

Article 13 – The right to social and medical assistance

Paragraph 1 – Social and medical assistance for those in need

The Danish report recalls, with respect to *social assistance*, that under Section 37 of the Act of 19 June 1974 on social assistance, subsistence benefit (*kontanthjælp til underhold*) is payable to persons who cannot provide for themselves or their families, and confirms that this applies not just to nationals, but to all persons present in the country. The report clarifies that this form of assistance is categorised as temporary assistance if it lasts for less than one year. Longer periods are considered as constituting permanent assistance. The Danish authorities do not consider that the Charter confers a right to receive permanent social assistance benefit on non-nationals. The Committee observes that this view contradicts the wording of the Charter and the Appendix to the Charter.

According to the report, where a non-national is found to be in need of permanent assistance, the possibility of repatriation may be envisaged, subject to the restrictions laid down by international agreements. Section 4.2 of the Social Assistance Act provides that non-nationals who have been lawfully resident in the state for at least three years and anticipate obtaining a permanent residence permit are not subject to repatriation. The Committee refers the Danish authorities to its case law on the obligations of Contracting Parties towards nationals of other Contracting Parties who are legally resident or regularly working within their territory: such persons must enjoy the same rights as nationals to social and medical assistance, no length of residence requirement may be imposed and such persons may not be repatriated on the sole ground that they are in need of assistance (Conclusions XIII-4, p. 61) The situation in Denmark, as outlined above, clearly fails to respect these requirements.

The Committee takes note of the levels of assistance which are granted to claimants, depending on their personal circumstances and expenses. The maximum subsistence benefit, payable to persons with dependent children, increases from 8,852 Danish kroner (DKK) in the last

reference period to DKK 9,057 in 1996. This figure represents 80 % of the maximum unemployment which in turn is roughly equal to minimum wage-levels on the labour market. The single adult rate (ie. over twenty-five years) increased from DKK 6,682 to 6,803 in 1996, or 60 % of the maximum unemployment benefit. Although the report states that there is no minimum subsistence level in Denmark, it emphasises that often a person may claim more than one allowance, thus improving their situation further. According to the statistics supplied, DKK 16,761 million were spent on the various assistance benefits in 1996. The Committee asks what portion of the overall social welfare budget this represents, 358,501 persons were in receipt of at least one assistance benefit during that year. Of this figure, 197,547 were in receipt of a benefit for the whole of 1996.

With respect to the assistance for specific costs (*hjælp i særlige tilfælde*, provided for by Section 46 of the 1974 Act.), the report lists the circumstances in which it may be granted and confirms that these payments may be claimed by nationals of other Contracting Parties legally resident or regularly working in Denmark and by refugees. The Committee asks whether there is any length of residence requirement.

Special support may be granted under Section 37(a) of the Social Security Act where a person's accommodation expenses exceed certain thresholds. Again, the Committee seeks confirmation that such benefits are equally available to nationals of other Contracting Parties legally resident or regularly working in Denmark.

The report provides information on "specific activation" programmes organised by municipalities. These programmes, which municipal authorities are required to offer to social assistant claimants, comprise education and training suitable to the needs and ability of the person. Where activation takes the form of job training, the person is paid the normal working wage. Participants in the programmes are entitled to a start-up subsidy if they wish to establish their own business. The Committee inquires whether participation in such programmes is compulsory for social assistance recipients, whether there are sanctions for refusal to participate and, if so,