 5 369 persons), nursing homes run by public institutions (total number 28, with a capacity for 4 691 persons), nursing

homes run by the Social Services and Child Protection Agency (total number 63, with a capacity for 6 965 persons). There are also boarding homes for poor elderly people operated by local governments (total number 21, with a capacity for 2 099 persons). The Committee asks if the current capacity in institutional care in general meets the demand for places in these structures.

The Committee notes that Regulations for Private Nursing Homes for Elderly People were adopted in 1997. It asks for more details on the care standards contained in such regulations, and whether there is an equivalent framework for publicly operated institutions.

The Committee also asks which is the competent authority or body responsible for the inspection of homes and residencies (both public and private). It recalls the importance of ensuring that any inspection system regarding the standards of care and services provided in institutions and residential facilities should be entirely independent of the body managing the facility.

Conclusion

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

1MISSCEO comparative tables,

http://www.coe.int/t/dg3/socialpolicies/socialsecurity/MISSCEO/tables_en.asp

Article 30 - The right to protection against poverty and social exclusion

The Committee takes note of the information in the Turkish report.

Measuring poverty and social exclusion

According to the report, one of the indicators used to measure poverty is the relative poverty rate. This corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income. In 2004, 14.18% of the population were living below the at-risk-of-poverty threshold. Another indicator is the hunger line. In 2004, 1.29 % of the population were living below the hunger line.

The report states that children, elderly people and people with disabilities form a vulnerable group. The most poverty-stricken people are those working in agriculture and living in rural areas, along with the unemployed. Poverty is the result of economic, demographic and social factors.

The Committee recalls that Article 30 does not only cover poverty but also social exclusion and the risk of social exclusion. It asks that the next report indicate how this phenomenon is tackled.

Approach adopted to combating poverty and social exclusion

The Committee points out that governments must adopt an overall and co-ordinated approach, which must comprise an analytical framework, and take measures promoting access to social rights, in particular employment, housing, training, education, culture and social and medical assistance for persons in, or at risk of finding themselves in, a situation of poverty or social exclusion.

From the nineteen-nineties onwards, the Government devised plans and programmes setting priorities and strategic policies for combating poverty based on prevention, improved job opportunities and financial self-sufficiency. Several plans were adopted (such as the Preliminary Development Plan (2004-2006), the Urgent Action Plan (2002) and the Medium-Term Programme (2006-2008)) to implement policies aimed at improving the living conditions of disadvantaged groups. The Medium-Term Programme (2006-2008) set up a number of social inclusion measures, such as:

- measures to make education, health and other social services equally available to all, taking account of regional disparities;
- measures to increase employment;
- measures to restructure the existing social protection network so that it covers disadvantaged groups and to reduce the risk of poverty and social exclusion to the minimum.

In 1999, a new strategy to combat poverty was launched through programmes connected with the public institutions providing social assistance and social services (*Sosyal Yardim ve Hizmet Kurumu (SYHK)*). Following the economic crisis of 2001, a World Bank-funded “project for reducing social risk” was

launched, covering the period from 2001 to 2006. Its aim was, firstly, to provide direct support to poor people affected by the crisis and, secondly, to take preventive action to alleviate future risks of poverty. This preventive action consisted in enhancing the capacity of public institutions to provide the poor with social benefits and services, promoting their education and increasing their employment opportunities. In 2001, a special financial package of 100 million dollars was made available, and was used, among other things, for education and health programmes.

In the employment sphere, programmes are designed to improve labour productivity, increase the employment rate and promote mobility between different sectors of activity to reduce regional disparities.

Low levels of education can increase poverty levels, so in 1998 the length of compulsory schooling was raised from five to eight years.

The Committee emphasises that the list of areas in which measures must be taken is not exhaustive, as poverty and exclusion relate to so many different aspects. These measures should strengthen entitlement to social rights and their monitoring and enforcement, improve benefit and service procedures and management, enhance information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and, where necessary, specifically target the poorest and most socially disadvantaged groups.

The Committee asks for the next report to include more information about the impact of any measures taken in terms of reducing poverty and, in particular, social exclusion. It asks for more details on what has been done to integrate the various benefits and services across the policy areas referred to in Article 30, such as employment, housing, training, education and culture, and asks for quantified indicators of the means deployed, the number of beneficiaries and the results achieved for each of the measures concerned.

Monitoring and assessment

The report contains no information on how activities to combat poverty and social exclusion are monitored and assessed and ways in which civil society (including employers' and workers' representatives, NGOs and private citizens) are involved in these processes. The Committee asks for information in the next report, backed up by practical examples, on how individuals and voluntary associations take part in assessing measures to combat poverty.

Conclusion

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