



January 2018

## **European Social Charter**

European Committee of Social Rights

Conclusions 2017

**IRELAND**

*This text may be subject to editorial revision.*



The following chapter concerns Ireland, which ratified the Charter on 4 November 2000. The deadline for submitting the 14th report was 31 October 2016 and Ireland submitted it on 21 December 2016. The Committee received on 13 April 2017 observations from the Irish Human Rights and Equality Commission on the application of Articles 3, 11, 12, 13, 14, 23 and 30.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of 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).

Ireland has accepted all provisions from the above-mentioned group.

The reference period was 1 January 2012 to 31 December 2015.

The conclusions relating to Ireland concern 19 situations and are as follows:

– 5 conclusions of conformity: Articles 3§1, 11§2, 13§2, 13§3, 13§4.

– 13 conclusions of non-conformity: Articles 3§2, 3§3, 3§4, 11§1, 11§3, 12§1, 12§2, 12§3, 12§4, 13§1, 14§1, 14§2 and 30.

In respect of the other situation related to Article 23 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Ireland under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

During the current examination, the Committee noted the following positive developments:

#### **Article 3§1**

The online risk assessment tool, BeSMART, which supports and assists small business to deal with health and safety in their workplaces, was further developed in the period 2013-2015. It caters for more than 250 different business types. In 2015, the number of BeSMART users increased by 6,896 users to bring the total users to 30,278 by year end. In addition, the HSA launched two new modules for the high risk construction and agribusiness sectors.

#### **Article 12§3**

- The extension of voluntary social insurance coverage (as regards the contributory old-age state pensions and the maternity/paternity benefits), in 2014, to certain spouses and civil partners of people who are self-employed;
- The introduction in 2012 of a new Partial Capacity Benefit scheme, which allows people with disabilities who can work to avail of employment opportunities while continuing to receive an income support payment.

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The next report to be submitted by Ireland will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The report should also contain information requested by the Committee in Conclusions 2016 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right to work – freely undertaken work (Article 1§2);
- the right of persons with disabilities to independence, social integration and participation in the life of the community – integration and participation of persons with disabilities in the life of the community (Article 15§3).

The deadline for submitting that report was 31 October 2017. The report was registered on 30 October 2017. Conclusions on the Articles concerned will be published in January 2019.

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Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter) as well as in the HUDOC database.

### **Article 3 - 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 Ireland.

#### **General objective of the policy**

The Committee previously deferred its conclusion (Conclusions 2013) and requested information on how this provision of the Charter was applied. In reply, the report indicates that the Department of Jobs, Enterprise and Innovation has the role of formulating and developing occupational safety and health policy relating to and including reviewing legislative requirements and work environment developments on an ongoing basis. The administration, enforcement and promotion of occupational safety and health have been delegated to the Health and Safety Authority (HSA) established under the Safety, Health and Welfare at Work Act (1989). The HSA is responsible for proposing policy measures to the Minister for Jobs, Enterprise and Innovation. To help develop sound policies and good workplace practices the HSA works with various advisory committees and task forces which focus on specific occupations or hazards.

As regards national policy, the report indicates that the HSA prepares a national strategic plan every three years. The plan is implemented through annual programmes of work. The HSA aims to achieve a continued downward trend in work related deaths, injuries and ill-health and an increase in the safe use of chemicals.

The Committee notes from the OSHWiki, that the National Strategy of the HSA runs from 2013-2015. According to the HSA's Strategy Statement, the Strategy defines five priorities. One of them is to achieve a high standard of compliance with safety, health and welfare and chemical laws. The report states that the HSA's review of the implementation of its Strategy confirmed that one of its positive outcomes was a reduction in the rates of work-related deaths, injuries and ill health.

The report also indicates that the National Strategy of the HSA was adopted for 2016-2018 and details its priorities. The Committee notes that the Strategy was introduced outside the reference period, it accordingly invites the next report to provide updated information on its implementation.

The Committee points out that new technology, organisational constraints and psychological demands favour the development of psychosocial factors of risk, leading to work-related stress, aggression, violence and harassment. It also points out that, with regard to Article 3§1 of the Charter, the Committee takes account of stress, aggression, violence and harassment at work when examining whether policies are regularly evaluated or reviewed in light of emerging risks. The States parties have a duty to carry out activities in terms of research, knowledge and communication relating to psychosocial risks (Statement of Interpretation on Article 3§1 of the Charter, Conclusions 2013). The report indicates that, as part of the new 2016-2018 Strategy with its focus on health and wellbeing, the HSA provided advice on reducing exposure to work-related stress through a range of seminars arranged in conjunction with Mental Health Ireland. The Committee also notes from the HSA website, that in 2010, the European Social Partners signed guidelines to tackle third party violence and harassment at work. Moreover, there are available publications for guidance and download in relation to preventing violence at work (violence at work, Prevention of Violence in Healthcare). However, the Committee asks the next report to provide more information on this point.

The Committee notes that there is a national policy which is intended to develop and preserve a culture of prevention on the occupational health and safety field.

### ***Organisation of occupational risk prevention***

The report indicates that the online risk assessment tool, BeSMART, which supports and assists small business to deal with health and safety in their workplaces, was further developed in the period 2013-2015. It caters for more than 250 different business types. In 2015, the number of BeSMART users increased by 6896 users to bring the total users to 30 278 by year end. In addition, the HSA launched two new modules for the high risk construction and agribusiness sectors.

According to the OSHWiki, there are a number of OSH professional bodies: the Institute of Occupational Safety and Health, the National Irish Safety Organisation, which provides information and services to help improve safety in the workplace, including information, advisory and training services, and HSA. The Committee notes from the HSA website that it promotes education, training and research in the field of health and safety.

According to the report, in 2013, the HSA commenced a programme for the public sector. As a result of this programme, in 2014-2015, they completed 273 inspections and 50 investigations in the public sector. These inspections involved reviews of the health and safety management systems.

As regards specific sectors, the report indicates that the HSA completed its five-year Work-related vehicle safety programme in 2014 and will finalise a new three-year programme in 2016 following a 2015 review of the programme outcomes. The HSA provided guidance on topics such as load-securing for high risk loads, safe delivery from vehicles and preventing falls from vehicles. In 2015, 119 inspections were completed to check compliance with load-securing and a further 183 were completed in relation to driving to work.

The Committee considers that measures for occupational risk prevention, awareness-raising and assessment of work-related risks and information and training for workers are provided at national and undertaking levels. It further notes that the HSA is involved in the development of a health and safety culture among employers and employees and shares knowledge of occupational hazards and prevention acquired during inspection activities. The situation in Ireland is therefore in conformity with Article 3§1 of the Charter in this respect.

### ***Improvement of occupational safety and health***

The report states that the HSA focused particular attention on occupational health and safety initiatives regarding chemical, physical and biological agents. It provided significant levels of guidance and advice, including guidance on writing occupational hygiene reports, legionella in water towers, composting sites, tradesman awareness flyer on asbestos etc. This guidance was coupled with extensive engagement with relevant sectors through seminars, workshops and agreed actions.

The HSA also published information sheets and guidance documents on the manual handling of glazing sheets, Ergonomic Good Practice in the Irish Workplace. The report contains several references to the HSA website, which provides its all publications, including annual reports.

The Committee notes that there is a system aimed at improving occupational health and safety through research, development and training.

### ***Consultation with employers' and workers' organisations***

The report indicates that the HSA is responsible for proposing policy measures to the Minister for Jobs, Enterprise and Innovation. Such proposals are determined by the twelve members of the tripartite Board of the HSA, representing the social partners (government, employers and workers) and other interests concerned with safety and health in the workplace and chemical safety. The HSA engages in public consultation on the renewal of its three year strategic plan and consults widely with employers, employees and their

respective organisations on the development of its legislative programme. Moreover, to help develop sound policies and good workplace practices the HSA works with various advisory committees and task forces which focus on specific occupations or hazards.

The Committee notes from the website of the HSA that it consults with employers, employees and their respective organisations. According to Section 25 of the Safety, Health and Welfare at Work Act 2005, employees are permitted to select a safety representative to represent them on safety and health matters in consultations with their employer. A safety representative may consult with, and make representations to, the employer on safety, health and welfare matters relating to the employees at work. The employer must consider these consultations, and act on them if necessary.

The Committee notes that there is genuine co-operation between the authorities and the social partners, both at national and at company level.

#### *Conclusion*

The Committee concludes that the situation in Ireland is in conformity with Article 3§1 of the Charter.

## **Article 3 - Right to safe and healthy working conditions**

### *Paragraph 2 - Safety and health regulations*

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

### ***Content of the regulations on health and safety at work***

The Committee previously deferred its conclusion and requested information on how this provision of the Charter was applied. The report gives a list of the health and safety legislation (primary and secondary) adopted or amended during the reference period. These changes relate primarily to general application of the Safety, Health and Welfare at Work Regulations (S.I. 370 of 2016; S.I. 70 of 2016, etc.), chemical agents (S.I. 623 of 2015), electromagnetic fields (S.I. 337 of 2016), carcinogens (S.I. 662 of 2015), machinery (S.I. 621 of 2015), docs (S.I. 521 of 2015), control of major Accident Hazards Involving Dangerous Substances (S.I. 604 of 2016, S.I. 209 of 2015), pressure equipment (S.I. 288 of 2015, S.I. 81 of 2015, etc.), prevention of sharps injuries in the Healthcare Sector (S.I. 135 of 2014), biological agents (S.I. 572 of 2013), construction (S.I. 291 of 2013, S.I. 182 of 2013, etc.), and asbestos (S.I. 248 of 2011 and S.I. 589 of 2010).

The Committee takes note of Codes of Practice published by the Health and Safety Authority (HSA) and available on its website. The report indicates that some of the codes of practice were developed specifically for employers who have three or less employees.

The Committee points out that under the terms of Article 3§2 of the Charter, regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships (Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). The report does not provide any information on this point. The Committee accordingly reiterates its request. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Ireland is in conformity with Article 3§2 of the Charter.

### ***Levels of prevention and protection***

The Committee examines the levels of occupational prevention and protection provided for by the legislation and the regulations in relation to certain risks.

### ***Establishment, alteration and upkeep of workplaces***

The report does not contain any information on the levels of prevention and protection in relation to the establishment, alteration and upkeep of workplaces.

The Committee notes from HSA's website that EU Directive 2013/35/EU on the minimum health and safety requirements regarding the exposure of workers to the risks from electromagnetic fields was transposed into Irish law on 1st July 2016 by the Safety, Health and Welfare at Work (Electromagnetic Fields) Regulations 2016 (S.I. No. 337 of 2016) (outside the reference period).

In view of the lack of information in the report, the Committee is not in a position to examine whether the legislation and regulations in force satisfy the obligation under Article 3§2 of the Charter, which requires that levels of prevention and protection mandated by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces be in line with the level set by international reference standards. Therefore, the situation is not in conformity with the Charter. The Committee asks that the next report provide information on the transposition of Directive 2009/104/EC of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work. It also asks for more detailed information on the implementation of preventive measures geared to the nature of risks, on the provision of information and training for workers, as well as on a schedule for compliance.

### ***Protection against hazardous substances and agents***

The Committee notes from the HSA's website, that the Chemical Act (Control of major Accident Hazards involving Dangerous Substance) Regulations 2015 (S.I. No. 209 of 2015) came into force on 1 June 2015. It transposes Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC. The Committee asks the next report to indicate the international or EU standards as regards the protection against hazardous substances and agents which the legislation and regulations issued and/or amended during the reference period are designed to incorporate

### ***Protection of workers against asbestos***

The report indicates that legislation is in place that prohibits the use, reuse, sale, supply, and further adaptation of materials containing asbestos fibres. As for the restriction conditions for asbestos fibres, the report states that the measures are listed in Annex XVII to Regulation (EC) No. 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), amended by Regulation (EC) No. 552/2009. The HSA is the lead Competent and Enforcement Authority for REACH in Ireland.

In addition, the report indicates that the Chemicals (Asbestos Articles) Regulations 2011 ("CAA") (S.I. No. 248 of 2011) specify how the HSA may issue a certificate to exempt an asbestos-containing article, or category of such articles, from the prohibition on the placing on the market of an asbestos-containing article provided for by Article 67 and Annex XVII of the EU REACH Regulation 1907/2006.

The Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006), amended by S.I. No. 589/2010 aim to protect the health and safety of all employees who may be exposed to dust from asbestos containing materials, during the course of their work activities. The regulations apply to all work activities and workplaces where there is a risk of people inhaling asbestos dust.

Moreover, the report indicates complementary guidance materials which have been disseminated by HSA in order to protect the workers from all aspects of asbestos exposure. The Committee notes from the Practical guidelines on Asbestos-containing Materials published in 2013 by HSA that the exposure limit value for all types of asbestos is 0.1 fibres/cm<sup>3</sup>.

The Committee concludes that prevention and protection levels for asbestos are in conformity with Article 3§2 of the Charter. The Committee asks that the next report provide full, up-to-date information on changes in the legislation and regulations which occurred during the reference period.

### ***Protection of workers against ionising radiation***

The Committee previously concluded (Conclusions XVI-2 (2003)) that the levels of prevention and protection in relation to ionising radiation were satisfactory. The report does not provide any information on this point.

The Committee notes from NATLEX database of national labour, social security and related human rights legislation, that the Radiological Protection (Miscellaneous Provisions) Act 2014 (Act No. 20 of 2014) was adopted on 23 July 2014. This Act provides for the dissolution of the Radiological Protection Institute of Ireland and the transfer of all its functions, assets, liabilities and staff to the Environmental Protection Agency; gives effect to the Amendment to the Convention on the Physical Protection of Nuclear Material done at Vienna on 8 July 2005; amends the Radiological Protection Act 1991, the Environmental Protection Agency Act 1992 and certain other enactments; and provides for matters

connected therewith. The Committee asks the next report to provide updated information on relevant legislation and regulations, including confirmation that workers are protected up to a level at least equivalent to that set in the Recommendations (2007) by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007).

### ***Personal scope of the regulations***

The Committee examines the personal scope of legislation and regulations with regard to workers in atypical employment.

### ***Temporary workers***

The Committee previously found (Conclusions 2009) that temporary and agency workers enjoyed the same level of protection of safety and health at work as workers on indefinite contracts. The report does not provide any specific information on temporary workers. The Committee asks the next report to provide full and updated information on this point.

### ***Other types of workers***

In its previous conclusion (Conclusions 2009), the Committee asked for updated information regarding whether self-employed workers, including home workers and domestic employees were covered by health and safety regulations. The report does not provide any information on this point.

The Committee notes from European Commission Staff Working document on “Ex-post evaluation of the European Union occupational safety and health Directives (REFIT evaluation)” (2017) that the national legislation also applies to domestic workers.

In addition, the Committee notes that Ireland ratified the ILO Convention No. 189 on Domestic Workers (2011) on 28 August 2014. According to the Workplace Relations Commission, legally employed workers have the same rights and protections as any other workers under Irish Law. The Committee asks the next report to provide updated information on the measures in place to ensure the occupational health and safety of self-employed and domestic workers.

### ***Consultation with employers’ and workers’ organisations***

The report indicates that all measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework are done in consultation with employers’ and workers’ organisations.

### ***Conclusion***

The Committee concludes that the situation in Ireland is not in conformity with Article 3§2 of the Charter on the ground that it has not been established that the levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards.

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 3 - Enforcement of safety and health regulations*

The Committee takes note of the information contained in the report submitted by Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

#### **Accidents at work and occupational diseases**

The Committee previously deferred its conclusion (Conclusions 2013) and requested information on how this provision of the Charter was applied. The report indicates that the rate of non-fatal accidents increased from 6804 in 2012 to 7775 in 2015 and the rate of fatal injuries also increased only slightly during the reference period. Sectors of activity with a high number of fatal accidents are agriculture, forestry, fishing and construction. The report explains that as employment growth in Ireland has picked up, injury and illness rates have increased too: reported injuries had been steadily reducing between 2010 and 2013, but in 2014 the number of injuries reported to the Authority increased by 13%.

According to the Eurostat figures, the number of non-fatal accidents at work causing at least four calendar days of absence rose from 15 284 in 2012 to 18 115 in 2014. The standardised rate of incidence of non-fatal accidents at work per 100 000 workers also rose from 809.57 in 2012 to 1071.99 in 2014. The Committee notes that this rate is lower than the average rate in the EU-28 (1717.15 in 2012 and 1642.09 in 2014). The number of fatal accidents at work increased from 43 in 2012 to 47 in 2014. The standardised incidence rate of fatal accidents at work per 100 000 workers fell slightly from 3.41 in 2012 to 3.12 in 2014. The Committee nevertheless notes that the standardised rate of incidence of fatal accidents is higher than the average rate in the EU-28 (2.42 in 2012 and 2.32 in 2014).

The Committee finds that the report does not provide any relevant figures for the number of occupational diseases. It therefore considers that monitoring of occupational diseases was not satisfactory over the reference period. The Committee also notes from MISSOC that 56 occupational diseases are prescribed. The list of prescribed diseases is maintained by the Department of Social Protection. It asks that the next report provide information on the legal definition of occupational diseases; the mechanism for recognising, reviewing and revising of occupational diseases (or the list of occupational diseases); the incidence rate and the number of recognised and reported occupational diseases during the reference period (broken down by sector of activity and year), including cases of fatal occupational diseases, and the measures taken and/or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases; the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged.

The Committee considers, on the basis of the provided information, that measures to reduce the number of fatal accidents are insufficient and holds, accordingly, that the situation is not in conformity with Article 3§3 on this point. It asks the next report to provide the most frequent causes of accidents at work and the preventive and enforcement activities undertaken to prevent them.

#### **Activities of the Labour Inspectorate**

The Committee notes that under Article 3§3 of the Charter, States Parties must implement measures to focus labour inspection on small and medium-sized enterprises (Statement of Interpretation on Article 3§3, Conclusions 2013). The Committee notes from European Commission Staff Working document (2017) on “Ex-post evaluation of the European Union occupational safety and health Directives (REFIT evaluation)” that the HSA provides a series of practical information and guidance notes in relation to small businesses. Also the BeSMART tool has been developed especially for SMEs and micro-enterprises. Moreover, a Safety Management Pack for Contractors Employing twenty or less workers (SMP 20) was

also developed and launched in order to assist small contractors in establishing and maintaining an effective safety management system.

The report states that the HSA implements a balanced workplace inspection and enforcement programme across all of its mandates over the period of the strategy. The great majority of inspections and investigations resulted in either verbal or written advice being issued, aimed at achieving voluntary compliance. Enforcement action, up to and including prosecution, was taken where this was necessary to achieve safe and healthy working conditions and the safe use of chemicals. The report adds that the HSA uses an electronic inspection management system to provide an integrated record of all inspections, enforcement actions, correspondence and reported incidents and customer contacts.

The report indicates that the number of workplace inspections and investigations decreased during the reference period from 13 835 in 2012 to 10 880 in 2015. The report explains that this is due to staff reductions and changes in the character of inspection activity, notably in the farm sector. Over 9500 inspections and investigations were carried out in 2015, including almost 3000 inspections in the agriculture sector (including forestry and fishing). The Committee nevertheless notes from the information provided by the Irish Human Rights and Equality Commission that rates of workplace health and safety inspections and investigations have fallen over the reference period, from 7.48 per 1000 workers in the economy in 2012 to 5.49 per 1000 workers in 2015 (a drop of over 25%).

In the construction sector the HSA responded to the economic recovery in that sector and the influx of returning and new workers by increasing its inspection rate and completing over 3000 inspections. In addition, HSA inspectors completed over 1000 investigations of fatal accidents, serious injuries and complaints on safety, health and chemicals. Across their inspection programme, the HSA provided written advice in over 4300 cases. Where inspectors found more serious breaches, they issued improvement notices (489 notices) and prohibition notices (488 notices). The HSA concluded 16 prosecutions in 2015, resulting in the imposition of fines totalling €541 000.

Moreover, the HSA completed 406 healthcare inspections and 70 investigations in the period 2014-2015. The majority of these inspections looked at healthcare safety issues, including violence and aggression in the healthcare sector, and safety with medical sharps. Twenty nine inspections were carried out in the healthcare sector as part of the EU campaign on slips, trips and falls in 2014, covering areas such as management, cleaning, housekeeping, pedestrian surfaces, entrances, stairs and footwear. In relation to occupational health issues, manual handling was also reviewed during 585 inspections across all work sectors in 2014.

The Committee notes that, according to figures published by ILOSTAT, the number of labour inspectors remains stable (58 in 2012 and 2013, and 57 in 2014 and 2015), the average number of labour inspectors per 10 000 employed persons was 0.3 during the reference period. The number of labour inspection visits to workplaces during the year increased slightly from 4689 in 2012 to 5,185 in 2015, and the average of labour inspection visits per inspector also increased during the reference period (from 80.8 in 2012 to 93 in 2015). The Committee requests the next report to explain why the numbers of workplace inspections which are provided in the report differ from those published by ILOSTAT. It also asks to be informed of the percentage of workers who are covered by inspection visits in each sector of activity.

The Committee asks the next report to indicate the proportion of workers that is covered by inspections and the percentage of companies which underwent a health and safety inspection during the reference period.

### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 3§3 of the Charter on the grounds that measures taken to reduce the number of fatal accidents at work are insufficient.

### **Article 3 - 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 Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

In its previous conclusion (Conclusions 2015) the Committee found that the situation was not in conformity with Article 3§4 of the Charter on the ground that there was no strategy to develop occupational health services for all workers.

The Committee recalls that when accepting Article 3§4 States undertook to give all workers in all branches of the economy and every undertaking access to occupational health services. These services may be run jointly by several undertakings. If occupational health services are not established by every undertaking the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. The Committee will then assess whether sufficient progress has been made.

The report indicates that there is no statutory requirement in Ireland for employers to provide access to occupational health services but many employers now have the knowledge and tools to systematically manage health and safety in their workplaces. Larger organisations in both the public and private sectors may directly provide occupational health services for employees. These services are provided voluntarily and on a full or part time basis depending on the number of employees and the particular employment sector. The services provided may include rehabilitation, absence management and health promotion.

The report states that the preventive and advisory activities will be developed in light of the increased focus in the HSA's Strategy 2016-2018 on workplace and wellbeing, aimed at promoting the progressive development of occupational health services for all workers. The Committee notes that the Strategy was introduced outside the reference period, it accordingly asks the next report to provide updated information on its implementation. In the meantime, it reiterates its previous finding of non-conformity.

#### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 3§4 of the Charter on the ground that during the reference period there was no strategy to develop occupational health services for all workers.

## **Article 11 - 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 Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, registered on 13 April 2017.

### **Measures to ensure the highest possible standard of health**

The Committee notes from WHO that life expectancy at birth in 2015 (average for both sexes) was 81.4 (compared to 80.6 in 2010). According to Eurostat, life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015.

The report indicates that three quarters of deaths in Ireland are due to three chronic disease areas: cancer, cardiovascular and respiratory diseases. Measures were taken by the Health Service Executive (HSE) to prioritise a number of chronic diseases such as COPD, asthma, heart failure and diabetes. A national policy framework for the prevention and management of chronic disease has been in place since 2008. The Committee requests updated information on the implementation of the measures taken to address the main causes of death.

The Committee notes from Eurostat that the infant mortality rate has slightly decreased during the reference period from 3.5 deaths per 1,000 live births in 2012 to 3.3 deaths per 1,000 live births in 2014 and 3.4 deaths per 1,000 live births in 2015. Maternal mortality remained stable during the reference period (8 per 100,000 live births in 2015). The Committee asks for updated figures in the next report on the death rate, as well as on infant and maternal mortality rates.

The report provides information on the national framework – *'Healthy Ireland, A Framework for Improved Health and Wellbeing 2013-2025'* and its action plans. The Committee asks to be kept informed on the outcomes and impact of the measures undertaken under this framework on the health and well-being of the population.

### **Access to health care**

The Committee notes from OECD statistics that the total expenditure on health as a percentage of GDP amounted to 9.4% in 2015 (an increase on 2006 when such expenditure amounted to 7.5%), while it amounted to 10.1% in 2012 and 2014).

The Committee noted previously that the Irish health care system is a mix of both public and private institutions and funders. It is primarily tax financed. It also noted that the health care system has been subject to ongoing changes since the adoption in 2003 of the Health Service Reform Programme (Conclusions 2009). The Committee asks the next report to provide an updated description of the health care system.

As regards waiting times, the Committee noted previously that a common waiting list operated by public hospitals will apply to both public and private patients. Status on the common waiting list will be determined by need only. It also noted that the National Treatment Purchase Fund (NTPF) was established to purchase treatments, primarily in private hospitals for public patients who had been longest of surgical in patient waiting lists (Conclusions 2009). The report does not provide any information on this matter.

The Committee takes note of the comments submitted by the Irish Human Rights and Equality Commission stating that given the particular public – private mix in the Irish healthcare system, excessive delays in accessing medical care represent a significant problem. The Commission also provides data showing that for both outpatient and inpatient treatments, waiting times for patients in the public health care system have increased during the reference period. The Committee asks that the next report provide information on the measures taken to reduce the waiting times both for outpatient and inpatient treatments as

well as concrete figures on the average waiting times for both the public and private systems.

The Committee further takes note of the comments of the Irish Human Rights and Equality Commission stating that the most recent official data shows significant differences in mortality and illness between different socio-economic groups. Moreover, data show that the charges for prescribed medicines increased during the reference period (from Eur 0.50 to Eur 1.50); a recent study found that the introduction and the increase of the prescription charges were associated with decreases in the use of prescribed medicines. The Committee asks the next report to provide updated information on the proportion of out-of-pocket payments for health care.

The Committee notes from the report that levels of overweight and obesity have increased dramatically with 60% of adults and one in four children in Ireland either overweight or obese. It further notes that the programme '*A Healthy Weight for Ireland – Obesity Policy and Action Plan 2016-2025*' was launched in September 2016 (outside the reference period). The policy and action plan aim to reverse obesity trends, to prevent health complications and reduce the overall burden for individuals, families, the health system and society more widely and the economy. '*A Healthy Weight for Ireland*' recognises that there are socio-economic inequalities in the occurrence of obesity in Ireland with rates considerably higher in the most disadvantaged areas. Action will be taken by the Health Service Executive to develop community based health promotion programmes with special focus on disadvantaged areas. The Committee takes note of the range of actions planned to be undertaken to address the growing concerns about overweight and obesity. It requests that the next report contain updated information on the implementation of such measures and their outcomes.

With regard to mental health, the Committee takes note of the comments of the Irish Human Rights and Equality Commission concerning access to mental health services by women living in direct provision, the treatment of individuals under 18 years in adult facilities in practice, and the fact that the provision of mental health services is significantly below the level identified as necessary in the national strategy for mental health. The Committee asks that the next report contain information on the availability of mental health care and treatment services. This should include information on measures focused on ensuring both the prevention of and recovery from mental disorders.

Given the lack of information in the report, in particular as regards waiting times and the proportion of out-of-pocket payments for healthcare, the Committee considers that it has not been established that the right of access to healthcare is guaranteed in practice.

The Committee asks that the next report contain information on dental care services and treatments (such as who is entitled to free dental treatment, the costs for the main treatments and the proportion of out-of-pocket payments made by patients).

In its previous conclusion, the Committee asked whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other invasive medical treatment which could impair their health or physical integrity (Conclusions 2013, General Introduction). The report does not provide any information on this point. The Committee takes note of the comments of the Irish Human Rights and Equality Commission alleging that health care for transgender persons is inadequate in terms of meeting their needs, reflecting complex processes, inadequate provision of services, and inadequate levels of knowledge and awareness among health professionals. The Committee reiterates its question.

### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 11§1 of the Charter on the ground that it has not been established that the right of access to healthcare is guaranteed in practice.

## **Article 11 - Right to protection of health**

### *Paragraph 2 - Advisory and educational facilities*

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

### ***Education and awareness raising***

The report states that the programme '*Healthy Ireland, A Framework for Improved Health and Wellbeing 2013-2025*', will contribute to raising awareness and promoting healthy lifestyle choices among the public by understanding and acknowledging the broad causes of ill-health and by devising targeted, intersectoral public information strategies and actions to address those causes.

The report further indicates that one of the measures taken through "Healthy Ireland" is a commitment to fully implement Social Personal and Health Education (SPHE) in primary, post-primary and Youthreach settings, including implementation of the Physical Education programme and the Active Schools Flag initiative. Other measures concern the commitment to support, link with and further improve existing partnerships, strategies and initiatives that aim to improve the capacity of parents, carers and families to support healthier choices for their children and themselves. The Committee asks to be kept informed on the implementation of such measures and their impact on the health and well-being of pupils and youth.

The Committee notes that a consultation was conducted with children and young people to ensure their input of informed '*A Healthy Weight for Ireland, Obesity Policy and Action Plan, 2016-2025*'. Actions proposed in *A Healthy Weight for Ireland* directly address the issues raised in the consultations with children and young people on what helps them and what challenges they face in having a healthy lifestyle, including those on the importance of healthy food, physical activity, the consequences of smoking, etc.

The Committee takes note of the information provided in the report on the awareness raising campaigns on topics such as smoking, mental health, sexual health, breastfeeding, healthy food, physical activity, cancer and diabetic screens.

### ***Counselling and screening***

The Committee previously took note of the screening programmes available for children at school and for pregnant women, as well as for certain types of cancers (Conclusions 2009). It asked for updated information on this point (Conclusions 2013).

The report does not provide any information on this point. The Committee asks for updated information on the types of consultation and screening available for pregnant women and children throughout the country, in urban as well as rural areas.

The Committee recalls that pursuant to this provision there should be screening, preferably systematic, for the diseases which constitute the principal cause of death (Conclusions 2005, Republic of Moldova). Preventive screening must play an effective role in improving the population's state of health. The Committee reiterates its request for specific information on mass screening programmes for diseases which constitute the main causes of death. Meanwhile, it reserves its position on this point.

### *Conclusion*

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

## **Article 11 - Right to protection of health**

### *Paragraph 3 - Prevention of diseases and accidents*

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

#### ***Healthy environment***

The report does not provide any information on the concrete measures taken to reduce air and water pollution. Nor does it provide any figures on levels and trends with regard to air pollution and water contamination during the reference period. The Committee underlines that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Concerning asbestos, in its Conclusions 2015, the Committee noted that the placing on the market, supply, use and further adaptation of asbestos fibres of all types, and of products containing asbestos fibres, is prohibited under the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation. It concluded that the situation was in conformity with the Charter on this point (Conclusions 2015). The current report adds that the Health and Safety Authority is the lead competent and enforcement authority for REACH in Ireland.

With regard to food safety, the Committee takes note of the measures taken through the policy “*A Healthy Weight for Ireland – Obesity Policy and Action Plan 2016-2025*” which was launched in September 2016 (outside the reference period). It asks the next report to provide updated information on the implementation/progress of this Plan and its outcomes.

#### ***Tobacco, alcohol and drugs***

As regards awareness raising measures on the risks associated with tobacco, alcohol and drugs the Committee refers to its conclusion under Article 11§2.

The Committee takes note from the report of the information regarding the tobacco control measures already taken such as graphic warnings, a ban on smoking in cars where children are present and adoption of the EU Tobacco Products Directive. The tobacco policy “*Tobacco Free Ireland*” sets a target for Ireland to be tobacco free by 2025 (namely a smoking prevalence rate of less than 5%) and introduced the Public Health (Standardised Packaging of Tobacco) Act 2015 as well as the development of legislation for the sale of tobacco products and non-medicinal nicotine delivery systems. The Healthy Ireland 2016 Survey found that 19% of those aged 15 years and older smoke daily (24% in 2007). The Health Behaviour in School Children Survey 2014 found that 8% of those between 10 and 17 years currently smoke (defined as smoking at least once a month), down from 15% in 2006.

With regard to measures taken to reduce alcohol consumption, the report indicates that under the “*Healthy Ireland*” national framework, a Public Health (Alcohol) Bill is planned to be adopted which includes provision for labeling of alcohol products, the regulation of advertising and marketing of alcohol, as well as the regulation of sale and supply of alcohol in certain circumstances. The Committee asks for any developments regarding the adoption of this Bill. It also requests updated figures on the rates and trends in alcohol consumption.

The Committee asks for information in the next report on the measures taken to address drug addiction and updated figures on drug consumption.

#### ***Immunisation and epidemiological monitoring***

The Committee takes note of the detailed information concerning the Primary Childhood Immunisation Schedule and the Schools Immunisation Programme, as well as the immunisation programmes for adults. Both Childhood and Adult immunisation programmes are delivered by the Health Service Executive (HSE) through their National Immunisation Office (NIO).

The Committee notes the coverage rates for various vaccines which are quite high. The report mentions that vaccination uptake rates for MMR vaccine (measles, mumps, and rubella) continue to show improvements. Figures for 2014/2015 show that HPV (Infection with Human Papillomavirus) vaccine uptake was 87%, the highest rate since the programme began in 2010.

The Committee takes note from the report of the international and national regulations concerning the prevention and control of infectious diseases. The report mentions that the prevention of ill-health caused by sexually transmitted infections is a key priority under '*Healthy Ireland*'.

### **Accidents**

The Committee has repeatedly requested information on measures taken to prevent accidents, in particular road accidents and domestic accidents, as well as information on trends in accidents. The report failed to provide information on this topic, therefore the Committee concluded that it has not been established that the situation is in conformity with the Charter in this respect (Conclusions 2009 and 2013).

In its Conclusion 2015, the Committee reiterated its conclusion that it has not been established that adequate measures were in place to prevent and reduce accidents, since no information on the main sorts of accidents examined under Article 11 was provided (Conclusions 2015).

The Committee notes that the current report provides information mainly on accidents at work. However, as indicated previously, the Committee examines such accidents under Article 3 and it refers to its most recent conclusions in respect of these provisions (Conclusions 2013 on Article 3, Ireland). The report only provides information on the measures taken to prevent harmful falls amongst persons aged 65 years and older. AFFINITY (Activating Falls and Fracture Prevention in Ireland Together) is the national project to implement the '*National Strategy for the Prevention of Falls and Fractures in Ireland's Ageing Population*' (2008). AFFINITY aims to prevent harmful falls amongst persons aged 65 years and older, enhance the management of falls and improve health and wellbeing through a focus on bone health (fracture prevention).

As regards accidents, the Committee recalls that States must take steps to prevent them. The main sorts of accident covered are road accidents, domestic accidents, accidents at school and accidents during leisure time (Conclusions 2005, Republic of Moldova). Noting that the report fails again to provide information on the figures and measures taken to prevent and reduce the main sort of accidents as examined under Article 11§3, the Committee maintains its conclusion of non-conformity on this point.

### **Conclusion**

The Committee concludes that the situation in Ireland is not in conformity with Article 11§3 of the Charter on the ground that that it has not been established that adequate measures are in place to prevent accidents.

## **Article 12 - 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 Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

With regard to **family** and **maternity benefits**, the Committee refers to its conclusions on, respectively, articles 16 and 8§1 (Conclusions 2011).

### ***Risks covered, financing of benefits and personal coverage***

The Committee refers to its previous conclusions for a description of the Irish social security system, and notes that it continues to cover all the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity, and survivors). The system also continues to be based on collective funding: it is funded by contributions (employers, employees) and by the State budget.

The Committee previously noted that the Irish social security system did not cover self-employed workers under all of its branches, such as work accidents and professional diseases and asked for clarifications in this respect. It notes from the report that no statistical data are available as regards the coverage of self-employed, as they are indeed excluded from the public social security system. It notes from MISSOC that self-employed workers are also excluded from sickness, invalidity and unemployment insurance schemes. As regards employees, the report indicates that, in 2014, there was 95% coverage for Illness benefits (2 227 854 insured against a total number of employees of 2 342 700), Jobseekers' benefits (2 227 695 insured), Contributory State Pension, Maternity benefits, and Invalidity benefits (2 227 844 insured for each of these branches). There was 98% coverage as regards Widow's/Widower's or Surviving Civil Partner (Contributory) Pension and Guardian's payment (2 299 991 insured). Coverage was 99.6% as regards Occupational Injury benefits (2 334 390 insured). According to the report, the total population of Ireland was estimated to be 4 609 600 in 2014, and approximately 60% of it (2 755 058 people, including self-employed persons and voluntary contributors) were active social insurance contributors.

The Committee recalls that in the meaning of Article 12 of the Charter, social security systems encompass universal schemes as well as professional ones and include contributory, non-contributory and combined allowances related to certain risks. With a view to guaranteeing effective protection of all members of society against the occurrence of social and economic risks, States must ensure the maintenance of their social security systems. Social security systems must be maintained at a sufficiently extensive and compulsory level. (Statement of Interpretation on Article 12, Conclusions XIV-1 (1998)). To assess whether a significant proportion of the total and/or active population in Ireland is guaranteed an effective right to social security with respect to the benefits provided under each branch, States parties are required to provide figures in percentage indicating the personal coverage of each branch of social security. The Committee requests that the next report provide updated detailed information concerning the personal coverage of social security risks during the relevant reference period. For healthcare, the report should provide the percentage of covered persons out of the entire population. For income-replacement benefits (unemployment, sickness, maternity and old-age), the report should provide the percentage of insured individuals out of the total active population. In the meantime, it reserves its position as regards the adequacy of social security coverage in Ireland.

### ***Adequacy of the benefits***

The Committee previously found (Conclusions 2009) that the minimum levels of sickness, unemployment, survivors, employment injury and invalidity benefits were inadequate. In its Conclusions 2013, the Committee maintained the same finding, as no report had been submitted.

The report contests the methodology followed for the assessment of the adequacy of benefits, and claims that National Statistics should be used (Central Statistics Office (CSO) – Survey on Income and Living Conditions), instead of the Eurostat data. The Committee recalls that in assessing the adequacy of the benefits, it compares the minimum benefits to certain threshold values of median equivalised disposable income for a single person expressed in Euros, threshold values which are available from Eurostat and/or from official national statistics using the same definition and methodology: the income of a household is established by summing all monetary income received from any source by each member of the household. In order to reflect differences in household size and composition, this total is divided by the number of "equivalent adults" using a standard scale (the so-called modified OECD equivalence scale). The resulting figure is attributed to each member of the household (Finnish Society of Social Rights v. Finland Complaint No. 88/2012, Decision on the merits of 9/09/2014). The Committee notes from the report that the national indicator proposed by the Irish authorities in the report is different from the Eurostat indicator, in that it takes into account additional available income (notably income from private insurance schemes) and uses a different scale than the standard OECD scale. The threshold value resulting from the Irish indicator cannot accordingly be considered to be equivalent, as regards its definition and methodology, to the indicator that the Committee applies, wherever possible, to all other States parties.

The report also claims that certain benefits can be supplemented by additional benefits. The Committee recalls in this respect that additional benefits are taken into account when the rate of minimum income replacement benefits, for a single person, stand between 40% and 50% of the median equivalised income (Conclusions 2013, Hungary). It is for the States Parties to prove that the supplementary benefits are effectively provided to all the persons concerned by social security benefits falling below the 50% threshold (Finnish Society of Social Rights v. Finland Complaint No. 88/2012, Decision on the merits of 9/09/2014). Furthermore, reliance on supplementary benefits of a social assistance nature should not transform the social security system into a basic social assistance system (Statement of interpretation on Article 12, Conclusions XIV-1 (1998)). The Committee notes that certain supplementary benefits referred to in the report are not relevant, as they do not concern a single person living alone (adult allowance for a couple, qualified child increase for dependant children, child benefits, back to school clothing and footwear allowance, early childcare supplement, family income supplement, family income supplement for low paid working families). It will take account on the other hand, where applicable, of the Living alone increase (€7.70 weekly) and the means-tested household fuel allowance (€10 weekly). As regards the household benefits package (€18.60 weekly), it notes that it is applicable to persons over 70 years old, and only in certain circumstances to people under 70. It asks the next report to clarify the circumstances under which this benefit is available to persons under 70.

The report provides some data concerning the level of benefits in 2014, compared to the CSO national indicator of 50% median income (€174.49 per week) and to the Eurostat data. The Irish Human Rights and Equality Commission indicates, in its comments, that the CSO national indicator of 50% median equivalised income was €180.76 per week in 2014 (40% was €144.61) and €191.65 per week in 2015 (40% was €153.32). The Committee notes, on the one hand, that the data presented in the report in respect of the CSO national indicator are not consistent and, on the other hand, that those presented in respect of Eurostat do not correspond to those available from the Eurostat database. It will accordingly use the official, publicly available data. According to these data, in 2014, the median equivalised income was €20 169 (€1681 monthly, €420 weekly). The poverty level, defined as 50% of the median equivalised income, was €10 085 (€840 monthly, €210 weekly) and 40% of the median equivalised income corresponded to €8 068 (€672 monthly, €168 weekly). In 2015, the median equivalised annual income was €21 688 (€1807 monthly, €452 weekly). 50% of it was €10 844 per year (€904 monthly, €226 weekly) and 40% of it was €723 monthly (€181 weekly).

The Committee previously noted that **sickness** benefits are granted in the form of a flat-rate illness benefit and family supplements, and that the system does not provide for the continuation of payment of salary from the employer. According to MISSOC, all employees and apprentices having paid the required number of weekly contributions (104, including 39 during the year preceding the year when the benefit is claimed or 26 in each of the two years preceding the year when the benefit is claimed) are eligible to it, except civil and public servants recruited prior to 6 April 1995, people aged 66 or more and those earning less than €38 per week. Self-employed people are also excluded from sickness insurance. Sickness benefits can be paid for up to 52-104 weeks, but no benefit is paid during the first 6 days of sickness. During the whole reference period, the rate of the benefit was set at €188 per week, i.e. between 40% and 50% of the median equivalised income. While certain family supplements may apply for dependant adults and children, the report does not indicate that any general supplement applies for a single person. The Committee accordingly considers that the minimum amount of sickness benefits is inadequate. Furthermore, the Irish Human Rights and Equality Commission points out in its comments that the rate of this benefit fell below the 50% threshold also when compared with the CSO national indicator.

The same flat-rate benefit of €188 per week (with supplements for dependant adults or children) is granted to employees in case of temporary incapacity due to **work accidents** or **occupational diseases**. These benefits are paid for a maximum duration of 156 days (Sundays excluded). The Committee considers that the minimum amount of this benefit is inadequate, for the same reasons as those indicated in respect of sickness benefits.

According to the report, a single person aged under 66 years in receipt of an **invalidity** pension received €193.50 per week in 2014 and, upon conditions of means, could also receive additional assistance benefits (Household Benefits Package and Fuel Allowance), which gave a total welfare income of €214.58 per week in 2014. The Committee notes that the global amount was adequate in 2014. However, as the invalidity pension rate remained unchanged during the whole reference period, the level of the benefit would fall below 50% of the median equivalised income in 2015, unless the Household Benefits Package and Fuel Allowance were increased. It asks the next report to specify the conditions under which a person might be entitled to Household Benefits Package and Fuel Allowance, the respective amounts of these supplements, and whether they are regularly updated. In the meantime it reserves its position on this point.

As regards **old-age pensions**, the Committee refers to its assessment under Article 23 as well as to its Conclusions under Article 12§3 as regards the reforms which affected the old-age pensions system during the reference period.

**Unemployment** benefits are a compulsory social insurance scheme with flat rate benefits (see Conclusions 2006 for details). The Committee notes from Missoc that, compared with the situation examined in Conclusions 2006, the qualifying conditions have been strengthened (a minimum of 104 weeks of contributions is now required, instead of 52, of which at least 39 weeks paid or credited in the previous contribution year, or 26 weeks paid in the two previous contribution years) and the maximum duration of payment has been shortened, from 390 days to 234 days (9 months), or 156 days (6 months) if the applicant paid less than 260 weekly contributions since first entering insurance (except if the applicant is 65, in which case the allowance will be paid until pension age, at 66, if 156 weekly contributions have been paid). Unemployment assistance is available, subject to a means test, to persons who have exhausted their entitlement to unemployment benefits and can be paid until the person qualifies for old-age pension.

The Committee previously noted (Conclusions 2006) that, during the first three months of unemployment, jobseekers could refuse to take up a job offer on the grounds that it did not meet their occupational requirements or experience without risking losing their unemployment benefits. It asks the next report to indicate whether this condition still applies,

on what grounds a jobseeker can refuse a job offer and what remedies are available to appeal against a suspension of unemployment benefits.

The rate of unemployment insurance benefits was, during the whole reference period, €188 per week. The same amount of €188 per week was granted in respect of unemployment assistance, except in case of new claimants aged below 25 years of age. In this case the unemployment assistance was €100 per week for persons aged 18 to 24 years and €144 per week for persons aged 25. The Committee notes that unemployment assistance for persons aged 25 years or below is manifestly inadequate and that the amount of unemployment assistance in the other cases and of unemployment insurance benefits falls between 40% and 50% of the median equivalised income. The Committee asks whether additional benefits are applicable to a single person and under what conditions. In the meantime, it reserves its position on this point. The Committee notes in this respect that the Irish Human Rights and Equality Commission points out in its comments that the rate of unemployment insurance benefits fell below the 50% threshold (and even below the 40% threshold as regards the payments to those aged 25 and younger in 2014 and 2015) even when compared with the CSO national indicator.

### *Conclusion*

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

- the minimum amount of sickness benefits is inadequate;
- the minimum amount of work injury and occupational diseases benefits is inadequate;
- the level of unemployment assistance for persons aged below 25 years is inadequate.

## **Article 12 - Right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

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

The Committee notes that Ireland ratified the European Code of Social Security on 16 February 1971 and has accepted Parts III (sickness benefit), IV (unemployment benefit, V (old-age benefit), VII (family benefit) and X (survivors' benefit).

The Committee notes from Resolution CM/ResCSS(2016)9 of the Committee of Ministers on the application of the European Code of Social Security by Ireland (period from 1 July 2014 to 30 June 2015) that the law and practice in Ireland continue to give full effect to Parts V, VII and X of the Code but do not fulfil obligations under Parts III and IV because they establish stricter conditions of entitlement to sickness and unemployment benefits than those provided under the Code.

The Committee notes from the report that the conditions referred to relate to the qualifying contribution conditions for Illness Benefit and Jobseeker's Benefit and the number of waiting days for Illness Benefit. The Committee also notes from the report that the Government was not in a position in Budget 2016 to alter these conditions; however, it is intended that they will be reconsidered in the context of the ongoing review and reform of Ireland's social welfare system, and prevailing fiscal constraints. The report also states that while Ireland's social security arrangements may not technically be in accordance with the Code, the spirit of those Parts is met by virtue of the comprehensive and inclusive nature of the overall system of supports.

The Committee recalls that in order to comply with Article 12§2 of the Charter, the social security system of states party shall satisfy at least six Parts of the European Code of Social Security (old-age counting for three under the Code). It follows that Ireland gives full effect to only five Parts.

### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 12§2 of the Charter on the ground that Ireland gives full effect to only five Parts of the European Code of Social Security.

## **Article 12 - 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 Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

Since Ireland has ratified Articles 8§1 and 16 of the Charter, the Committee will assess the scope and impact of the changes noted in the area of maternity and family benefits when it next examines compliance with these articles.

As regards the other branches of social security, the Committee takes note of the legislative developments during the reference period. The report refers to the following improvements in particular:

- the extension of voluntary social insurance coverage (as regards the contributory old-age state pensions and the maternity/paternity benefits), in 2014, to certain spouses and civil partners of people who are self-employed;
- the introduction in 2012 of a new Partial Capacity Benefit scheme, which allows people with disabilities who can work to avail of employment opportunities while continuing to receive an income support payment;
- the maintenance of low social contributions rates (a worker is insurable where his/her earnings reach €38 in any week), which allows employees working at the national minimum wage for less than 4.5 hours per week to remain covered by social insurance.

The Committee notes however the adoption of certain restrictive measures, as noted also in the comments of the Irish Human Rights and Equality Commission and other sources (ISSA, Missoc, ETUI), in particular:

- the 2012 introduction of more restrictive rules to be entitled to Disablement benefit (from January 2012, new applicants are required to have a disability classified at more than 15% in order to qualify for the Benefit – the Committee notes from Missoc that this change also concerns an incapacity occurring as a result of an occupational injury);
- the adoption, with effect from 1 January 2012, of taxation on all payments under the Occupational Injury Benefit scheme (prior to that, payments in the first six weeks in a tax year had been exempt from tax). The Committee notes from Missoc that this change also concerns Sickness benefits;
- the 2012 adoption of new rules concerning the payment of Jobseeker's Benefits whereby those who secure part-time work are entitled to a five-day week payment instead of six-day week payment;
- the reduction, in 2013, of the duration of payment of Jobseeker's Benefits for new claimants – the duration was reduced from 12 months to 9 months for recipients with 260 or more contributions paid and from 9 months to 6 months for recipients with fewer than 260 contributions paid;
- the increase, as from January 2014, of the waiting period (from 3 days to 6 days) before receiving Illness Benefits. The Committee notes from Missoc that this change also concerns Occupational Injury Benefits;
- the reduction in the amounts paid in respect of the contributory State Pension for one third of those who received pensions for the first time after September 2012 (see details under Article 23);
- the reduction, in April 2012, from 5 years to 6 months of the period during which a claim for a contributory state pension could be backdated;
- the abolition as from 2014 of the former State Pension (Transition), which was based on contributions and concerned workers born after 1947, and raising of the qualifying age for State pensions from 65 to 66 years, to be further raised to 67 in 2021 and 68 in 2028 (Social Welfare and Pensions Act 2011);

- the reduction of several secondary payments to recipients of the contributory and the non-contributory State Pensions (in 2012, the period of payment of the Fuel Allowance was reduced from 32 to 26 weeks, resulting in a reduction of €120 per year; in 2013, the Telephone Allowance was reduced from €26 to €9.50 per month, resulting in a reduction of €234 that year; in January 2014, the Telephone Allowance was abolished, resulting in a reduction of €114 in each of the remaining years of the reporting period and, in January 2015, the Electricity Allowance was changed to €35 per month, resulting in a reduction of approximately €105 per year).

The weekly rates of payments have furthermore remained unchanged over the whole reference period. The Irish Human Rights and Equality Commission points out in this regard that the maintenance of the level of benefits constant in terms of nominal amounts while incomes in the wider economy have risen over the reporting period (the median equivalised income increased by 8.2%) has resulted in more of the payment levels falling below the poverty threshold (see Conclusions 12§1).

The Committee recalls that a restrictive evolution in the social security system is not automatically in violation of Article 12§3, depending on the nature of the changes, the reasons given for them in the framework of the social and economic policy in which they arise, their extent, the existence of measures of social assistance for those who find themselves in a situation of need because of the changes made, and the results obtained by such changes. Even when individual restrictive measures are in conformity with the Charter, their cumulative effect can bring about a significant degradation of the standard of living and the living conditions of some groups of population, which would be not in conformity with Article 12§3 of the Charter. In particular, measures taken in order to consolidate public finances may be considered as a necessary means to ensure the maintenance and sustainability of the social security system. However, any modifications 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 (Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7 December 2012).

The report explains that the maintenance of the same rates of benefits during the reference period was necessary in order to achieve fiscal consolidation by the end of 2014 and points out that no reduction to the weekly rates of payment was applied despite the increase in welfare dependency. According to the report, during the recession Ireland adopted certain practices to minimise the impact of fiscal consolidation on vulnerable groups through consultation, social impact assessment and maintaining a basic level of social protection. It also indicates that, as the country has recovered financial stability since then, the Government intends to take new measures aimed at improving the living standards of families in the country. The measures at issue relate mainly to job creation and incentives to work (for example, the introduction of the Back to Work Family Dividend in 2015).

While taking note of the explanations provided to justify the introduction of restrictive measures during the economic recession, the Committee notes that the report does not clarify what concrete steps were taken to prevent a significant degradation of the standard of living and the living conditions of some groups of the population and what was the impact of such measures. It also notes that many of the restrictions introduced were still in force at the end of the reference period, after the economic situation had improved. It accordingly considers that the situation is not in conformity with Article 12§3 of the Charter on account of the restrictive evolution of the social security system during the reference period.

The report also mentions measures that have come into force outside the reference period, in particular increases in the welfare support package for low-waged households and measures aimed at promoting employment and return to work, also in respect of beneficiaries of illness and disability benefits. Furthermore, according to the report, the

Government is considering extending social insurance coverage in terms of Invalidity and Partial Capacity Benefit to self-employed people. The Committee asks the next report to provide information on the implementation and impact of these measures.

#### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 12§3 of the Charter on account of the restrictions introduced in terms of the social security system during the reference period, as well as the fact that some of these restrictions were maintained even after the economic situation had improved.

## **Article 12 - 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 Ireland.

### **Equality of treatment and retention of accrued benefits (Article 12§4)**

#### **Right to equal treatment**

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

The Committee recalls that, having regard to the EU legislation on the social coordination of social security systems of the EU Member States (governed by Regulations (EC) No. 883/2004 and (EC) No. 987/2009, as amended by Regulation (EU) No. 1231/2010), EU Member States are considered, in principle, to ensure equal treatment between, on the one hand, their nationals and, on the other hand, nationals of other EU Member States or member of the EEA, stateless persons, refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, their families and their survivors, as well as nationals of third countries, members of their families and their survivors, provided that such persons are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State.

The Committee recalls that, in any event, under the Charter, EU/EEA Member States are required to secure to the nationals of other States Parties to the 1961 Charter and to the Charter (regardless of their EU or EEA membership), equal treatment with respect to social security rights provided they are lawfully resident in their territory (Conclusions XVIII-1 (2006)). In order to do so, they have either to conclude bilateral agreements with them or take unilateral measures.

As regards bilateral agreements concluded with States Parties not members of the EU or EEA, the report provides no information.

As regards unilateral measures taken by Ireland, the report states that equal treatment between nationals and nationals of other States Parties in the social welfare system is secured under Irish legislation without the need for bilateral agreements in so far as social security benefits are not subject to nationality conditions. In other words, a person of any nationality can qualify for benefits on the same basis and is subject to the same conditions as Irish nationals. Payment of benefits requires, under Irish legislation, the persons claiming together with their dependants, to be habitual resident in Ireland. This applies to short-term social insurance benefits, Child benefit and all social assistance benefits.

With regard to the "habitual resident" condition (HRC), the Committee previously noted (Conclusions 2006) that such a condition applies to anyone with a right to reside coming to Ireland from elsewhere, including Irish nationals returning after time abroad. The Committee notes from the guidelines of the Ministry of Employment Affairs and Social Protection on the determination of Habitual Residence that the HRC does not apply to the EEA/EU nationals working regularly in Ireland. It notes however that a person with habitual residence in the "Common Travel Area" who exercised his or her right to freedom of movement and then returns to resume his or her residence in the said area may not be habitually resident immediately on his or her return, pursuant to the *Swaddling v. CAO* case ruled by the Court of Justice of the EU (case C-90/97, ECLI:EU:C:1999:96).

The Committee also observes from the abovementioned guidelines that the HRC has two steps: a test of legal right to reside, and a test of factual habitual residence, taking into account the individual's personal circumstances and not only the length of residence in

Ireland. According to the guidelines, the HRC "implies a close association between the applicant and the country [...] and relies heavily on fact".

Thus, when deciding where a person is habitually resident, the competent authorities take into account at least the five following factors (See case *Di Paolo* ruled by the Court of justice of the UE (case 76/76, ECLI:EU:C:1977:32)):

- The person's main center of interest (for example where the person has a home or a close family);
- The length and continuity of residence in the country (the person concerned must have actually taken up residence and lived there "for some time, from a date in the past, and is intending to stay for a period into the foreseeable future". The period is not fixed and depends on the facts of each case, given that the right of residence alone does not guarantee in itself that a person is habitually resident);
- The length and purpose of the absence from that country;
- The nature of the employment found in the other country to which the person moved for a time, and
- The intention of the claimant.

These factors are neither exhaustive nor conclusive and any other relevant information must also be considered.

The abovementioned guidelines also emphasize that a claimant must be habitually resident in the State at the date of the time of making the application, and must, since the entry into force of Section 246 (1) (a) inserted by the Social Welfare and Pensions Act 2014 on 17 July 2014, remains habitually resident afterwards in order for any entitlement to subsist.

Finally, the Committee notes that a claimant who is not satisfied with the decision of the competent authorities has the right of review and/or appeal.

To enable it to assess the situation precisely, the Committee asks for information in the next report on the number of foreign nationals who have been refused the payment of social benefits and/or allowances on the ground that they did not satisfy the HRC. It also asks for Ireland to provide relevant national case-law related to this subject matter, in particular related to the required period of time for eligibility for such payments. In the meantime, the Committee reserves its position on this point.

In respect of payment of family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, Conclusions XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusions 2006, Cyprus).

According to the report, family benefits are paid to all parents residing in Ireland with their children regardless of their nationality. The report further indicates that Ireland does not intend to negotiate agreements with States which apply a different principle.

For these reasons, the Committee considers that the Irish legislation with respect to family benefits in force does not ensure equal treatment between nationals and nationals of other States Parties.

### ***Right to retain accrued benefits***

The report states that Ireland has no plan to conclude any new bilateral agreements with other States Parties. It considers otherwise that nationals of other States Parties who are legally resident in the EU and are in a cross border situation are covered by Regulations (EC) No. 883/2004 and 987/2009 on the coordination of social security systems, in accordance with Regulation (EU) No. 1231/2010. As regard those who are not covered by

the above Regulations, the report refers to the Association and Stabilisation Agreements (SAAs) concluded between the EU and its Member States, on the one hand, and Albania, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia, on the other hand.

The Committee notes the SAAs do not provide sufficient guarantees as such since they do not coordinate social security systems of Albania, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia with those of the EU Member States, but rather entrust the Stabilisation and Association Councils (hereinafter "SACs") with this task. The Committee considers that, in absence of SACs decisions on the matter, the SAAs do not guarantee as such the retention of accrued benefits for nationals of Albania, Armenia, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia.

The report also states that, in addition to these agreements, Irish legislation already guarantees the possibility of exporting benefits and pensions to other States Parties.

The Committee recalls its previous conclusions (Conclusions 2006, 2009 and 2013) where it found the situation to be in conformity with the Charter because old age benefit, invalidity benefit, survivor's benefit and work accidents or occupational disease benefit acquired under the legislation of one State according to the eligibility criteria laid down under national legislation are maintained whatever the movements of the beneficiary and irrespective of nationality.

The Committee therefore considers that the situation is in conformity in this respect.

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

The Committee recalls that there should be no disadvantage for persons who change their country of employment where they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. This requires, where necessary, the aggregation of employment or insurance periods completed in another territory and, in the case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefit (Conclusions XIV-1 (1998), Portugal).

States Parties may choose between the following means in order to ensure maintenance of accruing rights: multilateral convention, bilateral agreement, or unilateral, legislative or administrative measures.

The report indicates that nationals of States Parties covered by EU regulations on the coordination of social security systems or those that fall under the terms of bilateral social security agreements concluded by Ireland can aggregate contributions to enable them to qualify for payments covered by these regulations and agreements. The report provides no information on nationals of States Parties not covered by those EU Regulations or bound by bilateral agreement. The Committee notes in this regard that SAAs do not provide sufficient guarantees. This is because they do not coordinate social security systems of Albania, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia with those of the EU Member States, but rather entrust the SACs with this task. The Committee considers that, in absence of SACs decisions in the matter, the SAAs do not guarantee as such the accumulation of insurance or employment periods for nationals for nationals of Albania, Armenia, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia. Since the situation has not changed, the Committee reiterates its finding of non-conformity on this point.

### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 12§4 of the Charter on the grounds that:

- equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- nationals of States Parties not covered by EU regulations or not bound by an agreement concluded with Ireland have no possibility of accumulating insurance or employment periods completed in other countries.

## **Article 13 - 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 Ireland. It also takes notes of the information contained in the comments by the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

### ***Types of benefits and eligibility criteria***

According to the report, there have been no changes to the types of benefits and eligibility criteria. The Supplementary Welfare Allowance scheme provides differential flat-rate cash benefits for persons whose means are insufficient to meet their needs.

### ***Level of benefits***

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

- Basic benefits: the Committee notes from MISSOC that Supplementary Welfare Allowance stood at € 806 for a single person. Jobseeker's Allowance stood at € 815 for a single person in 2015. According to the report, the basic Supplementary Welfare Allowance rate is € 186 per week, while Jobseeker's Allowance stood at € 188 per week. The Committee notes that the level of the basic Supplementary Welfare Allowance has remained unchanged since the previous reference period.
- Additional benefits: according to the report, the Rent Supplement scheme provides short-term support to those eligible persons living in private rented accommodation whose means are insufficient to meet their accommodation costs. The level of support depends on the location of the rented accommodation and the size of the family. The Fuel Allowance was increased from € 20 to € 22,50 in 2016 and was paid for 26 weeks in the 2015-2016 season. The Committee notes that the duration of this benefit was reduced from 32 to 26 weeks compared to the previous reference period. The Committee also notes that the Mortgage Interest Supplement scheme was discontinued for new applicants from 1 January 2014.
- Medical assistance: in its previous conclusion the Committee noted that persons fully dependent on a non-contributory minimum have full eligibility for health services. It notes from the report that any person who present for healthcare will be treated.
- The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty value, was estimated to be € 904 in 2015.

In the light of the above data, the Committee considers the level of social assistance is not adequate on the basis that the total amount of assistance that can be obtained by a single person without resources, including the basic assistance as well as other benefits is not compatible with the poverty threshold.

The Committee notes from the comments of the Irish Human Rights and Equality Commission that where an applicant for Jobseeker's Assistance is aged 24 or younger and is living with his/her parent or step-parent, the means test takes account of parental income. These rules assume that the person under 24 is provided with free or subsidised meals and accommodation. The Commission is concerned that the regime in respect of Jobseeker's Allowance for persons under the age of 24 years often denies them access to an adequate minimum income where they are living in the family home.

The Committee asks whether young persons below 24 years of age, living with their parents would be eligible for the Supplementary Welfare Allowance at the full rate.

### ***Right of appeal and legal aid***

The Committee notes that the report does not provide any update concerning the right of appeal and legal aid.

The Committee notes from the comments of the Irish Human Rights and Equality Commission that there are a number of concerns in respect of the independence of the Social Welfare Appeals office. The Commission refers to the report by an NGO (Free Legal Advice Centres), according to which it is not clear, given the position of the Appeals Office as a section of the Department, that all the necessary safeguards are in place to ensure its actual and perceived independence.

The Committee recalls that when examining the national situations, the Committee focuses on the judicial role of the review body, which is to rule on cases within its jurisdiction and hand down binding decisions based on the law. The body may therefore be an ordinary court or an administrative body, provided that it is a body independent of the executive and of the parties. In deciding whether a body may be considered independent, the Committee examines the manner of appointment of its members, the duration of their term of office and existing safeguards against outside pressures (rules governing removal from office, dismissal, instructions, qualifications required, etc.). The review body must have the power to judge the case on its merits, not merely on points of law. If this requirement concerning the scope of the appeal is not satisfied in the first instance, it must be satisfied at a subsequent level of review.

The Committee asks the next report to explain how these requirements are met in law and in practice.

### ***Personal scope***

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation of Articles 13§1 and 13§4 (Conclusions 2013) regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that as regards emergency social and medical assistance, foreign nationals in an irregular situation in the territory of the State concerned are also covered under Article 13§1, rather than under Article 13§4, which was previously its practice.

The Committee henceforth examines whether the States who have accepted Article 13§1 ensure the right to:

- adequate social and medical assistance for their own nationals and for nationals of other States Parties lawfully resident within their territory on an equal footing;
- emergency social and medical assistance to foreign nationals unlawfully present in their territory.

### ***Nationals of other States Parties lawfully resident in the territory***

In its conclusion 2015 the Committee considered that the situation as regards access to medical assistance for lawfully resident foreign nationals was in conformity with the Charter. The Committee understands (Conclusions 2009, 2013 and 2015) that nationals of other States Parties ordinarily resident in Ireland are treated on an equal footing with nationals as regards access to both social and medical assistance for persons without resources.

The report reiterates that the Irish Public Health System provides for two categories of eligibility for persons ordinarily resident in the country: full eligibility (medical cardholders) and limited eligibility (all others). Full eligibility is determined mainly by reference to income limits. Determination of an individual's eligibility status is the responsibility of the Health Service Executive. The Committee asks whether persons without resources in receipt of

Supplementary Welfare allowance or Jobseeker's allowance (including nationals of other States Parties lawfully resident in the territory) would be entitled to adequate medical assistance.

***Foreign nationals unlawfully present in the territory***

In its Conclusion 2015 the Committee sought confirmation that migrants in an irregular situation would also benefit from urgent medical care in case of need.

In this connection, the Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The Committee cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The Committee has considered that even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country (Complaint No. 90/2013, Conference of European Churches (CEC) v. the Netherlands, decision on the merits of 1 July 2014, §123).

The Committee asks the next report to explain how these requirements are met in law and in practice.

*Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance provided to a single person without resources is not adequate.

## **Article 13 - 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 Ireland.

The Committee notes from the report the Government's view that the receipt of social and medical assistance does not diminish political or social rights in any way. The Committee asks the next report to provide updated information as regards the prohibition of discrimination against persons receiving social and medical assistance in the exercise of their political or social rights. In particular, the Committee requests information about the existence of legal provisions that prohibit such discrimination.

### *Conclusion*

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

## **Article 13 - 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 Ireland.

According to the report, the Citizens Information Board (CIB) supports the provision of information, advice (including money advice and budgeting) and advocacy services on a wide range of public and social services. It provides some services directly to the public through the website which has a prominent link on the [www.gov.ie](http://www.gov.ie) and [www.welfare.ie](http://www.welfare.ie) homepages. It provides core developmental supports and directly funds and supports an extensive range of services through its delivery partners.

The Committee notes from the report that the main functions of the CIB are to ensure that individuals have access to accurate, comprehensive and clear information relating to social services. This is achieved through:

- assisting and supporting individuals, in particular those with disabilities, in identifying and understanding their needs and options;
- promoting greater accessibility, coordination and public awareness of social services;•
- supporting, promoting and developing the provision of information on the effectiveness of current social policy and services and highlighting issues which are of concern to users of those services;•
- Supporting the provision of, or directly providing, advocacy services for people with disabilities.

The Committee takes note of the activities of the Service Delivery Partners of CIB, such as a network of 42 Citizens Information Services (CISs) which operate from 223 locations nationwide. The Citizens Information Services handled almost 991,000 queries from some 608,000 people nationwide in 2015. The queries related to social welfare, health, employment, money tax, housing and local issues.

### *Conclusion*

The Committee concludes that the situation in Ireland is in conformity with Article 13§3 of the Charter.

## **Article 13 - 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 Ireland.

The Committee refers to its conclusion under Article 13§1 (personal scope) and recalls that Article 13§4 from now on will cover emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

The Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the 'urgency' and 'seriousness' criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171).

The Committee noted in its Conclusion 2015 that any person lawfully present and not ordinarily resident is granted healthcare at the discretion of the local health manager (for an individual service when s/he considers this to be justified on hardship grounds) under Section 45(7) of the Health Act 1970, to allow them to continue their stay in Ireland or else until the person is well enough to return home. The treatment does not extend to non-urgent or elective treatment which can reasonably be postponed until they return to their own country. Such discretion is not prescribed. However in practice, there is no question of urgent medical care being refused to persons who are not ordinarily resident and neither is distinction made as to whether the person is legally present or otherwise.

The Committee notes from the report that the HSE has, under Section 45(7) of the Health Act 1970, the discretion to consider any person who is not ordinarily resident in the State as being a person with full eligibility for health services and receive the service free of charge, if such person is unable, without undue hardship, to provide a service (in the relation to their health) .

A person presenting with an urgent medical need, as determined by a medical practitioner, will be given the necessary treatment regardless of the legality of their presence in the state territory. Consequently, no data exists as to the number of cases where medical assistance has been refused on the basis of a failure to satisfy the requirement to be ordinarily resident, as such refusals do not occur. According to the report, denial of access to care for any group is not an option.

The report further explains that the person's status with regard to being ordinarily resident is however taken into account when it comes to the treatment provider's attempts to recoup the costs of the treatment provided. This is due to the fact that those persons as described above are liable to be charged for the economic cost of treatment received. Section 45(7) of the Health Act 1970 provides discretion to the local health manager in determining whether paying for the service provided will cause the person undue hardship. This does not mean that the treatment is provided free of charge. An appropriate charge is raised and hospitals must take reasonable steps to recover any such charge. However, they may, on direction of the local health manager, not actively pursue recovery of that charge where it is considered not to be cost effective to do so.

The report provides information concerning persons seeking international protection. According to the report, the State provides support services through a system known as the direct provision system. The quality of services provided to those in the direct provision system is under constant review. Each centre is inspected without notice three times a year. Contract with service providers are continually updated so that best practice in the provision of care to those seeking international protection is continually provided.

The Committee notes from comments of the Irish Human Rights and Equality Commission that significant numbers of people seeking asylum in Ireland remain in direct provision for very long periods. The annual report of the Reception and Integration Agency for 2015 records that more than one third (34.7%) of asylum seekers had been in the direct provision system for longer than four years, and 14% had been in direct provision for more than seven years. The Committee asks whether the scope of social and medical assistance provided in these cases is still limited to emergency assistance.

The Committee asks the next report to provide updated information about the provision of emergency social and medical assistance to all lawfully present foreign nationals, including asylum seekers.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Ireland is in conformity with Article 13§4 of the Charter.

## **Article 14 - Right to benefit from social services**

### *Paragraph 1 - Promotion or provision of social services*

The Committee takes note of the information contained in the report submitted by Ireland. It also takes also note of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

### **Organisation of the social services**

In reply to the Committee's request for information on specific services for children and young persons (Conclusions 2013), the report indicates that a specific programme called "Area Based Childhood"(ABC) Programme exists for the period 2013-2017. This is a prevention and early intervention initiative consisting of committed funding for an area-based approach aimed at helping to improve outcomes for children by reducing child poverty. The ABC Programme aims to break "the cycle of child poverty within areas where it is most deeply entrenched and where children are most disadvantaged, through integrated and effective services and interventions". The focus of activities under the ABC programme covers in the main Child Health & Development; Children's Learning; Parenting; and Integrated Service Delivery. The ABC Programme is jointly funded by the Department of Children and Youth Affairs and the Atlantic Philanthropies (the total amount is €29.7m). In addition, the report provides information on the provision of a number of specific social welfare services including children's supports (area-based measures to reduce child poverty, foster and residential care), and the Child and Family Agency established in 2014 with the aim to supporting and encouraging the effective functioning of families.

The Committee notes from the examples given in the Irish Human Rights and Equality Commission's comments that homeless services, domestic violence services, children's services, disability services, and care services for older people demonstrate significant shortcomings in the overall organisation and functioning of social services as required by Article 14§1, in particular as regard to the level of provisions, the absence of standards or inadequate standards in a range of social services. Therefore, the Committee asks that the next report provide updated information on the organisation of social services and reserves its position on this point.

### **Effective and equal access**

In Conclusions 2015, the Committee considered again that it has not been established that the situation was in non-conformity with Article 14§1 of the Charter since the report failed to reply, in particular to the information requested in relation to fees for social services and on the total amount of annual spending on social services and on the total number of staff and their qualification.

The Committee notes that the report does not address the two matters that gave rise to a finding of non-conformity with Article 14§1 when the Committee last examined Ireland on this paragraph (Conclusions 2015): fees for social welfare services and whether fees prevent effective access to social services. Therefore, the Committee reiterates its conclusion of non-conformity on these grounds.

### **Quality of services**

The Committee recalls that under Article 14§1 the right to social services must be guaranteed in law and in practice. Social services must have resources matching their responsibilities and the changing needs of users. This implies that: – staff shall be qualified and in sufficient numbers; – decision-making shall be as close to users as possible; – there must be mechanisms for supervising the adequacy of services, public as well as private (Conclusions 2005, Bulgaria).

The Committee notes that despite the lengthy description on a number of aspects of the health services no answers to its questions on the total amount of spending on social services, the total number of social services, the total number of staff working in social services and their qualifications is provided. Therefore, the Committee reiterates its conclusion of non-conformity on these points.

#### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 14§1 of the Charter on the grounds that:

- it has not been established that there is an effective and equal access to social services;
- it has not been established that the quality of social welfare services meets users' needs.

## **Article 14 - Right to benefit from social services**

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

The Committee takes note of the information contained in the report submitted by Ireland. It also takes also note of the information contained in the comments of the Irish Human Rights and Equality Commission (an independent public authority), transmitted on 13 April 2017.

The Comments of the Irish Human Rights and Equality Commission indicate that, according to a 2014 study, the Government's funding for the community and voluntary sector was reduced by 35 percent in the period 2008-2014. The same study reported that 'funding has fallen most sharply in those funding lines reaching the most disadvantaged groups and communities, especially community development'. In this respect the Committee asks about the impact of funding cuts and structural changes on the capacity of the community and voluntary sector to participate in the delivery of social services.

In its previous conclusions (Conclusions 2013 and 2015), the Committee repeatedly requested information about user involvement in the management of social services. As the report, once more, fails to provide this information, the Committee considers that there is nothing to establish that the situation is in conformity with the Charter on this point.

The Committee also previously requested information (Conclusions 2015): a) on the Charities Regulatory Authority; b) on the kinds of supervisory quality control mechanisms that are in place to ensure the quality of services; c) on the remedies available to users in case of shortcomings; d) on how non-discrimination is ensured in respect of social services provided by the community and voluntary sector.

In reply to these questions the report indicates that the Charities Regulator is Ireland's national statutory regulator for charitable organisations. The Charities Regulator is an independent authority and was established in October 2014 in terms of the Charities Act 2009. Its key functions are to establish and maintain a public register of charitable organisations operating in Ireland and to ensure their compliance with the Charities Acts. Under Part IV of the Charities Act 2009, the Regulator has the power to conduct statutory investigations into any organisation believed to be non-compliant with the charities acts. Anyone with information of wrongdoing can contact the Regulator, including by email, and all concerns raised are dealt with in confidence.

The Committee recalls that States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of users as well as respect for human dignity and basic freedoms, an effective preventive and reparative supervisory system is required (Conclusions 2005, Bulgaria). In this respect, the Committee asks what kind of supervisory quality control mechanisms are in place to ensure the quality of services, including in the private sector.

The report also indicates that, with regard to the non-discrimination question, Ireland has comprehensive and robust equality legislation in place, which prohibits discrimination on nine specified grounds: gender, civil status, family status, age, race, religion, disability, sexual orientation, and membership of the Traveller community. The legislation is designed to promote equality and prohibit discrimination (direct, indirect and by association) and victimisation. It provides for positive measures to be taken to ensure full equality across the nine grounds. The Equal Status Acts 2000–2012 prohibit discrimination outside the workplace, in particular in the provision of goods and services. Equality legislation also provides for remedies for those who have suffered discrimination. The Acts outlaw discrimination in all services that are generally available to the public whether provided by the state or the private sector.

### *Conclusion*

The Committee concludes that the situation in Ireland is not in conformity with Article 14§2 of the Charter on the ground that it has not been established that the government is taking the steps necessary to foster user participation in the management of social services.

## **Article 23 - Right of the elderly to social protection**

The Committee takes note of the information contained in the report submitted by Ireland. It also takes notes of the information contained in the comments of the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

### ***Legislative framework***

The Committee points out that the main purpose of Article 23 of the Charter is to enable elderly persons to remain full members of society and, in this regard, it requires States Parties to provide a framework which, firstly, makes it possible to combat age discriminations beyond employment and, secondly, provides for a procedure of assisted decision making.

With regard to age-based discrimination, the report provides no updated information. However, the Committee refers to its previous conclusion (Conclusions 2013), where it found the situation to be in conformity with the Charter due to the existence of the Equal Status Acts 2000-2004 which provide elderly persons with adequate guarantees of protection against age discrimination outside the employment context.

The report provides no information with regard to assisted decision making for elderly persons. The Committee notes from the comments of the Irish Human Rights and Equality Commission that Ireland adopted the Assisted Decision-Making (Capacity) Act 2015 which has entered into force only in part. In this regard, the Commission has raised concerns about the adequacy of the Act in terms of ensuring full respect for the rights of the concerned people to make decisions. According to the Commission, the Act sets down rules governing various mechanisms that exist to protect a person whose capacity is in question, but it does not provide sufficient support to the person concerned for him or her to exercise as such his or her legal capacity. The Act rather enables decision-making capacity to be transferred from a person to another (for instance, a decision-maker, a co-decision-maker or a decision-making assistant), without ensuring the full participation of the person with disabilities. The Committee wishes to receive more information on this Act in the next report.

### ***Adequate resources***

When assessing the adequacy of resources of elderly persons under Article 23, the Committee takes into account all social protection measures that are guaranteed to elderly persons and that are aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions (contributory or non-contributory) and other complementary cash benefits available to elderly persons. These resources will then be compared with median equivalised income. However, the Committee points out that its task is to assess not only the law but the compliance of practice with the Charter obligations. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The report provides no information on this matter. According to the Commission, the Social Welfare and Pension Act 2011 removed the State Pension (Transition) in January 2014. The Committee notes from the Commission's comments that the State Pension (Contributory) is divided into six bands (instead of four prior to September 2012) reflecting the yearly contributions that the pension recipient has been credited with during his or her employment. The maximum amount of the State Pension (Contributory) is €230.30 per week and its minimum rates amount to €92 per week. That is, €998 and €398.63 per month respectively. The Committee notes from the same source that the period for which a claim for a State Pension (Contributory) could be backdated was reduced to six months in 2012 (instead of five years).

The State Pension (Non-Contributory) is a means-tested payment for people aged 66 or over who do not qualify for State Pension (Contributory) based on their social insurance

record. The maximum personal rate of State Pension (Non-Contributory) applies if the person's weekly means are €30 or less. A specific earnings disregard of €200 per week was introduced so that income from employment can be earned without losing pension entitlements (it does not apply to earnings from self-employment). The maximum amount of the pension for a single person (aged 66 and over) in 2015 amounts to €954.6 per month and €997.6 for a single person aged over 80.

Recipients of the State Pension (Contributory) and of State Pension (Non-Contributory) aged 66 or over who are living alone may receive an extra allowance of €9 per week (Living Alone Allowance). Pensioners aged 80 years or over are granted an extra allowance of €10 per week (Over 80 Allowance). Pensioners may also be granted dependent's supplements. In addition, recipients of this pension may qualify for Fuel Allowance (€4.6 per week on 26 weeks), Electricity Allowance (€35 per month) and Free tv licence. The Telephone Allowance was removed in January 2014.

First of all, the Committee notes that the rates paid over the reference period for the State Pensions (Contributory and Non-contributory) remained unchanged. Second, it notes that significant reductions in secondary benefits have occurred.

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, was estimated at €10 844 per year (or €904 per month) in 2015. The Committee notes that the levels of the full old-age pensions – both contributory and non-contributory – are above the poverty line. Bearing in mind that a number of supplements are available, the Committee considers that the level of those benefits is adequate.

In its previous conclusion (Conclusion 2013), the Committee asked for clarification as to why such a high percentage of persons aged 65 and over received income falling below 40% of the median equivalised income. It also asked for information on what specific measures are taken to address their situation. The report provides no information in this respect. The Committee observes that the rate of persons aged 65 and over received income falling below 40% of the median equivalised income has increased, reaching 5.4% in 2014 and decreased in 2015 to 3.5%. This rate remains higher than the average level in the EU (respectively, 3.0% and 2.9% in 2014 and 2015). It therefore reiterates its questions on this point and, in the meanwhile, reserves its position on this point.

### ***Prevention of elder abuse***

The report indicates that residents in nursing homes must be safeguarded and protected from abuse and they must be provided with accessible information. It also notes from the National Safeguarding Committee report that at the end of 2014, the Health Service Executive (HSE) published a new policy on safeguarding vulnerable persons at risk of abuse, including the elderly (Strategic Plan 2017-2020). The policy provided for the establishment of a National Safeguarding Committee, which held its first meeting in December 2015. According to the National Safeguarding Committee report, the Department of Health established a partnership with the HSE and an organisation entitled the Healthy and Positive Ageing Initiative to monitor progress in the implementation of the National Positive Ageing Strategy. It also states that there is an absence of legislation in respect of the deprivation of liberty in nursing homes and other care and residential accommodation. The Committee wishes to be informed of any developments in this respect in the next report.

The Committee notes from the National center for the Protection of Older People report entitled "Older People in Residential Care Settings" that the HSE National Elder Abuse Steering Committee is responsible for overseeing the HSE's elder abuse service at national level as well as ensuring the recommendations outlined in the report entitled 'Protecting Our Future'. It also notes that the HSE published guidelines on the protection of elderly persons for health professionals and the public.

### **Services and facilities**

The Committee points out that, although Article 23 makes reference only to information about services and facilities, it presupposes that such services and facilities exist.

With regard to the services and facilities themselves, the Committee asked in its previous conclusion (Conclusion 2013), whether the supply of services to the elderly matches the demand for them. According to the report, the HSE National Service Plan sets out the type and volume of health service to be provided in a given year within the overall level of funding allocated by Ireland. The HSE monitors service delivery. Home support services are provided either directly by the HSE or through service agreements with private and voluntary sector providers. In addition to the mainstream Home Help Service, which offers up to five hours per week of personal care and help with domestic chores, enhanced home care is provided through the Home Care Package Scheme, including Intensive Home Care Packages for clients with complex needs. Other HSE-provided or HSE-funded services include day care, meals-on-wheels and respite care. The HSE also supports community initiatives and smaller local voluntary agencies. The report further indicates that there are 108 Day Care Centres across the country that offer similar types of services which include nursing, therapy supports, social activities and some personal care.

The Committee also asked how their quality is monitored and if there is a procedure for complaining about the standards of services. According to the report, registered providers of nursing home care provide a complaints procedure. The Office of the Ombudsman can examine complaints about the actions of a range of public bodies and, from 24 August 2015, complaints relating to the administrative actions of private nursing homes.

With regard to information on the existence of the services and facilities available, the report states that detailed information on services for elderly persons is available online at [www.hse.ie](http://www.hse.ie), or via an info-line. The HSE also provides a range of leaflets and guidance documents on its services.

### **Housing**

In its previous conclusion (Conclusions 2013), the Committee asked for information with regard to the eligibility for and costs of social housing. As the report provides no information in this regard, the Committee reiterates that request. The Committee also wishes to be updated on the Housing Adaptation Grant Schemes for Older People.

### **Health care**

In its previous conclusion (Conclusions 2013), the Committee asked for information on mental health programmes and services specifically aimed at the elderly, in particular those carried out in relation to dementia and related illnesses, adequate palliative care services and special training for individuals caring for elderly persons. According to the report, Ireland launched the National Dementia Strategy (2014-2019). It aims to develop a national Alzheimer's and other dementias strategy to increase awareness, ensure early diagnosis and intervention and develop enhanced community-based services.

The report also refers to the launch of a national policy on Palliative Care: the HSE 5 year/Medium Term Framework for Palliative Care Services 2009-2013. The total number of specialist palliative care beds in 11 locations countrywide is 217. All HSE areas have Community Specialist Palliative Home Care Teams. The Committee wishes to know more about this programme in the next report.

### **Institutional care**

In its previous conclusion (Conclusions 2013), the Committee asked, *inter alia*, whether the supply of institutional facilities for elderly persons is sufficient and whether an independent inspection system of public and private residential care services is ensured. According to the

report, the supply of such facilities meets demand, although in some areas there are waiting lists. The report states that the number of centers has increased from 565 (29 060 beds) in 2014 to 577 (30 106 beds) in 2015. There are also about 2 000 short stay public beds. The report states that €385 million in capital funding has been secured for a five-year national programme for the replacement and refurbishment of public nursing homes. In addition to the consolidation of the existing public stock, the programme is expected to provide 250 additional beds. With regard to private facilities, the report states that nursing home expansion works would henceforth be included in the Employment and Investment Incentive Scheme. The Committee asks to be informed of any new developments in this field.

The report adds that the Review of the Nursing Homes Support Scheme was published in July 2015 and the recommendations contained in the review are in the process of being implemented. The Committee asks the next report to provide further information in this regard.

With respect to registration and inspection, the report states that, all designated centres for elderly persons (nursing homes) whether public, private or voluntary are registered and inspected by the Health Information and Quality Authority (HIQA). The comprehensive framework is aimed at ensuring proper standards of care for nursing homes as well as promoting the rights of people and respecting their autonomy, privacy and dignity, and facilitating people to be as independent as possible. In this regard, an assessment of the personal and social care needs of a (future) tenant of designated center must be completed and a care plan prepared based on this, at the latest, on his/her admission. Tenants must be provided with facilities for occupation and recreation. They may also be consulted about and participate in the organisation of the designated center concerned. A register of all nursing homes is available on the HIQA website: [www.hiqa.ie](http://www.hiqa.ie). A total of 411 inspections were completed in 2015 in 343 registered centres. All inspection reports are published by HIQA.

#### *Conclusion*

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

## **Article 30 - Right to be protected against poverty and social exclusion**

The Committee takes note of the information contained in the report submitted by Ireland. It also takes notes of the information contained in the comments by the Irish Human Rights and Equality Commission, transmitted on 13 April 2017.

### ***Measuring poverty and social exclusion***

The report states that Ireland bases itself on a human rights approach in using the following definition of poverty: "People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by the Irish society. As a result of inadequate income and resources people may be excluded and marginalised from participating in activities which are considered the norm for other people in society."

Pursuant to this definition the following three national indicators of poverty are applied:

*At-risk-of-poverty* (also known as relative income poverty) with a threshold of 60% of median equivalised income. In the period 2011-2014, this indicator increased slightly from 16.0% to 16.3%.

*Basic deprivation*, defined as lack of 2 or more items from the 11 item index of needs such as food, clothing and heating. This indicator increased sharply from 24.5% to 29.0% during the same period.

*Consistent poverty*. People are in consistent poverty if their income is below 60% of the median income and are deprived of 2 or more of the 11 so-called basic deprivation items. This indicator increased from 6.9% to 8.0%.

In this respect, the Irish Human Rights and Equality Commission in its comments on the report states that all of the indicators used by the Government were worse in each of the four years of the reference period (2012-2015) than they were in the two years before the reference period and this was despite the fact that in 2012 the economy began to grow again after the crash of 2008 and the recession that followed that crash.

The Committee notes from Eurostat that in 2015 the at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) stood at 16.3% having decreased slightly compared to 2012 (16.6%) and after having reached 15.7% in 2013. The 2015 rate was close to the EU average of 17.2%. Still according to Eurostat, the at-risk-of-poverty rate before social transfers in 2015 stood at 36.2%, clearly above the EU-28 rate of 25.9%. The European Semester headline poverty indicator was 26% in 2015 compared to 30.3% in 2012.

The Committee further notes from the European Semester Country Report Ireland 2017 (SWD(2017 73 final) that the proportion of people living in households with very low work intensity remained almost double the EU average in 2015. This affects in particular women, the elderly, persons with low-level education, persons with disabilities and single adult households.

Finally, the Committee notes that overall at-risk-of-poverty rates have improved only marginally during the reference period, if at all, fluctuating around 16% (after social transfers). While the positive effect of social transfers is remarkable, the Committee also notes that the "basic deprivation" and "consistent poverty" indicators have increased significantly in a context of economic recovery.

### ***Approach to combating poverty and social exclusion***

The Committee notes from the report that a revised national poverty target was adopted by the Government in 2012. The overall aim of the target is to reduce consistent poverty to 4% by 2016 from a baseline of 6.9% in 2011.

The Committee also notes that national anti-poverty strategies have been developed since 1997 to provide a strategic framework within which to tackle poverty and social exclusion. The current strategy, the up-dated National Action Plan for Social Inclusion, identifies a wide range of targeted actions and interventions to achieve the overall objective of achieving the national social target for poverty reduction. The Plan adopts a life-cycle approach with goals set for each group: children; people of working age and older people and communities.

The existing plan covers the period 2015 to 2017 and reflects the current issues and interventions to tackle poverty and social exclusion. There is a greater focus on modernising the social protection system, improving effectiveness and efficiency of social transfers and strengthening active inclusion policies. The updated plan contains reformulated goals which include a focus on early childhood development, youth exclusion, and access to labour market including measures for people with disabilities, migrant integration, social housing and affordable energy.

The Committee observes that total Government expenditure on social protection as a share of GDP fell significantly during the reference period, from 14.3% in 2012 to 9.6% in 2015 which is only half the EU average of 19.2%. The Committee asks what steps are taken to ensure that economic growth is translated into an effective combat against poverty and social exclusion.

In its comments on the report the Irish Human Rights and Equality Commission expresses concern that the National Action Plan was drafted before the 2008 crash and was not updated before the recovery began. For the reference period the only change made to the plan originally adopted in 2007 was to revise the targets and no revision was made to the measures needed to reduce poverty and social exclusion until the end of the period.

In a similar vein, the Committee notes the assertion in the European Anti-Poverty Network (EAPN) Assessment of the Country Reports and Proposals for Country-Specific Recommendations 2017 (Country Fiche Ireland) that the National Action Plan is being implemented in a piece meal manner and not in an integrated way.

In the light of these comments the Committee asks that the next report explain how the National Action Plan ensures an overall and coordinated approach to combating poverty and social exclusion and more particularly how practical coordination of the various measures takes place, including at delivery level.

Finally, the Committee refers to its conclusions of non-conformity under other provisions of the Charter which are relevant to its assessment of compliance with Article 30 (see Conclusions 2013, Statement of interpretation on Article 30). It refers in particular to Article 12§1 and its conclusion that the minimum level of several social security benefits (sickness, work injury and diseases, unemployment) is inadequate (Conclusions 2017), to Article 12§3 and the Committee's conclusion of non-conformity on account of the restrictive evolution of the social security system during the reference period, and the maintenance of certain restrictions even after the economic situation had improved (Conclusions 2017). The Committee refers to Article 13§1 and its conclusion that the level of social assistance provided to a single person without resources is not adequate (Conclusions 2017) .

Taking into account all of the above, and in particular the absence of decisive progress in combating poverty and social exclusion in a context of economic growth and the comments of the Irish Human Rights and Equality Commission as well as of the EAPN indicating that the formulation and implementation of the National Action Plan for Social Inclusion are not adequate to the challenges posed by the current situation with respect to poverty and social exclusion, the Committee considers that the situation is not compatible with the requirements of Article 30.

### ***Monitoring and evaluation***

The Committee notes that in September 2015 the fifth biennial Social Inclusion Report covering 2013 and 2014 as part of the monitoring mechanisms was published. The report published under the national action plan outlines progress made by relevant Government Departments on the implementation of national policy commitments to tackle poverty and social exclusion during these years.

The report also refers to the Social Inclusion Monitor, which is published annually. It shows that poverty levels stabilised in 2014 for the first time since the financial and economic crisis. From 2013 to 2014, the at-risk-of-poverty threshold (60% of median income) increased from 201.82 € to 209.39 €. It is expected that with further increases in employment and the impact of new welfare measures, household incomes and living standards will continue to recover. The Committee asks for up-dated information in the next report.

The Committee notes that people experiencing poverty and social exclusion are involved in structures such as the Social Inclusion Forum, the Pre-budget Forum and other social inclusions initiatives. It asks whether other institutions are also involved in the evaluation of policies aimed at combating poverty and social exclusion.

According to the above-mentioned EAPN publication, while poverty impact assessment does exist in Ireland as part of regulatory impact assessment, but it is only implemented in a very limited and non-transparent way. The Committee asks what steps are being taken to improve the situation in this regard.

### ***Conclusion***

The Committee concludes that the situation in Ireland is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.