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European Social Charter (revised)

European Committee of Social Rights

Conclusions 2011

(SWEDEN)

Articles 7, 8, 16, 17, 19, 27 and 31
of the Revised Charter

This text may be subject to editorial revision.

Introduction

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

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.¹

The Revised European Social Charter was ratified by Sweden on 29 May 1998. The time limit for submitting the 10th report on the application of this treaty to the Council of Europe was 31 October 2010 and Sweden submitted it on 1 December 2010.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Children, families and migrants":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

Sweden has accepted all Articles from this group with the exception of Articles 7§5, 7§6, 8§2, 8§4 and 8§5.

The reference period was 1 January 2005 to 31 December 2009 for Articles 7, 16 and 19 and 1 January 2003 to 31 December 2009 for Articles 8, 17, 27 and 31.

The present chapter on Sweden concerns 31 situations and contains:

- 25 conclusions of conformity: Articles 7§1, 7§2, 7§3, 7§4, 7§7, 7§8, 7§10, 8§1, 8§3, 16, 17§1, 19§2, 19§3, 19§4, 19§5, 19§6, 19§7, 19§9, 19§11, 19§12, 27§1, 27§2, 27§3, 31§2 and 31§3 ;
- 4 conclusions of non-conformity: Articles 7§9, 17§2, 19§8 and 19§10.

In respect of the other 2 situations concerning Articles 19§1 and 31§1, 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 Swedish report deals with the accepted provisions of the following articles belonging to the first thematic group "Employment, training and equal opportunities":

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),

- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

The deadline for the report was 31 October 2011.

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

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

The report makes reference to the previous report. In its last conclusion, the Committee found the situation to be in conformity with Article 7§1.

In its previous conclusion, the Committee asked how the conditions under which home work is performed are supervised in practice. The report provides no information in this regard.

The Committee reiterates its question. It points out that if next report fails to provide information under this point, there will be nothing to establish that the situation is in conformity with Article 7§1. It also asks for updated information regarding the situation in practice as reported by the Labour Inspectorate.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Sweden is in conformity with Article 7§1 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

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

In its last conclusion, the Committee reserved its position as to the exception for young people to work in dangerous or hazardous occupations only when they have benefited from appropriate training as provided for in the Appendix to Article 7§2.

The report states that Sections 5-7 of the AFS 1996:1 Regulations concerning young persons include provisions for certain hazardous jobs. The exceptions apply in cases when a young person has undergone vocational training for the assignment in question or is undergoing training and in that case carries out the assignment under the supervision of an instructor. More specifically, such work is allowed:

- if the assignments are included in teacher-supervised tuition located on school premises or some other place specially arranged for tuition.
- if the minor has completed compulsory schooling and reaches the age of at least 16 during the calendar year and either:
 - a) the assignments are part of vocational training and take place directly under the leadership of a specially appointed instructor, or
 - b) the young person has completed vocational training for the assignment in question.

These exceptions only apply if the content of the training has been approved by the authority responsible for the training or by an employers' organisation jointly with a trade union or comparable workers' organisation. The person appointed instructor must have good knowledge of the work and its hazards. He has to continually ensure that the pupil works in a safe way and is aware of the risks involved in the work. He must have sufficient time set aside to fulfill his/her assignment as instructor.

The Committee considers that the situation is in conformity with the Appendix to Article 7§2.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 7§2 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of children subject to compulsory education

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

The report states that under Section 9 of the Work Environment Authority's regulations on minors, AFS 1996:1, the minor must be free from work for at least four continuous weeks every calendar year and time off work shall be arranged at times that are free from scheduled tuition. The report also states that the summer holidays have a length of approximately 10-12 weeks. Finally, the Committee notes the information on rules concerning working hours and rest periods during holidays lasting less than a week.

The Committee recalls that the situation in Sweden was previously found not to be in conformity with the Charter on the grounds that the rest period during school holidays for children still subject to compulsory education is not equal to half the holiday period. However, the Committee has re-considered its case law on this point and refers to its interpretative statement on Article 7§3 contained in the General Introduction. It asks for confirmation that the provisions of AFS 1996:1 effectively guarantees an uninterrupted period of at least two weeks during the summer holidays.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 7§3 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time for young persons under 18

The report makes reference to the previous report. In its last conclusion, the Committee found the situation to be in conformity with Article 7§4 (Conclusions 2006, Sweden).

The Committee asks that next report provides an update of developments in law and practice.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 7§4 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

The report makes reference to the previous report. In its last conclusion, the Committee found the situation to be in conformity with Article 7§7 (Conclusions 2006, Sweden).

The Committee asks that next report provides an update of developments in law and practice.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 7§7 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

The report makes reference to the previous report. In its last conclusion, the Committee found the situation to be in conformity with Article 7§8 (Conclusions 2006, Sweden).

The Committee asks that next report provides an update of developments in law and practice.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 7§8 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

In its last conclusion, the Committee found the situation in Sweden not to be in conformity with Article 7§9 of the Charter on the ground that a regular medical examination of young workers was not guaranteed by legislation.

The report indicates that there have been no changes to the situation as described in the previous report. It states that there is no general rule concerning regular health checks of minors who carry out hazardous work. Regarding health checks the principle is that they are only required when they can reduce or prevent risks. It adds that the employer may prescribe a health check in individual cases where he or she considers it motivated in order to protect a minor's health. In addition to this, all upper secondary school pupils are guaranteed a health check during school time, which aim is to ensure supervision of young people before they get access to work.

The Committee recalls that, in application of Article 7§9, domestic law must provide for compulsory regular medical check-ups for under-18 year olds employed in occupations specified by national laws or regulations. These check-ups must be adapted to the specific situation of young workers and the particular risks to which they are exposed.

The situation remaining unchanged, the Committee reiterates its conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Sweden is not in conformity with Article 7§9 of the Charter on the ground that a regular medical examination for all young workers is not guaranteed by legislation.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

Protection against sexual exploitation

The Committee recalls that it has already examined legal framework and measures taken in respect of sexual exploitation of children and trafficking in children, and found the situation to be in conformity with the Charter. It notes that the general situation in terms of law and practice has not changed, though there have been further positive developments. Nevertheless, the Committee would like to obtain more information on certain points.

The Committee notes that Sweden ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (on 19 January 2007) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (on 1 July 2004). Sweden has not ratified yet the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

The Committee notes from the report that in 2007 the Government presented the second updated version of the National Plan of Action against commercial sexual exploitation of children. The 2007

Plan of Action contains a number of measures to prevent and combat sexual exploitation of children. On 10 July 2008 the Government adopted a national Plan of Action against prostitution and human trafficking for sexual purposes. The overriding objective of the Plan of Action is to combat prostitution and human trafficking for sexual purposes and increase protection and support to potential victims. The measures provided by the Plan of Action are divided into five areas: increased protection and support for persons exposed to the risk, strengthened preventative work, increased quality and efficiency of the judicial system, increased national and international cooperation, as well as increased knowledge. The Committee wishes to be informed about the outcome of the action plans and further developments.

The Committee also notes from the Concluding observations of the UN Human Rights Committee (2009) that a common action plan has been developed by the State party's Border Control Police, the Migration Board and the Social Services, seeking to safeguard unaccompanied asylum-seeking children against the danger of human trafficking. However, the UN Committee on the Rights of the Child (CRC) in its 2009 Concluding observations in respect of Sweden expressed concern about disappearance of unaccompanied children from reception centres. The Committee would like to receive more information about the problem and the effectiveness of the action plan.

The Committee further notes that the UN CRC was concerned about the prevalence of trafficking in children for the purposes, inter alia, of sexual and economic exploitation as well as the limited available data on the extent and patterns of sexual exploitation, prostitution and trafficking. In particular, statistical data regarding the number of child victims of abuse aged 15 to 18 years old were lacking and total number of children victims of sexual exploitation was imprecise, although various measures have been taken as regards data collection, including the statistical reports of the National Board of Health and Welfare and the work of Statistics Sweden (SCB). Furthermore, according to the EU Fundamental Rights Agency (FRA) Thematic Study on Child Trafficking (2009), the number of children being victims of trafficking is still unknown in Sweden. There are no reliable data on trafficking for labour exploitation or forced labour. The National Police reported until 2004 estimates on women and children trafficked for sexual purposes, but stopped doing so.

The Committee recalls that the gathering and analysis of statistical data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of rational policy aiming at protection of particularly vulnerable groups or at reducing a particular phenomenon (see, *mutatis mutandis*, *ERRC v. Italy*, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23; *ERRC v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27; *Conclusions 2005, France*, Article 31§2, p.268). Similarly, to effectively deal with trafficking in children, child abuse or to protect street children, States will need the necessary factual information on the extent and character of the problem in order to adopt the appropriate measures.

The Committee therefore asks how the Government monitors the scope of the problem of trafficking and sexual exploitation of children and requests the next report to provide the relevant data allowing better assessment of the situation.

The Committee further notes from ECPAT International¹ that a special unit in the National Criminal Investigation Department deals with sexual exploitation of children, including child pornography offences. Regarding child-friendly procedures, Sweden has followed an interesting model elaborated by Iceland, called Children's Houses, which limit the number of times that child victims of sexual abuse have to liaise with the police, prosecutors, social workers, etc. This model has been highly praised in Scandinavia and is being gradually implemented in Swedish cities. However, according to the Committee on Knowledge about the Sexual Exploitation of Children in Sweden (cited by the ECPAT 2006 report), providing appropriate rehabilitation services to child victims of trafficking is hampered by the lack of cooperation/coordination, knowledge and clear division of responsibilities between the various organisations working on the issue. Furthermore, the current programmes available to victims are not tailored to meet the specific needs of the child.

The Committee would like to receive updated information on measures taken to protect and rehabilitate child victims of sexual exploitation.

Protection against the misuse of information technologies

The Committee notes from the UN CRC Concluding observations (2009) that Sweden has enacted of a law criminalizing any intent to approach children on the Internet under a fictitious identity.

According to ECPAT Sweden (2006 report), the number of Swedes visiting websites, accessing and downloading information, and exchanging sexual images involving children on the Internet is on the rise. This does not seem to happen through pedophile networks, but rather by using credit cards to buy access to commercial child pornography websites run, to a large extent, by criminal groups and the number of such websites has considerably increased. However, the ECPAT report also provide several examples of successful cooperation between the ECPAT Sweden network, the police and Internet Service Providers (ISPs). For example, the National Criminal Investigation Department selects the websites to be blocked and instructs the ISPs accordingly. According to 2006 estimations, 80-90% of the traffic of such materials is blocked, and that approximately 30,000 attempts to access child pornography websites are halted daily. The Committee would like to receive updated information on developments in this area, in particular, whether all ISPs are bound to cooperate with the police.

Protection from other forms of exploitation

The Committee recalls that in order to be in conformity with Article 7§10 of the Revised Charter States must prohibit the use of children in other forms of exploitation following from trafficking or being on the street, such as, among others, domestic exploitation, servitude begging, pick pocketing, and shall take measures to prevent and assist street children.

In its previous conclusion the Committee repeated its request for information on the existence of the types of exploitation mentioned above, the number, if any, of street children, and the measures taken or planned to deal with the situation. The report does not address this issue.

In this connection the Committee notes from the report prepared by Franciscans International and Svenska Franciskushjälpen (2009) for the UN Human Rights Council² that according to the Swedish National Board of Health and Welfare, there was a minimum of 17,800 known homeless adults in Sweden in 2005. However, they only knew that approximately 5000 of them were parents to children under the age of 18 and no data has yet been collected on the number of homeless children. This is due to the fact that the Swedish social system does not recognize the existence of homeless children. In fact, a minor is not considered as an "individual person", but always as a member of a family. In its survey, the National Board of Health and Welfare recognizes the inadequate knowledge of homeless families with children. Homeless children are given insufficient attention, and thus insufficient protection. It further noted from the abovementioned report, that according to official statistics, Sweden has about 10,000-30,000 undocumented migrants. Irregular migrant children often live in hiding, they do not go to school nor have access to medical facilities.

The Committee reiterates that homeless children are extremely vulnerable and exposed to exploitation and trafficking. Referring to the importance of regular collection of data stated above, the Committee asks whether there exists any form of monitoring of children living or working in the streets and what measures have been taken to protect them. Meanwhile, the Committee reserves its position in this regard.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 7§10 of the Charter.

¹ *ECPAT: End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes*

² *"Homeless children in Sweden", Franciscans International (FI), Svenska Franciskushjälpen; Geneva, November 2009*

Article 8 - Right of employed women to protection of maternity

Paragraph 1 - Maternity leave

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

Right to maternity leave

A right to maternity leave is enshrined in the Parental Leave Act. Section 4 of this Act stipulates that "a female employee is entitled to full leave in connection with her child's birth during a continuous period of at least seven weeks prior to the estimated time for delivery and seven weeks after the delivery". There is two weeks compulsory postnatal leave.

Where compulsory leave is less than six weeks, the Committee examines what legal safeguards exist to avoid any undue pressure from employers to shorten their maternity leave. It also takes into account whether there is an agreement with social partners on the question of postnatal leave which protects the free choice of women, and whether collective agreements offer additional protection. The general legal framework surrounding maternity (for instance, whether there is a parental leave system whereby either parents can take paid leave at the end of the maternity leave) is also taken into consideration.

The Parental Leave Act provides protection against unfavourable treatment from an employer linked to parental leave (which includes maternity leave), and Section 22 stipulates that an employer who breaches this Act must pay damages for any losses suffered and any infringement that occurred. Therefore, any pressure from an employer to force a woman to go back to work early would go against the Parental Leave Act, and the employer would have to pay damages. The Committee therefore considers that the safeguards in place are sufficient to ensure that women enjoy their right to maternity leave after childbirth. According to a survey of the Swedish National Social Insurance Institute, 99% of women use their whole maternal leave and the remaining 1% are on sick leave or died during childbirth. In addition, it notes that in Sweden, parental leave includes maternity leave and goes beyond in affording both parents a right to thirteen months' paid leave (80% of their previous income) to be shared between them as they wish. The Committee notes that the level of maternity benefits is of an adequate level to avoid economic pressure on women to return to work early (see below). It asks whether there is an agreement with social partners on the question of postnatal leave which protects the free choice of women, and whether collective agreements offer additional protection.

Right to maternity benefits

As regards maternity benefits the Committee previously found that the level of benefits was adequate for the purpose of Article 8§1. The report states that the parental allowance still amounts to 80% of the employee's previous salary, the maximum daily rate during the reference period being around SEK 900 (€ 100). The Committee considers this level to be still adequate.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 8§1 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

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

In its last conclusion (Conclusions 2005) the Committee found the situation to be in conformity. Women may reduce their daily working time for nursing purposes. This time is not remunerated as working time but any loss of income is compensated by parental benefit. The situation remains unchanged.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 8§3 of the Charter.

Article 16 - Right of the family to social, legal and economic protection

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

As the notion of the "family" is variable according to the different definitions in domestic law, the Committee considers it necessary to know how this notion is defined with a view to verifying that it is not unduly restrictive. The Committee therefore asks that the next report indicate how the "family" is defined in domestic law.

Social protection of families

Housing for families

Sweden has accepted Article 31 of the Charter on the right to housing. As all aspects of housing of families covered by Article 16 are also covered by Article 31, for states that have accepted both articles, the Committee refers to Article 31 on matters relating to the housing of families.

Childcare facilities

The Committee notes that as Sweden has accepted Article 27 of the Charter, measures taken to develop and promote child day care structures are examined under that provision.

Family counseling services

Families must have access to appropriate social services, particularly when they are in difficulty. States are required in particular to set up family counseling services and services providing psychological support for children's education. The Committee asks for up-to-date information on family counseling services to be included in the next report.

Participation of associations representing families

In its previous conclusion (Conclusions 2006), the Committee asked for more detailed information in the next report on how families were consulted when family policies were being drawn up and, in particular, whether all the associations representing families were consulted. According to the report, organisations representing families are consulted according to the nature of the legislative issue being addressed.

Legal protection of families

Rights and obligations of spouses

The Committee asks for up-to-date information in the next report on the system governing the rights and obligations of spouses in respect of one another and their children. It also wishes to be informed about the procedures of settling disputes concerning these issues.

Mediation services

The Committee points out that states are required to set up family mediation services. It asks for information in the next report on access to such services, whether they are free of charge, how they are distributed across the country and how effective they are.

Domestic violence against women

Since 1 July 1998, Article 4a of Chapter 4 of the Criminal Code has included a crime of gross bodily harm to a woman. This includes a number of criminal acts such as assault or sexual exploitation by a man against a woman to whom he is or has been married or with whom he is or has been cohabiting. On 1 July 2007, section 11 of Chapter 5 of the Social Services Act (2001:453) was amended to clarify the obligation of social welfare committees with regard to the provision of help and support to crime victims. The amendment specifies that municipalities must pay particular attention to the needs of women exposed to violence.

In autumn 2007, the government adopted an action plan to combat violence by men against women. It includes data collection and analysis, prevention and protection measures, greater efficiency in the judicial system and better measures targeting violent offenders. A total of SEK 1 billion (€ 112 million) has been allocated to this action plan.

The Protection Orders Act of 1988, as amended in 2003, contains provision for restraining orders against perpetrators of violence intended to help victims.

In 2009, there were 29 200 reported cases of assault on women aged 15 or over compared to 24 097 in 2005. However, according to the report, the number of unrecorded cases of domestic violence against women is thought to be much higher. The National Council for Crime Prevention estimates that only 20 to 25% of cases of domestic violence against women are reported to the police.

Economic protection of families

Family benefits

On 1 January 2006, new rules on housing benefit were introduced, the effect of which was to increase the special housing allowance awarded to families with children. Maximum allowances of this type were SEK 2 600 (€293) for families with one child, SEK 3 200 (€360) for those with two children and SEK 4 000 (€451) for those with three children. In December 2009, a total of 137 255 households with children received housing benefit.

The Committee notes that according to the data in MISSOC¹, basic monthly child allowance was SEK 1050 (€118) during the reference period. Since 1 July 2006, it has been possible to divide family benefit between parents if they have joint custody of children. If no application is made for this, benefit is paid to the mother. In 2009, about 670 000 children received family benefits totalling about SEK 23.4 billion (€2.63 billion). In its previous conclusion (Conclusions 2006), the Committee considered that the average child allowance, amounting to 8.2% of the equivalised median income, was sufficient. It considers that the situation is in conformity with the Charter.

Vulnerable families

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee consequently asks what measures are taken to ensure the economic protection of Roma families.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

The Committee asks if nationals of other non-EU/EEA states party residing or working lawfully in Sweden enjoy equal treatment with regard to the payment of family benefits.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 16 of the Charter.

¹ *European Commission publication, MISSOC, Social protection in the Member States of the European Union, the European Economic Area and Switzerland, Situation on 1 July 2010, comparative tables* (http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do)

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

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

Status of the child

The Committee notes that the situation which it previously found to be in conformity with the Charter has not changed.

Education

As regards the right to accessible and effective education, the Committee refers to its conclusion under Article 17§2.

Protection of children from ill treatment and abuse

The Committee notes that the situation which it previously found to be in conformity with the Charter has not changed.

Children in public care

The Committee notes from the report that in the course of 2006-2008 the country administrative boards were given the task of strengthening supervision, *inter alia* relating to children who had been placed in a foster home or institution. Several measures were taken to further develop social care of children. For instance, prior to placing a child in a foster home or institution the social services committee is responsible for drawing up a plan, together with the child and the parents, describing how the care is to be implemented. Besides, the method 'focusing on children's need' has been developed by the National Board of Health and Welfare aiming at strengthening the position of children in social services. The child and the parents are continuously able to give their opinion on the child's situation.

According to the report in 2009 there were 17,050 children in foster families, 7,250 in residential care (HVB) and 1,300 in homes with special supervision. The number of placements in HVB has increased in the course of 2005-2009. There are about 400 HVB homes in Sweden, 80% of which are under private management. The great majority of these homes are relatively small with 1-9 places.

The Committee notes from another source¹ that the UN Committee on the Rights of the Child is concerned at the high number of children who have been removed from their families and live in foster homes or other institutions as well as by the number of children who run away from home or are forced to leave home. It recommends that Sweden develops and implements programmes and policies to prevent the placement of children in institutions, provides parent-training programmes and conducts awareness-raising campaigns. It also recommends that priority is given to protecting the natural family environment and ensuring that removal from the family and placement in foster care or institutions is used only when in the best interests of the child.

The Committee further recalls (Conclusions XV-2, Statement of Interpretation on Article 17§1, p.29) that any restriction or limitation of parents custodial rights should be based on criteria laid down in legislation, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. The Committee has held that it should only be possible to take a child into custody in order to be placed outside his/her home if such a measure is based on adequate and reasonable criteria laid down in legislation. The Committee asks what are the criteria for the restriction of custody or parental rights and what is the extent of such restrictions. It also asks what are the procedural safeguards to ensure that children are removed from their families only in exceptional circumstances. It further asks whether the national law provides for a possibility to lodge an appeal against a decision to restrict parental rights, to take a child into public care or to restrict the right of access of the child's closest family.

Young offenders

In its previous conclusion (Conclusions 2005) the Committee asked whether minors could be detained in isolation and under what conditions. It notes that the report does not provide this information. However, it notes from another source², that under current rules (Section 15C of the Act with Special Provisions on the Care of Young People (Law 1990:52) and Section 17 of the Act on the Enforcement of Closed Juvenile Care (Law 1998:603), it is possible to isolate children in youth detention centres if they display violent behaviour or are affected by drugs to the extent that they jeopardise the general order. This treatment is also used as punishment. The UN Committee on the Rights of the Child is of the view that solitary confinement should not be used unless it is judged to be absolutely necessary and the period of isolation may not exceed 24 hours. **Error! Hyperlink reference not valid.** Therefore, the UN CRC recommends that Sweden review as a matter of priority the current practice of solitary confinement, including by revising the current legislation, as appropriate and limits the use of this measure to very exceptional cases and reduces the period for which it is allowed and seeks its eventual abolition.

The Committee takes note of the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)³ concerning juveniles deprived of their liberty. It notes in particular that the CPT is concerned about the placement of juveniles in conditions resembling solitary confinement, a measure which can compromise their physical and/or mental integrity. The CPT considers that resort to such a measure must be regarded as highly exceptional. If juveniles are held separately from others, this should be for the shortest possible period of time and, in all cases, they should be guaranteed appropriate human contact, granted access to reading material and offered at least one hour of outdoor exercise every day. The Committee asks what is the maximum and average length of solitary confinement and how often this measure is implemented.

The Committee asks whether young offenders in prisons have a statutory right to education.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 17§1 of the Charter.

¹The UN Committee on the Rights of the Child, *Concluding observations: Sweden CRC/C/SWE/CO/4, 27 June 2009*

²*Idem*

³<http://www.cpt.coe.int/en/documents/eng-standards.doc>

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 2 - Free primary and secondary education - regular attendance at school

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

The Committee notes from UNICEF¹ that the primary school attendance ratio amounted to 95% in 2005-2009 whereas that of the secondary school to 104%. In its previous conclusion the Committee asked whether absenteeism rates were higher for certain groups of students. The Committee notes² from the Concluding Observations of the Committee on Economic, Social and Cultural Rights (CESCR) that discrimination against Roma children with regard to their access to education as well as within the educational system, including by harassment and bullying, is a matter of concern. The Committee asks what measures are taken to reduce absenteeism among Roma children.

The Committee notes from the Observations of the UN CRC³ that children without residence permit, in particular "children in hiding" and undocumented children, do not enjoy the right to education. Sweden stated in its report to the UN CRC⁴ that Government plans to appoint a supplementary enquiry to propose how the right to education can be further extended. The Committee also notes from the Save

the Children Sweden⁵ that as children without a residence permit are not recognised as being residents of the country, they do not have a right to education on the basis of the Education Act. According to the same source, Sweden reported that a government enquiry has proposed enshrining in law the right to education of children who are avoiding the enforcement of an expulsion or deportation order i.e. children in hiding. However, this initiative neither proposed changes with respect to confidentiality, nor restricted the enforcement of agency's power to collect children when they come to school, which means that it would remain difficult for children to enjoy this right. The Committee asks whether this proposal has been implemented.

As regards the issue as to whether children unlawfully present in Sweden are included in the personal scope of the Charter within the meaning of its Appendix, the Committee refers to the reasoning it has applied in its Decision on the Merits of 20 October 2009 of the Complaint No 47 Defence for Children International (DCI) v. the Netherlands (see, inter alia, §§ 47 and 48) and holds that access to education is crucial for every child's life and development. The denial of access to education will exacerbate the vulnerability of an unlawfully present child. Therefore, children, whatever their residence status, come within the personal scope of Article 17§2. Furthermore, the Committee considers that a child's life would be adversely affected by the denial of access to education. The Committee holds that States Parties are required, under Article 17§2 of the Revised Charter to ensure that children unlawfully present in their territory have effective access to education as any other child.

The Committee considers that Sweden fails to guarantee effective access to education to unlawfully present children, which amounts to a violation of Article 17.

As regards the integration of children with disabilities into mainstream education the Committee refers to its conclusion under Article 15.

Conclusion

The Committee concludes that the situation in Sweden is not in conformity with Article 17§2 of the Charter on the ground that children unlawfully present in the territory do not have effective access to education.

¹ http://www.unicef.org/sowc2011/pdfs/Table%205%20EDUCATION_12082010.pdf

² http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.SWE.CO.5_EN.doc

³ The UN Committee on the Rights of the Child, Concluding observations: Sweden CRC/C/SWE/CO/4, 27 June 2009

⁴ CRC/C/SWE/Q/4/Add.1, para. 8

⁵ Submission by the Save the Children relating to the Human Rights Council Universal Periodic Review Sweden 2010 ;

http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/SE/SC_Sweden_UPR_SWE_S08_2010_SaveTheChildrenSweden.pdf

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

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

Migration trends

Sweden has a high immigration rate, with roughly 200 nationalities represented. In 2008, 14 percent of the population was born outside of Sweden. Almost a fifth of the population has roots in other countries (Information by the Swedish Institute, available on the web site: www.sweden.se).

Change in policy and the legal framework

A revised legal framework regarding foreigners - i.e. the Aliens Act (2005:716) and the Aliens Ordinance (2006:97) - entered into force in 2006. It was adopted to implement the EU Directives 2003/86/EC on the right to family reunification, 2003/109/EC on third country nationals who are long-term residents and 2004/38/EC on the right of citizens of the EU and their family members to move and reside freely within the territory of the EU. According to the report, new rules on labour immigration were adopted in 2008.

Free services and information for migrant workers

Under the new system, the Swedish Public Employment Service is no longer responsible for examining the need for recruitment of foreign workers from outside EU/EEA countries and Switzerland. The new rules make it easier for employers to recruit from third countries. The point of departure is an assessment of the need for labour by individual employers. The system is now demand driven, welcomes labour migrants of all skills levels and grants full access to social and labour market rights. Since the new rules came into force almost 16,500 people have applied for a work permit in Sweden, and 85 per cent have been granted work permits. Compared with 2008 this is an increase of 30 per cent (Source: Swedish Migration Board).

Free of charge assistance to migrant workers is provided by the Swedish Migration Board and a number of other public authorities. Information on work permits legislation, standard of living, family reunification, employees rights, health care, housing, etc. are made available by the above-mentioned authorities in several languages on the internet.

Measures against misleading propaganda relating to emigration and immigration

A new act on 'Discrimination' entered into force on 1st January 2009. Its purpose is to combat discrimination and promote equal rights and opportunities regardless of, inter alia, national or ethnic origin, or other similar circumstance. The implementation of the 'Discrimination Act' is monitored by the Equality Ombudsman. Provisions on the duties of the Ombudsman are contained in the Act on 'The equality Ombudsman', which entered into force on 1st January 2009. The latter stipulates that the Ombudsman shall work to ensure that discrimination associated with, inter alia, ethnicity does not occur in any areas of the life of society.

The Committee considers that the above-mentioned legal framework and the initiatives taken by the responsible ministries in order to integrate immigrants in social life and fight against discrimination do not represent, as such, measures to counter misleading propaganda relating to emigration and immigration. In this respect, the Committee recalls that "Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter. To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary inter alia to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease. States must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants"

(Conclusions XIV-1). The Committee asks that the next report provide a full and up-to-date description about the measures taken to counter misleading propaganda relating to emigration and immigration.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 2 - Departure, journey and reception

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§2 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 19§2 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration States

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§3 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 19§3 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 4 - Equality regarding employment, right to organise and accommodation

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§4 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 19§4 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 5 - Equality regarding taxes and contributions

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§5 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 19§5 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 6 - Family reunion

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

Scope

A revised legal framework regarding foreigners - the Aliens Act (2005:716) - entered into force 31 March 2006. It was adopted to implement, inter alia, the EU directive 2003/86/EC on the right to family reunification. According to the report, new rules on labour immigration were adopted in 2008. On this new legal basis, a person who has been granted a work permit is allowed to bring his or her family members. This includes the husband/wife, children under 21 years. The permit granted to the family member has the same scope as for the alien to whom the family member has ties.

Conditions governing family reunion

There is no requirement of adequate accommodation or means of subsistence.

The Committee asks for the next report to provide information on the practical implementation of the above-mentioned legal framework, possibly including examples and figures.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 19§6 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 7 - Equality regarding legal proceedings

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§7 of the Charter. It refers to its interpretive statement in the General introduction and asks that the next report provide a full and up-to-date description of the situation. In particular whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, and whether migrant workers may have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial hearings.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Sweden is in conformity with Article 19§7 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 8 - Guarantees concerning deportation

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

The Committee recalls that it has found that the situation in Sweden is not in conformity with the Charter since Conclusions VI (1979) on the grounds that migrant workers expelled on account of national security have no right of appeal to an independent body. In 1995, the Committee of Ministers addressed a Recommendation to Sweden (R ChS (95)10) inviting the Swedish Government to bring the situation into conformity.

An amendment to the appeals procedures in expulsion on grounds of national security cases was adopted in 2006 (Act on Special Control in Respect of Aliens). Pursuant to the amendment a decision on expulsion by the Migration Board cannot only be appealed to the Government, but an appeal may also be made to the Migration Court of Appeal. The court will examine the case and give its opinion to the Government. The opinion will state whether the individual faces a risk of torture, inhuman or degrading treatment or punishment, or persecution, etc. if there are such risks the Government may not enforce the expulsion.

The Committee considers that the referral to the Migration Court of Appeal cannot properly be considered as an appeal against the decision to expel, as the individual cannot challenge the reasons for his/her expulsion nor can the court examine them. Therefore the Committee finds that the situation was not in conformity during the reference period.

However it notes that new legislation on expulsion entered into force in 2010. It asks the next report to provide information on all changes made to the appeals procedure in expulsion cases.

Conclusion

The Committee concludes that the situation in Sweden was not in conformity with the Article 19§8 of the Charter during the reference period on the ground that migrant workers expelled on account of national security have no right of appeal to an independent body.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 9 - Transfer of earnings and savings

The Committee notes from the report submitted by Sweden and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§9 of the Charter.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Sweden is in conformity with Article 19§9 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 10 - Equal treatment for the self-employed

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

On the basis of the information contained in the Swedish report and previous reports, the Committee notes that there continues to be no discrimination between migrant employees and self-employed migrants.

However, in the case of equal treatment between wage-earners and self-employed migrants and between self-employed migrants and self-employed nationals, a finding of non-conformity under

paragraphs 1 to 9, 11 and/or 12 of Article 19 leads to a finding of non-conformity under paragraph 10 since the same grounds for non-conformity as described under the aforementioned paragraphs applies to self-employed workers.

In its conclusion under Article 19§8 (as in previous supervision cycles), the Committee has considered the situation in Sweden not to be in conformity with the Charter. Accordingly, the Committee concludes that the situation in Sweden is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in Sweden is not in conformity with Article 19§10 of the Charter on the same ground for which it is not in conformity with paragraph 8 of the same Article.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 11 - Teaching language of host State

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

In 2008 the Swedish Government launched a new Swedish for Immigrants (SFI) initiative. The aim of the programme is to improve the quality of language teaching, and make the course more demanding. 84 333 persons attended SFI courses in the academic year 2008/09, and over 200 teachers were involved in the programme. The Committee asks the proportion of migrant workers and their families following classes, as well as information on the conditions for access to language classes and waiting times for access.

As regards teaching Swedish to non-native speaking children, the Committee it wishes to receive further information on Swedish language classes for children of migrant workers in Sweden in order to enable them to integrate.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Sweden is in conformity with Article 19§11 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 12 - Teaching mother tongue of migrant

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

Children and youths whose first language is not Swedish are entitled to mother tongue tuition in compulsory and upper secondary school. Municipalities and schools are required to provide tuition for the pupils if at least one of the guardians of the pupil has another mother tongue than Swedish, the language in question is a daily form of communication for the pupil and the pupil has basic knowledge of the language. Municipalities and schools are not required to provide mother tongue tuition if there are fewer than five pupils eligible for tuition in the specific language or if a suitable teacher cannot be found.

According to the report lack of suitable teachers has meant that not all children entitled to mother tongue teaching have been able to benefit from it. In order to address this problem the authorities are exploring introducing online distance learning schemes. The Committee asks the next report to provide further information on progress made in introducing such schemes.

In 2009/10: 173 147 pupils or 19,4 % of all pupils in compulsory education were eligible for mother tongue tuition. 92 308 pupils or 53,3 % of all eligible pupils (47 029 girls and 45 279 boys) actually received mother tongue tuition. The most common languages were Arabic, Bosnian/Serbian/Croatian, and Spanish.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 19§12 of the Revised Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

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

Employment, vocational guidance and training

The report states that a new Discrimination Act was adopted in 2009. Pursuant to Chapter 3 Section 5 of the Act, employers should enable both female and male employees to combine employment and parenthood. The Act has merged the former specialised Ombudsmen into a single Equality Ombudsman, which is responsible, inter alia, for monitoring compliance with the Parental Leave Act and seeks to ensure that employees on parental leave are not treated less favourably at work.

The Committee recalls from information previously submitted, that a woman or man who has been away from working life for a considerable period of time on account of child care can turn to the PES (Public Employment Service). The PES, can, for example, offer placement, counseling or a labour market policy programme, such as employment training, adapted to the needs of the individual. As this information dates back to 2002, the Committee asks for updated information on specific measures available for workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

Working conditions, social security

No new information is provided in the report as regards working conditions for employees with family responsibilities. The Committee recalls from information previously submitted that parents have the right to a 25% reduction in their normal working hours to take care of a child who is aged under eight. A person working part time on account of child care is not entitled to compensation out of social insurance for the loss of earnings resulting between normal working time and part time.

Likewise, it has noted that during the period of parental leave social security and pension contributions are maintained, and that this period is included in the calculation of length of service (Conclusions 2007).

The Committee also notes from another source¹ that a parent can receive sickness benefits instead of benefit from the parental leave insurance if he/she falls ill during the parental leave.

Child day care services and other childcare arrangements

Under the Education Act (1985:110) as amended in 2000, municipalities are required to offer pre-school activities and childcare facilities for children between the ages of one and twelve. Children are entitled to a free childcare place for at least three hours a day, fifteen hours a week or 525 hours per year. On 1 July 2009, a childcare allowance was set up as part of the reform of family policy. The allowance is a municipal grant for pre-school and school-age child care, which enables parents to choose different forms of educational activities for their children. In 2009, 466 000 children (or 86% of all children aged one to five) attended establishments offering pre-school activities at a total cost of 52.9 billion Swedish krona (SEK) (or € 5.96 billion).

Finally, the Committee notes from both the report and the above-mentioned source, that an employee may take leave for urgent family reasons connected with illness or accident of a child or another member of the family (Act on leave of absence for urgent family reasons (1998:209)). The compensation is in principle equivalent to 80% of the wage.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 27§1 of the Charter.

¹ *European Trade Union Institute (ETUI), Analysis of the implementation of the parental leave directive in the EU member states, by Stefan Clauwaert and Sabine Harger*

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

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

The Committee recalls that the focus of Article 27§2 are parental leave arrangements which are distinct from maternity leave and come into play after the latter. National regulations related to maternity or paternity leave fall under the scope of Article 8§1 and are examined under that provision.

The Committee recalls that Article 27§2 requires States to provide the possibility for either parent to obtain parental leave. Consultations between social partners throughout Europe show that an important element for the reconciliation of professional, private and family life are parental leave arrangements for taking care of a child. Whilst recognising that the duration and conditions of parental leave should be determined by States Parties, the Committee considers important that national regulations should entitle men and women to an *individual right* to parental leave on the grounds of the birth or adoption of a child. With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.

The Committee notes from previous reports that all workers who are parents have the right to take parental leave. The worker generally receives 80% of the previous salary during 390 days. Additional compensation can be obtained from the employer. The level of extra payment varies between trades and collective agreements. There is no obligation to take the leave immediately after maternity leave.

The report describes two new measures introduced on 1 July 2008 to complement parental leave. One is a municipal childcare allowance, which offers parents greater opportunities to be at home and care for their children during the period when the child is between one and three. The childcare allowance can be combined with gainful employment but not with payments received in connection with unemployment, illness, etc. A parent that receives childcare allowance is also entitled to leave of absence from work or shorter working hours under the 1995 Parental Leave Act. The second measure is a gender equality bonus, which gives parents better financial opportunities and incentives to share parental leave more equally.

The Committee notes from another source¹ that the Parental Leave Act gives the parent the right to return to the same or an equivalent job.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 27§2 of the Charter.

¹ *European Trade Union Institute (ETUI), Analysis of the implementation of the parental leave directive in the EU member states, by Stefan Clauwaert and Sabine Harger*

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

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

Protection against dismissal

The Committee has previously noted (Conclusions 2007) that legislation gives parents full protection against dismissal on the grounds of applying for, or taking, childcare leave (or leave to care of another family member). Under the Employment Protection Act, termination of employment must always be objectively founded.

The report states that protection against dismissal was strengthened by an amendment to the Employment Protection Act in July 2006. If an employee is given notice of termination when he/she is on parental leave, the period of notice shall not commence until the employee returns to work after having completed parental leave. In such a manner, the employer cannot avoid paying salary during the period of notice of termination.

General protection of employees against unfair treatment because of parental leave was also strengthened in 2006. For any disputes connected with parental leave, the burden of proof lies with the employer in the same way as in other areas of discrimination.

Effective remedies

The Committee recalls that Article 27§3 of the Charter requires that courts or other competent bodies are able to order reinstatement of an employee unlawfully dismissed, or in cases when the employee prefers not to continue or re-enter employment, order compensation that is sufficient both to deter the employer and proportionate to the damage suffered by the victim.

In its previous conclusion (Conclusions 2007), the Committee noted that an employer in breach of the Parental Leave Act shall pay damages for the loss sustained and the injustice inflicted. The Committee notes that under the Employment Protection Act, an employee who has been unlawfully dismissed without just cause can be reinstated on his/her demand.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 27§3 of the Charter.

Article 31 - Right to housing

Paragraph 1 - Adequate housing

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

The Committee notes that outside the reference period (in June 2010) amendments to the legislation on public housing companies and rent setting were decided upon. It understands from the report that the amendments decided upon aimed at further liberalising the housing market. It asks the next report to show whether and how such liberalisation has contributed to the effective enjoyment of the right to housing.

It is recalled that in its previous conclusion (Conclusions 2005), the Committee found the situation to be in conformity with Article 31§1 pending receipt of more detailed information concerning various aspects of the provision (see below). This conclusion will therefore only consider recent developments and the additional information provided in reply to the Committee's requests.

Criteria for adequate housing

The Committee refers to its Conclusions 2003 and 2005 for a description of the criteria for adequate housing in Sweden, which it considered to be in conformity with Article 31§1 of the Charter.

In its previous conclusion (Conclusions 2005), it noted that such criteria were to be reviewed and asked to be informed about relevant changes.

In reply the report states that on 1 March 2010 (outside the reference period) changes in the requirements to issue a management injunction were agreed upon with the aim of guaranteeing an increased protection of tenants' right to adequate housing. These changes thus do not entail a reconsideration of the Committee's assessment of the criteria for adequate housing in Sweden.

The Committee notes that the report does not contain any figures or statistics on adequacy of dwellings. It also does not contain details on financial resources invested to guarantee the right to adequate housing.

It therefore recalls that the requirement to maintain statistics is particularly important in the case of the right to housing because of the range of policy responses involved, the interaction between them and the unwanted side-effects that may occur as a result of this complexity (International Movement ATD Fourth World (ATD) v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, § 63).

In the light of the above, the Committee asks the Government to provide relevant figures and statistics; to explain what measures have been taken and are planned to improve the situation of inadequately housed persons. Pending receipt of this information, the Committee reserves its position as regards the effective access to and enjoyment of adequate housing.

Responsibility for adequate housing

The Committee refers to its Conclusion 2005 for a description of the bodies and mechanisms to monitor the housing stock and the rules to apply sanctions where standards of adequate housing are not applied. It recalls that it considered the latter in conformity with Article 31§1 of the Charter

In its previous conclusion (Conclusions 2005), the Committee requested information on the frequency with which public and private buildings are inspected and the circumstances in which injunctions may be issued against owners. As mentioned above, the report indicates that the requirements to issue a management injunction were eased. It however does not contain any indication as to the frequency with which public and private buildings are inspected. The Committee therefore reiterates its request.

Legal protection

The Committee refers to its Conclusion 2005 for a description of how the right to adequate housing is legally protected in Sweden.

To enable it to assess the impartiality of rent tribunal members, the Committee asked whether the two members appointed by organisations in the rented housing market are independent of the parties. It also requested more information on the cost of legal representation in rent tribunals and entitlement to legal aid. The report does not contain the requisite information. The Committee therefore reiterates its request.

The Committee notes from the report that between 1998 and 2006 the total number of applications made to the Rent Tribunals under the Housing Administration Act were about 30 per year. During the same period of time only a total number of 41 applications were tried; the others were discontinued or dismissed. The Committee asks whether this is to be explained by the positive results of the mediation role played by the Rent Tribunals as described in Conclusions 2005.

Measures in favour of vulnerable groups

In its Conclusions 2006, the Committee drew particular attention on the situation of Roma and Travelers and “asked for national reports to provide comprehensive information on any measures introduced to take account of the fact that certain groups of the population, such as nomads, are particularly vulnerable and to secure for them the effective enjoyment of the rights enshrined in the Charter.” Furthermore, the Committee has held that as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority. They therefore require special protection. Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases, not only for the purpose of safeguarding the interests of the minorities themselves but to preserve cultural diversity of value to the whole community (Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40).

With regard to Roma, the report indicates that notwithstanding anti-discrimination legislation investigations carried out in 2008 and 2010 by the former Ombudsman against ethnic discrimination and the new Equality Ombudsman¹ showed that discrimination of Roma does occur on the housing market. In 2006 the Government set up a committee with the task, *inter alia*, of proposing measures to improve the situation of Roma. The committee submitted its report on “The rights of the Roma – a strategy for the Roma in Sweden” in July 2010 (outside the reference period). In this report, it is proposed that further analyses of the problems for this group on the housing market be carried out in order to be able to initiate possible further measures. The report has been circulated for consultation until the end of December 2010 and will then be processed in the Government Offices.

The Committee asks the Government to indicate what measures were taken to guarantee equality of treatment in access to adequate housing for Roma families following the above mentioned consultations.

The Committee notes that other sources² confirm that during the reference period there was an increase in complaints of discrimination in access to housing based on ethnicity (e.g. in the first half of 2007, the complaints in this area were 43 compared to the 60 complaints registered during the whole of 2006). The Committee also notes from the same sources that the former Ombudsman against ethnic discrimination was successful in obtaining a series of out-of-court settlements.

In addition to the figures and statistics requested above, the Committee requests that the next report contain detailed information on the work of the new Equality Ombudsman with regard to cases of discrimination regarding the right to housing of vulnerable groups.

If the necessary clarifications and information are not forthcoming there will be nothing to show that the situation in Sweden is in conformity with Article 31§1 of the Charter in this regard.

Conclusion

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

¹As of 01/01/2009 the previous four different offices of the antidiscrimination Ombudsmen have been replaced by the office of the Equality Ombudsmann (see conclusion under Article 19§1 for more information).

²FRA, Comparative report on "Housing conditions of Roma and travellers in the EU", October 2009, p. 25 and information on the ERRC webpage (<http://www.errc.org>) available when searching under Sweden (as a country) and Roma (as a theme).

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

Preventing homelessness

The Committee refers to its previous conclusions (Conclusions 2003 and 2005) for a description of the steps taken and planned to prevent homelessness.

It notes from the report that in 2007, the Government presented for the first time an integrated strategy for efforts to combat homelessness under the heading "Homelessness – multiple faces, multiple responsibilities". The Committee notes from the report that one of the measures in connection with implementation of this national homelessness strategy was to stimulate local development work and that over Swedish Crown (SEK) 55 million (€ 5 362 714) were invested during the period 2007–2009 to stimulate local development work

The Committee also notes that as part of this strategy the National Board of Health and Welfare, in collaboration with the Government enforcement service, produced guideline material for municipalities and other actors in eviction prevention work.

The Committee considers that all these measures show that Sweden is committed to tackling homelessness in compliance with Article 31§2 of the Charter. It asks for information in the next report on the results of these initiatives.

Forced eviction

The Committee refers to its previous conclusion (Conclusions 2005) for a description of the rules governing the procedures of eviction and the legal protection persons threatened by eviction are entitled to. It recalls that it had considered them to be in conformity with Article 31§2 and asked for the number of appeals against eviction orders and the specific cases in which legal aid may be provided and to whom. The Committee reiterates these specific requests while noting that the Government enforcement service has developed eviction statistics which make it possible to study the number of evictions by municipality and type of household.

The report indicates that in 2005 the Government adopted a report on eviction and homelessness among families with children which resulted in the consideration of amendments to the Rent Act aimed at counteracting eviction of families. The Committee asks the next report to up-date it on the results obtained, including by providing the relevant statistics.

Meanwhile, the Committee notes from the report that the number of children affected by eviction – when both or one of the parents is given notice to leave their dwelling – decreased between 2008 and 2009 by 14 per cent, from 716 to 618 children.

The Committee refers to its questions under Article 31§1 as regards measures taken to guarantee equality of treatment in the enjoyment of the right to housing of Roma. It further asks that the next

report contain more details as to the number of evictions concerning Roma families and the number of cases brought for lack of alternative accommodation offered or compensation awarded.

Meanwhile, as concerns eviction of Roma families, the Committee notes from another source¹ that the former Ombudsman against ethnic discrimination² brought, *inter alia*, a case on behalf of a Romani woman who had been evicted before the relevant District Court which ruled that the landlord had discriminated against her on grounds of her ethnicity and compensation for damages was awarded to her.

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution. Moreover, to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating and sufficient lighting. Another basic requirement is the security of the immediate surroundings (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 62).

Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31§2 of the Charter, States Parties are required to provide adequate shelter also to children unlawfully present in their territory for as long as they are in their jurisdiction. (DCI v. the Netherlands, §§ 47 and 64).

The temporary provision of shelter, however adequate, cannot however be considered a lasting solution.

- As regards, persons lawfully resident or regularly working within the territory of the Party concerned accommodated in emergency shelters, they must, within a reasonable time, be offered either long-term accommodation suited to their circumstances or housing of an adequate standard as provided by Article 31§1.
- As regards persons unlawfully present within the territory, since no alternative accommodation may be required by States for them, eviction from shelter should be banned as it would place the persons concerned, particularly children, in a situation of extreme helplessness which is contrary to the respect for their human dignity (DCI v. the Netherlands, § 63).

The Committee asks for the next report to clarify whether:

- shelters/emergency accommodation satisfy security requirements (including in the immediate surroundings) and health and hygiene standards (in particular whether they are equipped with basic amenities such as access to water and heating and sufficient lighting);
- shelter/emergency accommodation is provided regardless of residence status;
- the law prohibits eviction from shelters or emergency accommodation.

Pending receipt of this information, the Committee reserves its position in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation is in conformity with Article 31§2 of the Charter.

¹ FRA, *Comparative report on "Housing conditions of Roma and travellers in the EU"*, October 2009

² As of 01/01/2009 the previously existent four offices of the antidiscrimination Ombudsmen have been replaced by the office of the Equality Ombudsman.

Article 31 - Right to housing

Paragraph 3 - Affordable housing

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

Social housing

The Committee refers to its previous conclusions (Conclusions 2003 and 2005), for a description of the housing policy in Sweden.

The report indicates that as from 1 January 2007 no new production subsidies are granted for the construction of ordinary housing. The subsidies affected include the investment grant for the construction of rented housing in areas with a shortage of housing which was introduced in 2001 and the investment incentive for the construction of small rented dwellings and student housing introduced in 2003. These subsidies were time-limited to the end of 2006 and ended in accordance.

The report however also highlights that it was not decided to phase out the special subsidy for the construction of housing for elderly persons (SEK 500 million / € 48 751 950 per year).

The Committee further notes from the report that a reform concerning the setting of the price for rented flats entered into force in January 2011 (outside the reference period). Until then, when comparing flat rents, the benchmark for a reasonable rent was set by the municipal housing rents. As of 2011, the Rent Tribunal will make rent comparisons with other similar flats in the location where the rent was negotiated between representatives of tenants and landlords, irrespective of who owns the properties. The report points out that a rule will be introduced to protect the private individual from rapid rent increases as a result of the parties reaching agreement on considerably higher rents.

The Committee asks the next report to contain information on the impact of the changes outlined above on the most vulnerable groups and recalls that it considers that in order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show not the average affordability ratio required of all those applying for housing, but rather that the affordability ratio of the poorest applicants for housing is compatible with their level of income (European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, § 72).

Pending receipt of this information, the Committee reserves its position as regards the affordability of housing.

Housing benefits

Regarding housing benefits, the Committee refers to its previous conclusions (Conclusions 2003 and 2005) where it noted that housing benefit is an individual right and where it highlighted that it attaches great importance to legal safeguards in this area.

The Committee notes from the report that at the end of the reference period 137 255 households with children received housing allowance. The vast majority of households had children living at home and most of the applicants were women in single households.

The Committee notes that during the reference period the housing supplement for pensioners and for persons below 65 drawing sickness compensation was raised. Also the part of the housing allowance paid as a special allowance to families with children was raised. In addition, the report indicates that a new allowance was introduced for parents who, due to custody or right of access, have their children living with them periodically.

To assess the situation in practice, the Committee requested that the next report indicate the number of refusals of housing benefits requests and the number of appeals lodged against such refusals and with what outcomes. It also asked to be informed about whether reasons are given, and if so, what are they when housing benefits are refused.

The Committee reiterates its request for such information and data and underlines that should the next report not provide them, there will be nothing to establish that the situation in Sweden is in conformity with Article 31§3 of the Charter as concerns the legal protection of the right to housing benefits.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 31§3 of the Charter.