



March 2024

## **European Social Charter (REVISED)**

European Committee of Social Rights

Conclusions 2023

### **BOSNIA AND HERZEGOVINA**

*This text may be subject to editorial revision.*

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

Information on the Charter, the Committee, the national reports as well as the Statement of interpretation on Article 17 adopted by the Committee during the supervision cycle can be found in the General Introduction to all Conclusions.

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 requested from the States Parties concerned the following provisions of the thematic group IV " Children, families and migrants ":

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

The reference period was from 1 January 2018 to 31 December 2021.

The following chapter concerns Bosnia and Herzegovina, which ratified the Revised European Social Charter on 7 October 2008. The deadline for submitting the 13rd report was 31 December 2022 and Bosnia and Herzegovina submitted it on 13 June 2023.

The Committee recalls that Bosnia and Herzegovina was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2019).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2019), the Committee concluded that the situation was in conformity, there was no examination in 2023.

Bosnia and Herzegovina has not accepted the following provisions from the above-mentioned group: 19§§1-12, 27§§1-3, 31§§1-3.

The conclusions relating to Bosnia and Herzegovina concern 18 situations and are as follows:

- 5 conclusions of conformity: Articles 7§4, 7§§6-8, 8§3.
- 13 conclusions of non-conformity: 7§§1-3, 7§5, 7§§9-10, 8§§1-2, 8§§4-5, 16, 17§§1-2.

Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 1 - Prohibition of employment under the age of 15*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 7§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee has observed that many States’ legislation is in conformity with Article 7§1 of the Charter regarding the minimum age for employment. Nevertheless, the Committee is concerned about the situation in practice. There are data that suggest that in many countries there are significant numbers of children working illegally. However, there are few official data on the extent of the problem. Therefore, as targeted questions to the States, the Committee asked for information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. It also asked for information on the number of children actually working, as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

In its previous conclusion (Conclusions 2019), the Committee found that the situation was not in conformity with Article 7§1 of the Charter on the grounds that it has not been established that the legislation prohibiting employment under the age of 15 was implemented effectively. The Committee requested detailed information on measures taken to detect the cases of child labour as well as the number and nature of violations and sanctions imposed.

According to the report, the legal regulations in BiH prohibit the employment of persons under the age of 18. Specifically, the labour laws of the Federation of BiH, the Republic of Srpska and the Brčko District of BiH stipulate that an employment contract cannot be concluded with a person younger than 15 years of age, or that such a person be employed in any type of work. It also, however, permits a person between 15 and 18 years of age to conclude an employment contract, i.e. be employed with the consent of a legal representative and on the condition that they obtain a medical certificate from an authorised doctor or a competent health institution proving that they have the general health capacity to work.

The Committee notes that administrative and inspection supervision (at the state level) regarding the application of the abovementioned provisions is carried out by the Ministry of Justice of BiH, as well as by entity and cantonal labour inspectors, and by labour inspectors in the Brčko District. Therefore, labour inspectorates have been established at all levels of Government in Bosnia and Herzegovina. Labour inspectors are obliged to: a) give instructions to employers and workers on the most efficient way of applying legal regulations; b) inform the competent administrative authorities about shortcomings that are not specifically defined by the existing legal regulations; c) cooperate with other administrative bodies, employers and associations of employers and workers.

The report states that there are no data on the exact number and the nature of violations and sanctions with respect to the employment of children under the age of 15, given that the competent labour inspectorates did not record any cases in the reference period.

The Committee notes from Direct Request (CEACR) - adopted in 2021, published at the 110th ILC session (2022) concerning the Convention 138 that no penalties were imposed by the labour inspectors of the Federal Administration for Inspection Issues (FAII) for the violation of Section 20 of the FBiH’s the Labour Law.

The Committee, again, observes that the report does not provide more specific information about the labour inspectorate services' activities to detect cases of children under 15 years of age being employed. The Committee recalls that the effective protection of the rights guaranteed by Article 7§1 cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised by the national authorities. The Committee also notes that the CEACR in its Direct Request asked the Government to continue to provide statistical data, including on the number of children below the minimum age engaged in economic activities in the FBiH, the Republika Srpska and the Brčko District.

The Committee considers that, in the absence of such information, there is no evidence that the prohibition of employment of children under the age of 15 is guaranteed in practice.

#### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment of persons under the age of 15 is not guaranteed in practice.

## **Article 7 - Right of children and young persons to protection**

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

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 7§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusions 2019) the Committee found that the situation in Bosnia and Herzegovina is not in conformity with Article 7§2 of the Charter on the grounds that:

- in the Federation of Bosnia and Herzegovina (FBiH) and in the the Brčko District the legislation does not define or provide a list of dangerous activities prohibited to young workers under 18;
- it has not been established that the legislation prohibiting employment under the age of 18 for dangerous or unhealthy activities is effectively implemented.

As regards the first ground of non-conformity, the Committee notes from the report that the labour laws of both entities (Federation of BiH and the Republic of Srpska), as well as the Labour Law of the Brčko District of BiH, stipulate that a worker under the age of 18 cannot be assigned to work in workplaces that have been determined to be workplaces with increased risk or on particularly difficult physical jobs, on works performed underground or under water, as well as on other jobs that could represent an increased risk to their life, health and psychophysical development. The list of jobs that are potentially risky for younger workers must be specifically indicated in the Act on risk assessment.

The Committee notes from the Observation (CEACR) - adopted 2021, published 110th ILC session (2022) Minimum Age Convention, 1973 (No. 138) that a by-law that shall define the types of work referred to in section 57 of the Labour Law of the FBiH had not been adopted. The Committee notes that in the Brčko District, there are no new developments regarding the list of dangerous activities which should have been defined under Section 75(1) of the new Labour Law of the Brčko District No. 34/19 of 2019. The Committee notes therefore, that the situation has not changed in this respect and reiterates its previous finding of non-conformity.

As regards the second ground of non-conformity, the Committee notes from the report that Labour Inspectorates at all levels of Government are responsible for the implementation of regulations prohibiting the employment of persons younger than 18 years of age in dangerous or unhealthy jobs. In the reference period, the competent labour inspectorates did not record any violations of the aforementioned regulations.

The Committee recalls that the effective protection of the rights guaranteed by Article 7 cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised by the national authorities. Considering the lack of data on monitoring activities and findings of the Labour Inspectorate with regard to the prohibition of the employment under the age of 18 for dangerous or unhealthy activities, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§2 of the Charter on the ground that the legislation prohibiting employment under the age of 18 for dangerous or unhealthy activities is not effectively implemented.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§2 of the Charter on the grounds that:

- in the Federation of Bosnia and Herzegovina (FBiH) and in the the Brčko District legislation does not define or provide a list of dangerous activities prohibited to workers under 18;
- legislation prohibiting employment under the age of 18 for dangerous or unhealthy activities is not effectively enforced.

## **Article 7 - Right of children and young persons to protection**

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

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 7§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusions 2019), the Committee found that the situation was not in conformity with Article 7§3 of the Charter on the ground of the repeated lack of information on the monitoring activities and findings of the authorities and the repeated lack of data demonstrating that children who are still subject to compulsory education do not perform work which would prevent them from fully benefiting from their education.

According to the report, the legislation in Bosnia and Herzegovina stipulates that primary education lasts nine years, and is compulsory and free for all children between the ages of six and 15. The report states that the competent labour inspectorates did not record any cases of violations of the provisions prohibiting the work of persons younger than 15 years of age. Therefore, there are no data on the numbers of children who go to school and work at the same time.

The Committee further notes that a person aged between 15 and 18 years can conclude an employment contract, i.e. be employed, subject to the consent of their legal representative and on condition of obtaining a medical certificate from a licensed physician or a competent health institution certifying that they have the general state of health to work. This possibility is limited to jobs in associations and foundations, and to those that do not risk threatening their safety, health, moral wellbeing or development.

The Committee recalls that, under Article 7§3 of the Charter, with a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to prohibit that persons who are still subject to compulsory education be employed in work which deprives them of the full benefit of their education. The Committee observes that the report does not indicate whether any cases of the employment of children above 15 years of age but still in compulsory education have been detected. Therefore, the Committee considers that there is no evidence that the prohibition of employment of children who are still in compulsory education is guaranteed in practice.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§3 of the Charter on the ground that the prohibition of employment of children still in compulsory education is not guaranteed in practice.

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 4 - Working time*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no questions were asked for Article 7§4 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee recalls that Article 7§4 requires that the working hours of persons under 18 years of age are limited in accordance with the needs of their development, and particularly with their need for vocational training.

In its previous conclusion, the Committee considered that the situation in Bosnia and Herzegovina was not in conformity with Article 7§4 of the Charter on the grounds that in the Brčko District the limit of 40 hours' work per week for young workers under the age of 16 was excessive and that it had not been established that the regulations regarding the working time for young workers under the age of 18 who were no longer subject to compulsory schooling were effectively implemented (Conclusions 2019).

The report provides that amendments to the labor laws in Bosnia and Herzegovina, as well as in the Brčko District, have established safeguards for young workers. These measures include a maximum of 35 hours of work per week and prohibit overtime and night work for persons aged 15 to 18.

The report further states that the supervision of compliance with these provisions of the valid labor laws is carried out by competent inspection bodies at the entity level, as well as in local self-government units. More precisely, inspection supervision over compliance with the Labor Law and the regulations adopted for its implementation is carried out by the labor inspectorate and in the part that concerns the rights, obligations and responsibilities of employees in administrative bodies and local self-government units, it is carried out by the administrative inspectorate. In the reference period, there were no cases of violation of the aforementioned legal provisions. Otherwise, the labor laws prescribe fines for employers if it is determined that a person under the age of 18 is working overtime.

### *Conclusion*

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



## **Article 7 - Right of children and young persons to protection**

### *Paragraph 5 - Fair pay*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 7§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

In its previous conclusion, the Committee considered that the situation in Bosnia and Herzegovina was not in conformity with Article 7§5 of the Charter on the ground that the minimum wage of young workers was not fair (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

### ***Fair remuneration for young workers and apprentices***

The Committee recalls that the "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged 18 or above) (Conclusions XI-1(1991), United Kingdom).

In its previous conclusion (Conclusions 2019), since Bosnia and Herzegovina has not accepted Article 4§1 of the Charter, the Committee made its own assessment on the adequacy of young workers wage under Article 7§5. For this purpose, the ratio between net minimum wage/lowest wage and net average wage is taken into account. The Committee noted that the monthly minimum wage corresponded to less than 50% of the average wage in the Federation of Bosnia and Herzegovina which is too low to secure a decent standard of living. Therefore, the Committee considered that the right to a fair pay of young workers was not guaranteed since the reference wage itself (the minimum wage of adult workers) was too low to secure a decent standard of living.

The report provides that in the Federation of BiH the amount of the minimum monthly salary as a percentage compared to the average monthly salary is 38.8% (206 EUR compared to 532 EHR). In the Republic of Srpska, the amount of the minimum monthly salary as a percentage compared to the average monthly salary is 52%. No information has been provided with respect to Brcko District.

As regards the question whether young workers are paid the same level as adults, the report further states that an intern is a person who has completed secondary school or two-year post secondary school education or college, who is starting employment in that occupation for the first time, and who, according to the law, is required to pass a professional exam, or who needs previous work experience to work in the occupation. The employment contract with the intern is concluded for a limited period of time, and the maximum is one year, unless otherwise specified by law. During the internship, the intern is entitled to 70% of the salary determined for the jobs for which they are being trained. The employer and the intern can also agree on a higher salary amount. The Committee recalls from its previous conclusion that in Republika Srpska, young workers are paid at the same level as adults.

The Committee notes that the monthly minimum wage corresponds to less than 50% of the average wage in the Federation of Bosnia and Herzegovina which is too low to secure a decent standard of living. Therefore, the Committee reiterates its conclusion that the right to a fair pay of young workers is not guaranteed since the reference wage itself (the minimum wage of adult workers) continues to be too low to secure a decent standard of living.

As regards apprentices, the intern has the right to a salary of at least 80% of the gross salary for the jobs for which they have concluded an employment contract, as well as to reimbursement of expenses and other income in accordance with this Law, the collective agreement, the general act and the employment contract. The Committee considers that the situation is in conformity with Article 7§5 on this point.

### ***Fair remuneration in atypical jobs***

For the present monitoring cycle, the Committee requested updated information on net minimum wages and allowances payable to persons under 18 years of age. In particular, it asked for information on measures taken to ensure that fair remuneration is guaranteed to young workers:

- i) in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
- ii) in the gig or platform economy and
- iii) having zero hours contracts.

The report does not address these points.

Due to the failure to provide the information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter

### ***Enforcement***

In the context of the present monitoring cycle the Committee also requested information on measures taken to ensure that this right of young persons to fair pay is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions).

The report states that the authorities do not collect information on whether persons undergoing professional training are paid for their work, because these persons do not receive a salary during the time that they are hired, but possibly a monetary compensation that is not considered a salary, and which is regulated by the employer's internal acts.

The Committee considers that the right of young persons to fair pay is not effectively enforced and monitored. The situation is not in conformity with the Charter in this respect.

### ***Conclusion***

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§5 of the Charter on the grounds that:

- young workers' wages are not fair;
- the right of young persons to fair pay is not effectively enforced.

Due to the failure to provide the information listed below the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

Missing information:

- on measures taken to ensure that fair remuneration is guaranteed to young workers in the following context - in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers), in the gig or platform economy and on zero hours contracts.

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 6 - Inclusion of time spent on vocational training in the normal working time*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no questions were asked for Article 7§6 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the "Children, families and migrants" thematic group).

The Committee recalls that Article 7§6 requires that time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of Interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter.

In the previous conclusion, the Committee found the situation in Bosnia and Herzegovina to be in conformity with the Charter, pending receipt of information whether the legislative framework in the Brčko District provided for time spent on the training with the consent of employer to be included in normal working time and remunerated as such.

The report confirms that the Labor Law of the Brčko District of BiH stipulates that the worker has the right to a full salary for the duration of training and professional development.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is in conformity with Article 7§6 of the Charter.

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 7 - Paid annual holidays*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 7§7 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Bosnia and Herzegovina was in conformity with Article 7§7 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the monitoring activities and findings of the Labour Inspectorate for the respective reference period in relation to the paid annual holidays of young workers under 18 years of age, including the nature and number of violations detected and sanctions applied in practice. The report notes, based on information received from the Ministry of Labour and Social Policy, that the Labour Inspectorates in the entities, or the Brčko District, have not found any violations of the regulations on paid annual leave of young workers under 18 years of age during the reference period.

### *Conclusion*

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

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 8 - Prohibition of night work*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 7§8 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee deferred its previous conclusion pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the activities and findings of the Labour Inspectorate in all entities and the Brčko District for the respective reference period in relation to the prohibition of night work for young workers under 18 years of age, including the nature and number of violations detected and sanctions applied. The report notes that, during the reference period, the labour inspectorates at the entity level and in the Brčko District did not record any breaches of the regulations concerning the prohibition of night work for young workers under 18 years of age.

### *Conclusion*

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

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 9 - Regular medical examination*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 7§9 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 7§9 of the Charter on the ground that the legislation in the Brčko District did not provide for compulsory regular medical examinations for young workers under 18 years of age employed in occupations prescribed by national laws or regulations (Conclusions 2019).

The report notes that there have been no changes to the relevant legal provisions in the Brčko District. Therefore, the Committee reiterates its previous conclusion of non-conformity.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§9 of the Charter on the ground that, in the Brčko District, young workers under 18 years of age employed in occupations prescribed by national laws or regulations are not subject to regular medical control.

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 10 - Special protection against physical and moral dangers*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 7§10 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion the Committee concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 7§10 of the Charter on the grounds that not all acts of sexual exploitation of children were criminalised and that it had not been established that adequate measures were taken to protect children against the misuse of information technologies (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and the targeted questions.

### ***Protection against sexual exploitation***

Previously, the Committee considered that the situation in Bosnia and Herzegovina was not in conformity with Article 7§10 of the Charter on the ground that not all acts of sexual exploitation of children were criminalised (Conclusions 2019).

In the targeted questions, the Committee asked for updated information on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.

The report states that in the Federation of Bosnia and Herzegovina, a draft amendment to the Criminal Code was adopted, making targeted changes to implement the Council of Europe Convention on the Prevention of Violence against Women and Domestic Violence and the Council of Europe Conventions on the Protection of Children from Sexual Exploitation and Sexual Abuse. In the Republika Srpska, the Criminal Code criminalises sexual abuse and sexual exploitation of children.

Due to the failure to provide the requested information on measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

The Committee notes from other sources (UNICEF Situation analysis of children in Bosnia and Herzegovina, March 2020) the worrying lack of harmonisation of the provisions of the Criminal Codes concerning the scope of sexual exploitation and abuse of children.

The Committee notes from the information provided that no changes appear to have been made to criminalise all acts of sexual exploitation of children. In these circumstances, it reiterates its conclusion of non-conformity on the ground that not all forms of sexual exploitation of children are criminalised.

### ***Protection against the misuse of information technologies***

The Committee has previously considered that the situation in Bosnia and Herzegovina was not in conformity with Article 7§10 of the Charter on the ground that it had not been established

that adequate measures were taken to protect children against the misuse of information technologies. It also asked that the next report provide information on the implementation and results of the Action Plan 2015-2018 and any new action plans in this context, as well as on progress made in setting up mechanisms to collect data on the situation of children's rights in the context of protection against the misuse of information technologies (Conclusions 2019).

In the targeted question, the Committee asked for information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

The report states that in the Federation of Bosnia and Herzegovina, the Strategic Programme for the Safety of Children in the Digital Environment and the Action Plan for Combating Violence against Children in the Digital Environment for the period 2021-2024 was adopted. When it comes to the implementation of the Action Plan 2015-2018, the report states that the guidelines for the assessment and determination of the best interests of the child were adopted.

The report further states that all relevant ministries collect relevant data according to their competences. In particular, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina is currently developing indicators for collecting data on children's rights in accordance with the provisions of the UN Convention on the Rights of the Child, on the basis of which a database will be created. In the Republika Srpska, the Public Fund for Child Protection keeps a record of rights, beneficiaries of rights and services provided in relation to child protection.

Due to the failure to provide the requested information on the protection of children from grooming and information showing that adequate measures are taken to protect children against the misuse of information technologies, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

### ***Protection from other forms of exploitation***

The Committee has previously asked for information on the detection and assistance given to child victims of trafficking. It also asked to be informed of the measures taken to improve the protection of children in vulnerable situations and to assist them, with particular attention to street children and children at risk of child labour, including those in rural areas (Conclusions 2019).

The report states that between 2016 and 2020, the total number of identified child victims of trafficking was 152. In 2021, this number was 49. Most of the identified victims were exploited for the purpose of begging, and they were provided with adequate help and protection in safe houses. Minors also benefitted from assistance at day care centres for children working on the street.

The report further states that, in the 2020-2023 Strategy for Combating Human Trafficking and related Action Plan, measures were adopted to organise preventive activities, such as the implementation of campaigns to raise public awareness of human trafficking, begging and others.

The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2022)06, 28 June 2022) that the authorities in Bosnia and Herzegovina rarely react appropriately to cases of child begging, especially if they concern the Roma community, as they tend to see them as part of a "traditional Roma way of life". Therefore, usually those children would not be identified as trafficking victims but returned to their families even when their families have been involved in their exploitation and, consequently, they would continue to be exploited. As a positive practice, GRETA noted that the uniformed police in the Brčko



District is trained to recognise indicators of trafficking among children in street situations and social workers are sensitised to notice relevant changes in behaviour among children.

### ***Covid-19***

In the context of the Covid-19 pandemic, the Committee asked for information on the impact of the pandemic on the monitoring of the exploitation and abuse of children, as well as measures taken to strengthen monitoring mechanisms.

The Committee recalls that Article 7§10 of the Charter guarantees protection against sexual and other exploitation of children as well as protection against the misuse of information technology and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.), which is particularly pertinent in view of the acceleration of digitalisation and online activity brought about by the pandemic (Statement on Covid-19 and social rights, 24 March 2021).

The report does not provide the information requested.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§10 of the Charter on the ground that not all forms of sexual exploitation of children are criminalised.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse;
- on the protection of children from grooming and measures taken to protect children against the misuse of information technologies.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 1 - Maternity leave*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked in relation to Article 8§1 of the Charter, only a question in relation to Covid-19. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group "Children, families and migrants").

In its previous conclusions (Conclusions 2019), the Committee found that the situation in Bosnia and Herzegovina was not in conformity with Article 8§1 of the Charter on the ground that maternity benefits were inadequate in certain parts of the country.

### ***Right to maternity leave***

The Committee had previously concluded that the situation in Bosnia and Herzegovina was in conformity with the Charter on this point. Therefore, there was no examination of the situation in 2023 and the Committee reiterates its previous conclusion.

### ***Right to maternity benefits***

In its previous conclusion, the Committee concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 8§1 of the Charter on the ground that maternity benefits were inadequate in certain parts of the country (Conclusions 2019).

The report states that in the majority of cantons, regulations are not harmonised with the federal ones in matters of ensuring the prescribed minimum basic rights in the field of protection of families with children. For the stated reason, the Federal Ministry of Labour and Social Policy, in cooperation with relevant cantonal ministries, as well as foreign and domestic non-governmental organisations, prepared the Public Policy on the Protection of Families with Children in the Federation of Bosnia and Herzegovina, as well as the Law on Material Support for Families with Children, which was submitted to the Parliament of the Federation of Bosnia and Herzegovina for adoption. The Bill in question is in the process of being adopted by the House of Nations of the Parliament of the Federation.

In the Republika Srpska, maternity benefit is granted in accordance with the Labour Law and the Child Protection Law for all women who have given birth. As regards the minimum amount of maternity benefit and the median income, the Committee takes note of the information regarding the net minimum wage. The report states that the amount of the maternity benefit stood at 58.7% of the average net salary.

In the Federation of Bosnia and Herzegovina, the maternity benefit is determined as a percentage of the salary earned in the previous six months before childbirth, assessed based on salary growth in the canton during that period. The percentage is determined by cantonal regulation. According to the figures submitted in the report, in some cantons, the amount of the maternity benefit fell below 50% of the average net salary in that canton (in Una Sauna, Bosnian Podrinje, Central Bosnia, Herzegovina-Neretva, West Herzegovina, Sarajevo Canton and Canton 10) and is therefore, not adequate.

In the Brčko District, a woman has the right to maternity benefits to the amount of the average salary she earned during the last 12 months before the maternity leave. If a woman has not earned a salary for all of the last 12 months, the salary compensation is equal to the average salary she would have earned if she had been working in the same workplace with the same

employer. The Committee notes that no relevant information is provided on the minimum amounts of maternity benefits and the median income in respect of the Brčko District.

In the light of the information submitted, the Committee considers that the situation is not in conformity with the Charter, as the minimum levels of maternity benefit are not adequate in some cantons of the Federation of Bosnia and Herzegovina.

Due to the failure to provide the information concerning the minimum amount of the maternity benefit and the median income in the Brčko District, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

### ***Covid-19***

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the right to paid maternity leave.

The report does not submit any specific information concerning the Covid-19 crisis and its impact on the conditions of entitlement or the amount of maternity benefits.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§1 of the Charter on the ground that the minimum level of maternity benefits is not adequate in some cantons of the Federation of Bosnia and Herzegovina.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

Information missing:

- the minimum amount of the maternity benefit and the median income in the Brčko District.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 2 - Illegality of dismissal during maternity leave*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked in relation to Article 8§2 of the Charter only a question in relation to Covid-19. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group “Children, families and migrants”).

In its previous conclusion (Conclusions 2019), the Committee concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 8§2 of the Charter on the grounds that, in the Brčko district, the compensation awarded in the event of unlawful dismissal during pregnancy or maternity leave was insufficient.

#### ***Prohibition on dismissal***

The Committee asked in its previous conclusion (Conclusions 2019), in relation to the **Brčko district**, the circumstances in which it was possible to dismiss a female employee during pregnancy or maternity leave.

The report states that the Law on Labour in the Brčko District of BiH stipulates that the employer may not cancel the employment contract during pregnancy, maternity sick leave or maternity leave and that the same regulation is provided for in the Law on Civil Service in the Bodies of Public Administration in the Brčko District of BiH.

#### ***Redress for unlawful dismissal***

In its previous conclusion (Conclusions 2019), the Committee found that in the **Brčko district**, the compensation awarded for unlawful dismissal during pregnancy or maternity leave was insufficient.

The report does not provide any information on this point. The Committee therefore reiterates its conclusion of non-conformity on the grounds that the compensation awarded in the event of unlawful dismissal during pregnancy or maternity leave is inadequate.

#### ***Covid-19***

The Committee asked whether the Covid-19 crisis had had an impact on the right to paid maternity leave (in particular whether all women employees concerned - in both the private and public sectors - continue to receive at least 70% of their salary throughout the period of compulsory maternity leave during the Covid-19 crisis).

The report provides no information on this point.

#### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§2 of the Charter on the ground that in the Brčko district, the compensation awarded in the event of unlawful dismissal during pregnancy or maternity leave is inadequate.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 3 - Time off for nursing mothers*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that no targeted questions were asked for Article 8§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was in conformity with Article 8§3 pending receipt of the information requested (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the questions previously posed.

In its previous conclusion (Conclusions 2019), the Committee asked whether the rules on nursing breaks applied to women employed in the public sector at State level (Bosnia and Herzegovina), in the Federation of Bosnia and Herzegovina and Republika Srpska.

The report confirms that the rules on paid nursing breaks apply equally to women working in the public sector at State level (Bosnia and Herzegovina), in the Federation of Bosnia and Herzegovina and Republika Srpska.

### *Conclusion*

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

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 4 - Regulation of night work*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§4 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was not in conformity with Article 8§4 of the Charter on the ground that night work of pregnant women, women having recently given birth and women who are nursing their infant was not adequately regulated in the Brčko District. The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non conformity and to the targeted question.

In its targeted question the Committee asked for confirmation that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in the case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.

The Committee notes from the report and previous conclusions that in the Federation of Bosnia and Herzegovina, pregnant women as of their sixth month of pregnancy and mothers for two years after giving birth are not allowed to perform night work. Women may be assigned to another employment, with their consent, without loss of pay. If such a reassignment is not possible, the employee is entitled to paid leave, in line with the collective agreement and work regulations. The Committee understands that compensation must be equal to the woman's previous salary.

As regards the Brčko District the report simply states that night work is prohibited for pregnant women from the sixth month of pregnancy. No further information is provided. It therefore, reiterates its previous conclusion in this respect.

The Committee previously requested further information on the situation in the Republika Srpska; what were the rules on transfer to daytime work (Conclusions 2019). According to the report night work is prohibited for pregnant women from the 6 month and until her child is two years old. Women must be assigned to daytime work and if this is not possible she must take leave. Women obliged to take leave receive compensation equivalent to their previous salary. The report confirms that at the end of the protected period she has the right to return to her previous employment or an equivalent post.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§4 of the Charter on the ground that night work of pregnant women, women having recently given birth and women who are nursing is not adequately regulated in the Brčko District.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was not in conformity with Article 8§5 of the Charter (Conclusions 2019) on the ground that the regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant were inadequate. The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non conformity and to the targeted question.

In its targeted question the Committee asked for information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that the women concerned retain the right to return to their previous employment at the end of the protected period.

According to the report in both entities and Brcko District employers must undertake a risk assessment to ensure that the workplace is safe for pregnant women and women with a child under one year of age. If risks cannot be eliminated the woman concerned must be assigned to another post or, if this is not possible, must take leave. Whilst on leave she will receive compensation equivalent to her previous salary. At the end of the protected period the woman has the right to return to her previous post.

The Committee previously asked whether and how arduous and dangerous activities (in particular as regards risks related to exposure to ionising radiation, high temperatures, viral agents, etc.) are prohibited or strictly regulated for pregnant women, women who have recently given birth or who are nursing their infant in the Federation of Bosnia and Herzegovina and concluded that the situation was not in conformity. The report only provides information on the general duty of an employer to undertake a risk assessment. Therefore the Committee reiterates its previous conclusion.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§5 of the Charter on the ground that the regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant are inadequate.

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

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

It notes from the report that different provisions apply at state level and sub-state levels of governance, namely the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District.

The Committee recalls that for the current reporting cycle, States were asked to respond to several targeted questions for Article 16 of the Charter as well as, where applicable, previous conclusions of non-conformity, deferral or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the Charter's implementation in respect of the provisions relating to the "Children, family and migrants" thematic group).

In its previous conclusion (Conclusions 2019), the Committee found that the situation in Bosnia and Herzegovina was not in conformity with Article 16 of the Charter on the grounds that:

- it had not been established that women were ensured adequate protection, in law and in practice, against domestic violence;
- equal treatment of nationals of other States Parties lawfully resident in the territory was not ensured with regard to family benefits due to the excessive length of residence required;
- it had not been established that there was adequate legal protection for families threatened by eviction.

The Committee's assessment will therefore focus on the information provided in the report in response to the finding of non-conformity and the targeted questions.

### ***Legal protection of families***

#### ***Rights and obligations, dispute settlement***

After considering the situation to be in conformity, the Committee, in its previous conclusion (Conclusions 2019), asked for updated information on the situation concerning the rights and obligations of spouses and the settlement of disputes, including those concerning children.

In response, the report states that in the Federation of Bosnia and Herzegovina, the resolution of disputes between parents concerning the exercise of parental custody under the Family Law of the Federation of Bosnia and Herzegovina falls within the jurisdiction of the court.

Due to the failure to provide requested information on the situation concerning the rights and responsibilities of spouses, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

#### ***Domestic violence against women***

The Committee notes firstly that Bosnia and Herzegovina has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in Bosnia and Herzegovina in August 2014.

In its previous conclusion (Conclusions 2019), the Committee found that the situation was not in conformity with Article 16 of the Charter on the ground that it had not been established that women were ensured adequate protection, in law and in practice, against domestic violence. It requested full and up-to-date information on issues relating to the protection of women against domestic violence, taking into account the recommendations made by the United Nations Human Rights Committee (UNHRC) and the Committee on the Elimination of Discrimination against Women (CEDAW).



In addition, in a targeted question, the Committee requested updated information on measures taken to reduce all forms of domestic violence against women, including information on incidence and conviction rates.

In response, the report states that the Committee for Monitoring the Implementation of the Istanbul Convention and Action against Femicide in Bosnia and Herzegovina was established in 2019. Among other things, the Committee analyses the implementation of policies and measures to prevent and combat violence against women and domestic violence, assesses the state of implementation of the Istanbul Convention and makes recommendations thereon, analyses data on cases of murder of women and issues recommendations for further action.

The Committee notes that victims of domestic violence benefit from legal protection, assistance and support; in particular, they have the right to free access to all assistance and support services, to care in shelters and to free telephone consultation via the SOS button.

The Committee notes from the report that, in accordance with the Laws on Protection against Domestic Violence of the Federation of Bosnia and Herzegovina (entered into force in 2013) and Republika Srpska (entered into force in 2012), as amended during the reporting period, a specialised victim support service has been established for domestic violence proceedings, through the "person of trust".

The report also states that the mechanism for collecting statistical data on gender-based violence and domestic violence has been improved so that data is collected directly from the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. This data includes the number and gender of perpetrators and victims, the number and type of sanctions imposed for criminal acts of violence, and the number and type of protective measures imposed. However, the Committee notes that the report does not contain figures for all these elements.

The Committee notes that the Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina is in the process of drafting a new law with the aim, *inter alia*, of providing protection to victims of domestic violence (children and adults), defining them as a category of beneficiaries of social protection and defining shelters as social protection institutions. The law on social protection in the Republic of Srpska recognises victims of domestic violence as a category entitled to social protection, regardless of their income or professional status.

With regard to the social work centres in the Republic of Srpska, the report states that they work in collaboration with the police in cases of domestic violence, providing the information and documents required for a specific case of domestic violence. The report adds that the ministries in charge have signed the General Protocol on the Handling of Cases of Domestic Violence, with the aim of ensuring the mutual cooperation of all institutions, facilities and services involved in the prevention and suppression of violence, and creating mechanisms for an integrated and coordinated response to domestic violence.

The Committee takes note of some of the activities and projects in the field of gender equality and gender-based violence presented in the report.

### ***Social and economic protection of families***

#### ***Childcare facilities***

In its previous conclusion (Conclusions 2019), the Committee requested information on childcare facilities, in particular on the total number of places available in relation to the number of pre-school children and their distribution in the country.

In response, the report states that it was impossible to obtain a complete and up-to-date description of childcare facilities. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

## ***Family benefits***

### ***Equal access to family benefits***

In a targeted question, the Committee asked whether a condition of length of residence was imposed on nationals of other States parties residing legally in the country in order to be entitled to family benefits.

In its previous conclusions (Conclusions 2019 and 2015), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that equal treatment of nationals of other States Parties lawfully residing in the territory was not ensured with regard to family benefits due to the excessive length of residence required (5 years).

In response, the report states that in the district of Brčko, the right to family allowances is exercised by persons who have been continuously resident in the territory of the district for at least two years up to the date on which the claim is submitted. However, the report does not contain information regarding the length of residence in the Federation of Bosnia and Herzegovina and in Republika Srpska. Consequently, the Committee considers that the situation has not changed and reiterates its previous conclusion of non-conformity on this point.

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

Among the targeted questions that it raised, the Committee asked for information about the amounts paid in family benefit as well as the median equivalised income for the reference period. It also asked whether family or child benefits were subject to a means-test and, if so, what percentage of families were covered.

The Committee points out that family benefit must be such as to provide a significant number of families with sufficient extra income. Adequacy is assessed with respect to the monthly median equivalised net income.

In its previous conclusion (Conclusions 2019), the Committee requested information on the levels of benefits, on the average income in all entities and the percentage of families who receive this allowance. In the meantime, it reserved its position on this point.

Federation of Bosnia and Herzegovina: In response, the report indicates the conditions for granting family allowances by canton. The Committee notes that the amount of family allowances is a lump sum and varies from canton to canton between 2.5% and 5% of the canton's average wage. In some cantons, the amount of family allowance is set by a decision of the cantonal government. The Committee takes note of the number of beneficiaries of family allowances (families and children) as well as the amount for each year of the reference period. However, it notes that two cantons, according to the report, do not pay family allowances.

Republika Srpska: The report states that during the reference period, family allowances were paid for the second, third and fourth children in the family, depending on the family's material situation, the order of birth and the age of the children. It also specifies that certain categories of children are entitled to family allowances, regardless of the family's financial situation. The Committee notes from MISSCEO data that in 2020, the amount of family allowances was BAM 40.5 (€21 at the rate of 21 December 2020) for the second and fourth children (according to the report, 9% of the minimum wage), BAM 81 (€41) for the third child (18% of the minimum wage, according to the report) and BAM 103.5 (€53) for specific categories of children (23% of the minimum wage, according to the report).

The Committee notes from the report that in 2021, the average gross monthly salary of paid employees was BAM 1,546 (€791) and the net salary was BAM 1,004 (€513).

District of Brčko: The report states that family allowances represented 10% of the average wage. Children without parents or with only one parent, families with a child suffering from a physical or mental developmental delay and families where one or both parents have a

category I to VI disability (included), as well as single parents, are entitled to a family allowance increased by 50% and without means testing.

The Committee observes that the report does not indicate either the percentage of families receiving family allowances (Republic of Srpska and Brčko District) or the equivalised median income for the reference period. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In the light of all the information available to it, the Committee considers that the situation is not in conformity with Article 16 of the Charter on the ground that family benefits do not constitute an adequate income supplement for a significant number of families.

### ***Measures in favour of vulnerable families***

In its previous conclusion (Conclusions 2019), the Committee reiterated its earlier question on the means implemented to ensure the economic protection of Roma families and other vulnerable families, such as single-parent families.

The report merely provides a general overview of the legal framework and the categories of beneficiaries of social protection in the Federation of Bosnia and Herzegovina and Brčko District, but does not specify what measures have been taken to ensure economic protection of Roma families and other vulnerable families, such as single-parent families.

Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

Among the targeted questions that it raised, the Committee asked what measures had been taken to ensure that vulnerable families could meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services).

Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In a targeted question, the Committee asked whether, in cases where specific temporary measures had been taken to financially support families during the covid-19 pandemic, they would or were expected to be maintained or withdrawn and, if they had been withdrawn, what effect this was expected to have on vulnerable families.

The report does not provide the information requested.

### ***Housing for families***

In its previous conclusion (Conclusions 2019), the Committee asked that the next report specify whether in Republika Srpska, other forms of housing support are offered to families, particularly the most vulnerable. It noted in this respect that the law on social housing had recently been adopted (July 2019, outside the reference period: see European Social Policy Network (ESPN), "*National strategies to fight homelessness and housing exclusion: Bosnia and Herzegovina*", 2019, p. 10). The Committee therefore asked to be informed, in the next report, of the measures provided for in this law for families, as well as their implementation.

In its previous conclusion (Conclusions 2019), the Committee also requested that the next report provide information on housing policies and housing support available to families in the Federation of Bosnia and Herzegovina.

In addition, in a targeted question, the Committee asked States that had not accepted Article 31 of the Charter to provide updated information on the availability of adequate and affordable housing for families.

The report states that in the Brčko District of Bosnia and Herzegovina, the placement of families from areas at increased risk of flooding and landslides is coordinated and implemented by the Brčko District Government of Bosnia and Herzegovina, and that alternative or other available accommodation solutions are used according to the needs of the families.

However, the report does not specify whether in Republika Srpska, other forms of housing assistance are available to families, particularly the most vulnerable. Nor does it address the issue of housing policies and housing support for families in the Federation of Bosnia and Herzegovina. The response only covers the district of Brčko in Bosnia-Herzegovina. Nor does the report provide any information on the measures provided for in the above-mentioned law for families, and their implementation. Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In its previous conclusion (Conclusions 2019), the Committee noted that according to the ESPN report, the population living in areas at very high risk of flooding and landslides is estimated at 283,777 and 260,731 respectively. In view of this information, the Committee asked how the authorities monitor the housing of families living in these areas and ensure that it is appropriate.

Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In its previous conclusions (Conclusions 2015 and 2019) the Committee requested information on the legal protection of persons threatened with eviction, on issues relating to the obligation to consult with the persons concerned, the obligation to give reasonable notice of the date of eviction, access to judicial remedies and legal assistance and compensation in the event of illegal eviction. Finding no relevant information in the Government's previous report, the Committee reiterated all its questions on all the above-mentioned points and considered that it had not been established that families threatened with eviction enjoyed sufficient legal protection.

The report states that the eviction of families using alternative accommodation without cause is carried out in accordance with the Law on the Restitution of Abandoned Property and the Law on Administrative Procedure of the Brčko District. It also specifies that there are six alternative housing units in the district, which belong to the district and are managed by the Department of Displaced Persons, Refugees and Housing Issues and the Department of Health - Social Welfare Subdivision. It also states that the relevant administrative authorities contact the parties and inform them of forthcoming evictions, and that the administrative acts ordering the eviction give them a reasonable period of time in which to comply.

However, the report does not address the issues of access to judicial remedies and legal assistance and redress in cases of illegal eviction. Nor does it address the issue of adequate legal protection for families threatened with eviction, or whether the parties affected by the eviction are entitled to compensation in the event of illegal eviction. Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In its previous conclusion (Conclusions 2019), the Committee recalled that Roma families faced segregation and discrimination in many areas. In view of the above, the Committee requested that the next report continue to provide information on the measures taken to improve the housing conditions of Roma families, specifying whether sufficient funding is allocated for this purpose. In the meantime, pending the information requested, the Committee reserved its position on this point.

According to the report, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina has allocated funds for Roma housing in its annual budget and announced a public call for Roma housing projects. The report states that in 2018, 21 residential buildings were constructed and 20 buildings were renovated for Roma families. In 2020, 24 residential buildings were renovated, 2 residential units were built and 555 residents benefited from infrastructure projects for Roma. In the Brčko district, 11 housing units were built and renovated for Roma families in 2020 and 2021. The report adds that Bosnia-Herzegovina is committed to guaranteeing the funds needed to implement the action plan for the Roma in the areas of employment, housing and healthcare.

In its previous conclusion (Conclusions 2019), the Committee requested that the next report should set out the measures taken to provide an adequate level of accommodation for refugee and migrant families, including asylum seekers.

According to the report, the Government of Bosnia and Herzegovina has established legal and institutional frameworks for the accommodation of asylum seekers in the country. The report states that there is a centre for asylum seekers in Delijaš, in the municipality of Trnovo, as well as a special service for families with children within the detention centre. The report also states that the existing accommodation capacity is sufficient to receive asylum seekers, since only 1,842 of the 5,280 places available were occupied in reception centres in Bosnia-Herzegovina on 14 April 2022, according to data from the International Organisation for Migration.

### *Conclusion*

The Committee concludes that the situation in Bosnia-Herzegovina is not in conformity with Article 16 of the Charter on the grounds that:

- equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured due to the excessive length of residence requirement;
- family benefits do not constitute a sufficient income supplement for a significant number of families.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

Information missing:

- the rights and responsibilities of spouses;
- childcare facilities (the total number of places available in relation to the number of pre-school children and their distribution in the country);
- measures adopted to protect vulnerable families, such as single-parent families and Roma families;
- the measures taken to ensure that vulnerable families can meet their energy needs;
- other forms of housing assistance available to families, particularly the most vulnerable in Republika Srpska;
- the measures provided for in the law on social housing for families, and their implementation;
- housing policies and housing assistance for families in the Federation of Bosnia-Herzegovina;

- how the authorities monitor the accommodation of families residing in six alternative accommodations in the Brčko district and ensure their appropriateness;
- access to legal remedies and assistance and redress in the event of illegal eviction;
- adequate legal protection for families threatened with eviction;
- compensation in the event of illegal eviction.

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

### *Paragraph 1 - Assistance, education and training*

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee also recalls that in the General Introduction to Conclusions 2019, it posed general questions under Article 17§1 and asked States to provide, in the next report, information on measures taken to reduce statelessness; to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation; to reduce child poverty; combat discrimination and promote equal opportunities for children from particularly vulnerable groups; and on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

In its previous conclusion the Committee concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment were prohibited in all settings in the Federation of Bosnia and Herzegovina and the Brčko District (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity, the targeted questions and the general questions.

### ***The legal status of the child***

The Committee has previously asked for information on the scope of the child’s right to know their origins in Republika Srpska, and how this right could be restricted (Conclusions 2019).

In the general questions, the Committee asked for information on measures taken by the State to reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth). It also asked for information on measures taken by the State to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation.

Due to the failure to provide requested information on the scope of the child’s right to know their origins in Republika Srpska, and how this right could be restricted, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

In reply to the general questions, the report lists the conditions upon which a child can acquire Bosnian citizenship. It also states that every child has a right to be registered and to have documents. There are regulations governing the registration of children born inside and outside healthcare institutions. Moreover, there are procedures for determining the date and place of birth of persons who are not recorded in the birth register and who cannot prove their place and date of birth. Due to a large influx of migrants, measures are taken to facilitate the registration of children who were born in Bosnia and Herzegovina to undocumented parents.

### ***Protection from ill-treatment and abuse***

The Committee has previously concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment were prohibited in all settings in the Federation of Bosnia and Herzegovina and the Brčko District. It asked whether corporal punishment was prohibited in childcare institutions in all entities (Conclusions 2019).

The report provides no information in reply to the conclusion of non-conformity. The Committee notes from other sources (Global Initiative to End All Corporal Punishment of Children, country report for Bosnia and Herzegovina, updated in June 2020) that further efforts are needed to achieve the prohibition of corporal punishment is still to be achieved in the home, in alternative care settings and in day-care centres in the Federation of Bosnia and Herzegovina and the Brčko District.

The Committee reiterates that the situation in the Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in all settings in the Federation of Bosnia and Herzegovina and the Brčko District.

### ***Child poverty***

In the general questions, the Committee asked for information on measures to reduce child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing, etc.); to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in care.

The report states that measures are taken to ensure that vulnerable minors are provided with adequate healthcare without any discrimination.

Due to the failure to provide requested information on measures taken to reduce child poverty, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty adopted by the Committee in terms of Article 30, the Committee's consideration of child poverty for the purposes of Article 17 reflects an understanding of both income and multi-dimensional understandings of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the Committee takes into account when assessing State Party compliance with Article 17. For the States that have not accepted Article 17, child poverty will be addressed under Article 30.

The EUROSTAT data and the EU-27 rate of children at risk of poverty or social exclusion is used as key point of reference and indicator of state compliance with Charter rights by the Committee. The Committee will also have regard to disimprovement in terms of the rate of children at risk of poverty or social exclusion in a State Party. Furthermore, the Committee also takes into account non-monetary measures adopted at reducing child poverty and social exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the Committee will also take into account the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.



### ***Right to assistance***

The Committee has previously requested further information on the measures taken to find alternatives to detention for asylum-seeking families and to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or not, were appropriate and were adequately monitored. It also asked what assistance was given to unaccompanied children in order to protect them from abuse and exploitation and whether children in an irregular migration situation had access to healthcare. Finally, it asked whether Bosnia and Herzegovina used bone testing to assess age and, if so, in what situations, and what potential consequences such testing could have (Conclusions 2019).

In the targeted question, the Committee asked for information on any measures adopted to protect and assist children in crisis situations and emergencies.

The report states that minors are not accommodated in the Immigration Centre.

The report further states that if there is any doubt about the age of an unaccompanied minor, appropriate medical methods and examinations may be carried out to determine the minor's age. The report does not specify whether these methods involve bone testing. Due to the failure to provide requested information on whether Bosnia and Herzegovina uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

Due to the failure to provide requested information on measures taken to find alternatives to detention for children in an irregular migration situation; on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored; on assistance given to unaccompanied children in order to protect them from abuse and exploitation; whether children in an irregular migration situation have access to healthcare; on any measures adopted to protect and assist children in crisis situations and emergencies, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

### ***Rights of children in public care***

In its previous conclusion, the Committee asked whether children could be removed from their families on the basis of inadequate resources of their family, about the maximum capacity of a unit in a childcare institution in all entities and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Bosnia and Herzegovina is in conformity with Article 17§1 of the Charter. It also asked for information on the number of children in public care, in institutional care and in foster care, and on trends in the field. It also asked for information on the monitoring of institutional care and foster care. The Committee also asked whether neglected children in the Federation of Bosnia and Herzegovina could be placed in young offenders' institutions and, if so, on what basis. It also requested information on the new legislation on child protection in the Federation of Bosnia and Herzegovina and Republika Srpska (Conclusions 2019).

The report states that in the Federation of Bosnia and Herzegovina, the maximum capacity of a childcare institution is 100 beneficiaries, in Republika Srpska it is 114. Due to the failure to provide requested information on the maximum capacity of a unit in a childcare institution, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

The report further states that in 2018, in the Federation of Bosnia and Herzegovina, 174 children were placed with foster families, in 2019 – 240, in 2020 – 258 and in 2021 – 176. In 2018, 715 children were placed in institutions, in 2019 – 635, in 2020 – 504 and in 2021 – 520. In the Republika Srpska, in 2021, 183 children were placed with foster families and 111 children in institutions. In the Brčko District, in 2021, 16 children were placed with foster families and 19 children in institutions.

The report states that all social service providers are required to regularly report on the individual status and progress of the users entrusted to them; institutions are also monitored.

The report also states that in March 2018, the implementation of the Law on Foster Care in the Federation of Bosnia and Herzegovina began. The aim of the law is to develop foster care. Foster care is monitored by social action centres.

The report states that in the Federation of Bosnia and Herzegovina, neglected children, aged 10-14, who are prone to vagrancy and delinquent behaviour are referred to the Sarajevo Institute for the Education of Male Children and Youth. Children aged 14-18 are referred by the competent court and placed in special, physically separate rooms. The Committee notes that the report does not provide a clear answer to the question of whether neglected children in the Federation of Bosnia and Herzegovina can be placed in institutions for young offenders and whether girls can also be referred to the Sarajevo Institute for the Education of Male Children and Youth. Due to the failure to provide requested information, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

The report states that in the Federation of Bosnia and Herzegovina, the following laws were adopted: the Law on Foster Care, the Law on Parents-Carers. In the Republika Srpska, the Law on Child Protection and several related Rulebooks were adopted during the reference period.

Due to the failure to provide requested information on whether children can be removed from their families on the basis of inadequate resources of their family, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

### ***Children in conflict with the law***

Previously, the Committee asked whether the maximum pre-trial detention of two months and the maximum prison sentence of 10 years applied in all entities and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Bosnia and Herzegovina is in conformity with Article 17§1 of the Charter. It also asked whether children in all entities could be placed in solitary confinement, if so, for how long and under what circumstances (Conclusions 2019).

The report states that in the Brčko District, juvenile imprisonment can last up to 10 years and pre-trial detention can last up to for 30 days, which can be extended for a maximum of two months, and then - for a further 90 days.

The Committee notes that, according to the Act on protection and criminal proceedings in cases involving minors, Nos. 7/2014 and 74/2020 and the Act on protection and criminal proceedings in cases involving minors in Republika Srpska, Nos. 13/2010, 61/2013 and 68/2020, pre-trial detention in the Federation of Bosnia and Herzegovina and Republika Srpska may last up to 30 days and the maximum prison sentence for minors is 10 years.

The report provides contradictory information about the solitary confinement of children but it appears that a person under the age of 23, serving a juvenile prison sentence, may exceptionally be placed in solitary confinement for five days.

### *Conclusion*

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in all settings in the Federation of Bosnia and Herzegovina and the Brčko District.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Bosnia and Herzegovina of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on the scope of the child's right to know their origins in Republika Srpska, and how this right could be restricted;
- on measures taken to reduce child poverty;
- whether Bosnia and Herzegovina uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have;
- on measures taken to find alternatives to detention for children in an irregular migration situation;
- on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored;
- on assistance given to unaccompanied children in order to protect them from abuse and exploitation;
- whether children in an irregular migration situation have access to healthcare;
- on any measures adopted to protect and assist children in crisis situations and emergencies;
- on the maximum capacity of a unit in a childcare institution;
- whether children can be removed from their families on the basis of inadequate resources of their family;
- whether neglected children in the Federation of Bosnia and Herzegovina can be placed in institutions for young offenders and whether girls can also be referred to the Sarajevo Institute for the Education of Male Children and Youth.

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

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

The Committee takes note of the information contained in the report submitted by Bosnia and Herzegovina.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§2 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee also recalls that in the General Introduction to Conclusions 2019, it posed general questions under Article 17§2 and asked States to provide, in the next report, information on measures taken to introduce anti-bullying policies in schools; and on measures taken to facilitate child participation across a broad range of decision-making and activities related to education.

Previously, the Committee deferred its conclusion (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of deferral, the targeted questions and the general questions.

### ***Enrolment rates, absenteeism and drop out rates***

In the previous conclusion, the Committee asked that the next report provide information on enrolment rates, absenteeism and drop out rates, as well as information on measures taken to address issues related to these rates in all entities (Conclusions 2019).

The report states that for the 2020/2021 school year, the enrolment rate for children in primary education in Bosnia and Herzegovina was 87.2% and in secondary education – 76.9%. In the Federation of Bosnia and Herzegovina, there has been a steady decline in the number of pupils in primary education. Between the 2015/2016 and 2020/2021 school years, the number of primary school pupils decreased by 15.03%. The same trend applies to secondary schools.

The report further states that in the Republika Srpska, the gross enrolment rate in primary schools in 2018 was 92.3%, in 2019 – 91.4%, in 2020 – 91% and in 2021 – 91.3%. In secondary schools, the enrolment rate in 2018 was 84.1%, in 2019 – 82.8%, in 2020 – 82.6% and in 2021 – 90.6%. In 2018, 44 pupils dropped out of primary schools and 211 students dropped out of secondary education; in 2018 – 26 and 157, respectively; in 2020 – 48 and 176; in 2021 – 44 and 175.

The report states that for the Brčko District, in 2018, there were 750 pupils in primary schools and 24 of them dropped out; in 2019, there were 731 students and 18 dropped out; in 2020, there were 701 students and 11 dropped out; in 2021, there were 718 students and 11 students dropped out. In secondary education, in 2018 there were 2,145 students and 69 dropped out; in 2019, there were 2,132 students and 78 dropped out; in 2020, there were 2,112 students and 108 dropped out; in 2021, there were 2,066 students and 105 dropped out. Secondary education is not mandatory.

The Committee notes from other sources (Information gathering template prepared for the Global Education Monitoring Report 2021 – Central and Eastern Europe, the Caucasus and Central Asia – Inclusion and education: All means all) that the enrolment rate in primary education is 90% and in secondary education – 77%. The Committee points out that the objective should be to achieve 100% enrolment in both primary and secondary education. The Committee considers that the situation in Bosnia in Herzegovina is not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in secondary education is too low.

### ***Costs associated with education***

The Committee has previously asked for information on measures taken to mitigate the costs associated with education such as transport, books and stationery in all entities (Conclusions 2019).

The report states that in the Federation of Bosnia and Herzegovina, children are entitled to free transport and textbooks. In the Republika Srpska, free textbooks are available, transport costs are also covered. In the Brčko District, free textbooks and other school materials are available free of charge, as is transport.

### ***Vulnerable groups***

The Committee notes that where the States have accepted Article 15§1 of the Charter, the right to education of children with disabilities is dealt with under that provision.

The Committee has previously asked to be kept informed of the number (in percentage points) of children with disabilities in education, specifying what percentage of these children attend mainstream schools and what percentage attend separate special schools. It also asked what measures had been taken to address the lack of comprehensive legislation with an effective strategy on inclusive education. The Committee also asked what assistance is provided to Roma children in the Federation of Bosnia and Herzegovina and Republika Srpska. It also enquired on the situation of Roma children and measures taken to improve their access to education. Finally, it wished to know what measures had been taken to guarantee asylum seeking, refugee and migrant children an effective right to education (Conclusions 2019).

The report provides some statistical information on the number of children with special needs enrolled in regular classes and special classes. However, the numbers provided appear to be divergent. It appears that more children with special needs are enrolled in regular classes than in special classes throughout all the entities.

The report states that the Agency of Preschool, Primary and Secondary Education is working on the development of the Common Core of comprehensive development programmes for preschool, primary and secondary education in Bosnia and Herzegovina. The report provides certain information on laws and regulations relating to working with pupils/students with special needs.

The Committee notes from other sources (Situation analysis of children in Bosnia and Herzegovina by UNICEF, March 2020) that inclusive education is still understood in the most restrictive sense, i.e., access to school and not to learning, insofar as children who go to school are considered as benefiting from inclusive education, without taking into account the learning process itself. The Committee considers that the situation in Bosnia and Herzegovina is not in conformity with Article 17§2 of the Charter on the ground that there is no equal access to education for all children.

The report states that there was a Framework Action Plan 2018-2022 of Bosnia and Herzegovina on the educational needs of the Roma, the goals of which became an integral part of the 2021-2025 Action Plan for the social inclusion of Roma. In the Federation of Bosnia and Herzegovina in 2021, 81 Roma pupils in primary schools and 13 Roma students in secondary schools were awarded cash prizes for their excellent results. In the Republika Srpska, the Strategy for the Achievement and Protection of the Rights of Members of National Minorities in the Republika Srpska for the period 2020-2024 was adopted and a special item is dedicated to the Roma. The 2021-2024 Action Plan on the educational needs of the Roma aims to improve the education of Roma students. Awareness-raising campaigns are organised to develop awareness of the need for education of Roma children. In the Brčko District, in 2021, an Action Plan on the educational needs of the Roma was adopted, which aims to improve the integration of Roma pupils in education.

The report states that child asylum seekers are entitled to primary and secondary education. If necessary, they may benefit from preparatory classes, including language courses, to facilitate their access to the education system.

### ***The voice of children in education***

In the general questions, the Committee asked what measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children's specific learning environments).

The report states that in the Federation of Bosnia and Herzegovina, a Student Council promotes the interests of the schools in the community, presents the students' views to the school board. In Republika Srpska, over 80 young advisors have been exchanging information each other and with the Ombudsman of Children. The young advisors also initiate numerous topics on the basis of which the Ombudsman acts further. In the Brčko District, a Student Council also exists, which informs the school board about every issue related to the work and management of the school.

### ***Anti-bullying measures***

In the general questions, the Committee asked what measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention.

The report states that in the Federation of Bosnia and Herzegovina, the Protocol against peer violence is in the final phase of adoption. In Republika Srpska, additional activities are being undertaken to strengthen the educational role of the school, and all types of violence are prohibited. In the Brčko District, a Rulebook sets out the school's response procedures in order to prevent, identify, report and investigate all cases of peer violence. In several schools, mediation teams work towards the non-violent resolution of conflicts.

### ***Covid-19***

In the context of the Covid-19 crisis, the Committee asked the States Parties to provide information on measures taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children).

The Committee recalls that under Article 17§2 of the Charter equal access to education must be ensured for all children during the Covid-19 crisis. In this respect, particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children with disabilities, children in hospital, children in care, pregnant teenagers, children deprived of their liberty (Statement on Covid-19 and social rights, 24 March 2021).

The report states that the Covid-19 pandemic had a negative impact on the implementation of the compulsory preschool education programme.

### ***Conclusion***

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§2 of the Charter on the grounds that:

- the net enrolment rate in secondary education is too low;
- there is no equal access to education for all children.