



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

## **PRESS BRIEFING ELEMENTS**

**Conclusions 2016**



## **The European Committee of Social Rights' Conclusions 2016: briefing document**

### *A modified reporting procedure*

Following the changes to the reporting procedure adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014 there are henceforth three types of reports. Firstly, the ordinary reports on a thematic group of Charter provisions, secondly reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year and, thirdly, simplified reports every two years on follow-up to collective complaints for States bound by the collective complaints procedure.

### *Rights examined in 2016*

In 2016, the Committee examined state reports on the application of provisions belonging to the thematic group "Employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- the right to equal opportunities between women and men (Article 20);
- the right to protection in cases of termination of employment (Article 24);
- the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

State reports of the following 34 countries were examined:

Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Spain, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

State reports of Albania and Luxembourg could not be examined because they were not submitted in time.

State reports were due on 31 October 2015. They covered the reference period 2011 to 2014.

In addition, the Committee examined reports from certain States on conclusions of non-conformity for repeated lack of information in Conclusions 2014 (Labour rights).

Finally, the Committee examined reports from 5 States Parties (Czech Republic, the Netherlands, Norway, Slovenia and Sweden)<sup>1</sup> on the follow-up undertaken by these States

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<sup>1</sup> Croatia did not submit a report on follow-up and in respect of Cyprus there were no decisions concerned.

in cases where the Committee had found breaches of the Charter following complaints lodged by different organisations under the collective complaints procedure. The follow-up to a total of 9 decisions on the merits was examined concerning a wide variety of Charter rights. The Committee's findings were adopted in September 2016 (and made public in October 2016).

### *The outcome: key figures*

In 2016, the Committee adopted 513 conclusions on employment, training and equal opportunities in respect of the 34 States, including some 166 findings of violations of the Charter (32%). There were 262 conclusions of conformity (51%), whereas the number of "deferrals" (cases where the Committee was unable to assess the situation due to lack of information) amounted to 85 cases (17%).

In respect of situations of non-conformity for repeated lack of information in Conclusions 2014 the Committee adopted 64 conclusions. In 16 of these, the Committee concluded that the situation had been brought into conformity, in 39 it reiterated the finding of violation (either due to a continued lack of information or on substantive grounds) and in 9 cases the Committee deferred its conclusion.

As regards follow-up to collective complaints the Committee examined the follow-up to a total of 21 violations arising from the 9 decisions on the merits under consideration. In 4 cases the Committee found that the violation had been remedied by appropriate follow-up and in 2 cases it reserved its position pending receipt of more detailed information. In all the remaining the Committee held that the violation had not yet been remedied.

### *Main findings*

#### *- Problems identified*

The problems highlighted here following the publication of the 2016 Conclusions refer to the issue of discrimination of which all forms should be prohibited. As a general principle, the Committee affirmed that ensuring equal treatment required a precise body of law prohibiting discrimination as well as legal and political measures to realise equality in practice and make the prohibition of discrimination fully effective.

Under Article 1§2, legislation should prohibit discrimination in employment. 56% of the national situations examined did not comply with this requirement on grounds such as missing definition of discrimination and insufficient protection against discrimination in employment, for example due to sexual orientation.

Discrimination in access to employment due to disability is prohibited under Article 15§2. Of the examined national situations, 41% were in violation of the Charter. These violations relate primarily to insufficient integration of persons with disabilities into the ordinary labour market. They also relate to the failure to provide for reasonable accommodation or to the lack of legislation expressly prohibiting discrimination in employment on the ground of disability.

As for the right to equal opportunities between men and women (Article 20), the Committee found that sex discrimination took place in 40% of the national situations

examined. Most violations resulted from the maintenance of restrictions on the employment of women or were related to wage discrimination.

- *Progress identified*

The Conclusions 2016 also show a number of positive developments which have taken place during the period under consideration.

A number of States Parties passed legislation to promote the right of persons with disabilities (Article 15). For example: the Russian Federation passed Laws setting out measures aimed at helping persons with disabilities to integrate into the labour market. Legislation prohibiting all discrimination, including discrimination based on disability, entered into force in the Republic of Moldova and in Ukraine.

Article 20 (The right to equal opportunities between women and men) is another provision where progress could be noted during the period under consideration. Here are some examples: Armenia adopted a law which prescribes equal rights and opportunities for women and men. Austria passed legislation to prevent discrimination by ensuring effective and proportionate compensation. Belgium approved a federal law combating the gender pay gap.

For more examples of positive developments, see also Appendix II.

## **Appendix I: Summary of main findings**

- **The right to work (Article 1)**

In view of the continued economic crisis it is perhaps not surprising that the Committee found an important number of countries to be in breach of **Article 1§1** which obliges States to pursue a policy of full employment and to adequately assist the unemployed. 13 States (38%), namely Armenia, Bosnia and Herzegovina, Bulgaria, 'The former Yugoslav Republic of Macedonia', Georgia, Greece, Italy, the Republic of Moldova, Montenegro, Portugal, Serbia, Spain and Ukraine were found not to have demonstrated that their efforts in terms of job creation, training and assistance for the unemployed were adequate in the light of the economic situation and the level of unemployment.

**Article 1§2** concerns discrimination in employment and prohibition of forced labour as well as related issues such as work of prisoners, domestic work, minimum periods of service in the armed forces and the right to privacy at work.

Under Article 1§2 of the Charter legislation must prohibit any discrimination in employment, both direct and indirect. Discrimination should be prohibited in connection with recruitment or with employment conditions in general (remuneration, training, promotion, transfer and dismissal and other detrimental action).

In 2016 the Committee examined 34 national situations of which 19 (56%) were found not to be in conformity with the Charter on several grounds, such as follows:

First, the absence of a clear and comprehensive definition and prohibition of direct and indirect discrimination covering all aspects of employment and occupation, including recruitment, as well as insufficient protection against discrimination in employment, in particular observed on grounds of sexual orientation in the Russian Federation, Armenia and Turkey.

Second, the existence of upper limits on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive in Armenia, Turkey and Ireland.

Third, under Article 1§2 of the Charter, while it is possible for States to make foreign nationals' access to employment on their territory subject to possession of a work permit, they cannot issue a general ban on nationals of States Parties. In this connection, the Committee found that some States, such as France, Republic of Moldova, Belgium and Latvia impose excessive restrictions on non-EEA nationals to access civil service posts or the profession of advocate.

Furthermore, the Committee found three States (Bulgaria, Georgia, Portugal) to be in violation of Article 1§2 regarding the prohibition of forced labour. In Bulgaria the rules governing railway management staff contain coercive provisions incompatible with Charter's request to ban forced labour. In Georgia, forced labour exists in the domestic environment and in family businesses. In Portugal, seafarers abandoning their posts risk prison sentences.

As regards other aspects of the right to earn one's living in an occupation freely entered upon guaranteed under Article 1§2, the Committee found 4 States in violation of the Charter:

- Armenia, where the duration of alternative civil service is too excessive;
- Ireland, where army officers cannot seek early termination of their commission unless they repay to the state at least part of the cost of their education and training;
- Turkey, where local government officials and employees can be suspended or transferred on the ground that their employment constituted a threat to security in general, and
- Georgia, where the right of workers to earn their living in an occupation freely entered upon is not properly guaranteed.

**Article 1§3** provides for the right to free employment services. The main function of such services is to place unemployed jobseekers in employment as well as employed workers looking for another job. Basic placement services such as registration of jobseekers and notification of vacancies must be provided free of charge for both employees and employers and must be effective.

In order to assess the effectiveness of employment services, the Committee looks at a number of performance indicators, such as the number of vacancies notified to employment services, the number of placements made by these services, the average length of time in filling vacancies and respective market shares of public and private services.

The Committee's conclusions reflect a moderate level of compliance with the provisions of Article 1§3 with an overall total of 18 conclusions of conformity or 53% and 8 conclusions of non-conformity. In respect of the other 8 situations related to Articles 1§3, the Committee needs further information in order to examine the situation.

Under this article, the most common grounds of non-conformity concerned the lack of measures taken by public authorities to improve the functioning of employment services (Georgia, Greece, Slovak Republic, Spain,) and lack of information provided (Armenia, Azerbaijan, Romania, Ukraine).

- **The right to vocational guidance (Article 9)**

Article 9 deals with the vocational guidance provided respectively in the education system and on the labour market. In the former case, it is intended to help pupils choose a subsequent course of training or an occupation. In the latter, it is aimed primarily at unemployed persons or persons who have given up full-time education, but also at workers who wish to take up their studies again, attend a training course or specialise in a particular field to take their career forward or to change their occupation.

At all events, guidance must be provided: (1) without discrimination between nationals of the States Parties to the Charter and without any length-of-residence requirement; (2) free of charge; (3) by skilled professionals, in sufficient numbers; (4) to as many beneficiaries as possible; (5) with sufficient financial back-up. Where states have not accepted Article

15, as is the case with Azerbaijan and Bosnia and Herzegovina, the Committee examines the issue of vocational guidance for persons with disabilities under Article 9.

The Committee's examination did not highlight any particular problems of substance apart from the difficulty of assessing the effectiveness of national systems on the basis of reliable statistics regarding the number of beneficiaries and human and budgetary resources available. Vocational guidance services are often provided as part of other services at schools and employment agencies or made available to all users without distinction via electronic means or events such as job fairs or open days.

In 8 countries out of 34 (24%), the Committee considered that not enough information had been provided to establish that the situation was in conformity (Azerbaijan, Bosnia and Herzegovina, Republic of Moldova, Montenegro, Russian Federation, Serbia, Slovak Republic, Ukraine).

- **The right to vocational training (Article 10)**

Under Article 10§1 the States Parties are under the obligation to ensure access to general and vocational secondary education, university and non-university higher education and to build bridges between secondary and higher vocational education. Moreover, they must take measures to make secondary and higher vocational education qualifications relevant from the perspective of professional integration in the job market.

The Committee examined 25 national situations of States Parties and found that the majority of them comply with Article 10§1. In other cases, such as Montenegro, the Committee found that insufficient measures were taken to match the skills acquired through vocational training with the labour market requirements and thus to bridge the gap between education and work. In Ukraine and the Slovak Republic the Committee did not find it established that secondary and higher vocational education system operates in an efficient manner.

Under 10§2 of the Charter apprenticeship is a training based on a contract of employment between the employer and the apprentice that leads to vocational education. It must combine theoretical and practical training and close ties must be maintained between training establishments and the working world. The Committee considered that 20 of the national situations (90%) were in conformity with the Charter, except for Montenegro, Georgia, Slovak Republic and Ukraine, where the Committee did not find enough evidence that apprenticeship system worked in an efficient manner.

Under Article 10§3 of the Charter States must take preventive measures against deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development. The indicators of particular interest when it comes to vocational training for the unemployed are the number of participants, the development in national expenditure and the results of the effort, i.e. the employment effect. 9 out of 24 States (36%) were found to comply with Article 10§3, whereas in the case of 12 States the Committee had to reserve its position due to lack of information at its disposal on relevant indicators. As regards long-term unemployed persons (Article 10§4), the Committee found that in Georgia and Montenegro special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.



Under Article 10§5 the States must provide financial assistance for secondary and higher vocational training either universally or subject to a means-test, or on the basis of the merit. In any event assistance should be available for those in need and shall be adequate. It may consist of scholarships or loans at preferential interest rates.

The States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for them to apply for financial aid for vocational education and training are in breach of the Charter. In this respect, the Committee found that the situation in 8 out of 20 States (40%) is not in conformity with the Charter due to length of residence requirements imposed non-EEA nationals to qualify for loans and scholarships.

- **The right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15)**

As to the right of persons with disabilities to guidance, education and vocational training (Article 15§1), the Committee found in 11 of the 28 countries concerned (39%) that the situation was not in conformity with the Charter, mainly because the right to integration into the mainstream system was not effectively guaranteed in the sphere of education (Austria, Belgium, Ukraine, Romania) or did not appear to be guaranteed in the sphere of education (Hungary), training (Romania) or either (Montenegro, Serbia, “the former Yugoslav Republic of Macedonia”, Turkey). In one situation (France), the Committee found that it was not possible from the available information to establish that the right of persons with disabilities to education and vocational training was guaranteed. Lastly, in two situations, the Committee arrived at a finding of non-conformity because of shortcomings in the anti-discrimination legislation (Denmark, Iceland).

With regard to access for persons with disabilities to employment (Article 15§2), the Committee identified 12 situations of non-conformity (out of a total of 29, or 41%). These related primarily to the insufficient integration of persons with disabilities into the ordinary labour market (Greece, Romania, Serbia, Ukraine) or the fact that the information available did not make it possible to establish that persons with disabilities were effectively guaranteed equal access to employment (France, Montenegro, Republic of Moldova), that the legal obligation to provide reasonable accommodation was respected (France, Montenegro, Russian Federation, Serbia, Turkey, Ukraine) or that persons with disabilities enjoyed effective protection against discrimination in employment (Armenia, Hungary, Turkey). Another country (Iceland) was found to lack legislation expressly prohibiting discrimination in employment on the ground of disability.

In over half of the countries examined (11 out of 19, or 58%), the Committee highlighted shortcomings affecting the social integration of persons with disabilities (Article 15§3). These shortcomings were the result in particular of the actual absence (Estonia, Belgium) or presumed absence (Andorra, Armenia, Montenegro, Serbia, Turkey, Ukraine) of protection against discrimination in all the areas covered by the Charter (housing, transport, telecommunications, culture and leisure) with regard to matters including the effectiveness of remedies (Andorra, Hungary), full access to aids designed to help people overcome disabilities (France, Ireland) and effective access to transport and/or housing (Armenia, France, Hungary, Serbia).

- **The right to engage in a gainful occupation in the territory of other Parties (Article 18)**

Under Article 18, the Committee examines the systems by which foreign workers are granted work permits. While taking account of the agreements on the free movement of workers which apply between certain member states (particularly within the European Economic Area), it checks, on the basis of statistics concerning work permit rejection rates, that access for workers from other member countries of the Charter are not subject to excessive restrictions in practice (Article 18§1). It also checks that no excessive restrictions result from the formalities involved in issuing permits, including any fees charged (Article 18§2), or from the criteria for granting or renewing them, including requirements linked to professional qualifications (Article 18§3). Lastly, it checks that no unwarranted restrictions are applied to nationals wishing to work abroad (Article 18§4).

Under Article 18§1, 4 countries out of 22 (18%), were subject to a finding of non-conformity (Germany, Spain, Italy, Portugal) because they failed to provide any proper figures in reply to the Committee's previous requests.

In 30% of the countries examined (6 out of 20), the Committee found that the formalities tied up with granting work permits were still an obstacle to the free movement of workers because it was impossible to obtain a residence and a work permit through one and the same procedure, whether in the country or from abroad (Iceland, Serbia, Slovak Republic), because the fees charged for permits were considered excessive (Ireland, United Kingdom), or because not enough information had been provided to establish the country's conformity in this respect (Ukraine).

Excessively restrictive requirements for permits to be issued were found to apply in 7 countries out of 19 (37%). In particular, in some cases, the Committee found that the information provided in response to its questions did not make it possible to establish that the regulations had been liberalised (Germany, Iceland) or confirmed that excessive restrictions had been maintained (Italy, Turkey). In other cases, the Committee issued a finding of non-conformity where the loss of a foreign worker's job automatically resulted in the early withdrawal of his or her residence permit (Belgium, Iceland, Republic of Moldova, Turkey, Ukraine).

Practically every country met the requirements of Article 18§4 except one (1 out of 29 (3%)), which still imposed undue restrictions on the right of national workers to leave the country to engage in a gainful occupation abroad (Russian Federation).

- **The right to equal opportunities between women and men (Article 20)**

In 12 of the 30 countries (40%), the Committee found that there was sex discrimination in the labour market. Most violations resulted from the maintenance of restrictions on the employment of women in certain occupations, including work underground or under water and night work (Azerbaijan, Bosnia and Herzegovina, Russian Federation, Republic of Moldova, Montenegro, Turkey).

Other situations of non-conformity arose from wage discrimination, either because the legislation did not explicitly guarantee equal pay for work of equal value (Georgia) or because this was not guaranteed in practice in view of the excessive pay gap between

women and men (Armenia, Azerbaijan, Estonia). More generally speaking, the Committee considered that in some countries the right to equal opportunities in employment without discrimination on the ground of sex was not or did not appear to be guaranteed in practice (Bosnia and Herzegovina, Serbia, Ukraine).

In other cases, the Committee considered that full respect for the right to equal opportunities was not ensured because of shortcomings in the area of available remedies, for example where the legislation did not allow pay comparisons between companies to be made in equal pay disputes (Malta), where it did not provide for the burden of proof to be shifted in sex discrimination cases (Azerbaijan, Russian Federation, Ukraine) or where there was an upper limit on the compensation that could be paid in such cases (Armenia, Turkey).

- **The right to protection in cases of termination of employment (Article 24)**

Under Article 24 of the Charter the States are obliged to establish regulations with respect to the termination of employment (at the initiative of the employer) for all workers who have signed an employment contract. Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons). The Committee examined national situations in 21 States and found that in 8 cases (38%) the situation was not in conformity with the Charter.

While in the absolute majority of the States having accepted this provision the legislation prohibits dismissal without a valid ground and provides for remedies and redress in case of unlawful dismissal, the Committee found that in a number of States, such as Armenia, Montenegro and Malta, the legislation permits dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age, which is contrary to the Charter.

In Bulgaria, Italy, Malta and Ireland the Committee found that the duration of the probationary period during which employees may be excluded from protection against dismissal is excessively long (six months).

- **The right of workers to protection of their claims in the case of insolvency of the employers (Article 25)**

The Committee examined the situation in 15 countries under Article 25.

The Committee found the situation in 3 countries (20%) not in conformity with **Article 25** for not guaranteeing adequate protection of workers' claims in the event of the insolvency of the employer.

In Belgium and in Portugal, the ground of non-conformity is that the average time to satisfy workers' claims in case of insolvency of their employer is excessive.

The situation in Turkey is not in conformity with Article 25 of the Charter on the grounds that:

- holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred is not covered by Turkish legislation;
- the amounts due in respect of other types of paid absence relating to a prescribed period which shall not be less than three months under a privilege system and eight weeks under a guarantee system are not covered by Turkish legislation.

## **Appendix II: Positive developments**

### *1961 Charter*

#### **Greece**

##### *Article 10§1*

Law No. 4186 of 17 September 2013 restructures the adult training system. In the educational framework outside the formal education system – initial vocational training – pupils can obtain certificates which are recognised at national level following initial and in-house vocational training and the general training of adults.

##### *Article 15*

- Law No.4115 of 30 January 2013 provides for the conversion of special education and training schools into special education and training support centres and the establishment of a school network for education and support.

- Law No. 3996/2011 on reforming the Labour Inspectorate, regulating Social Security matters and other provisions, which came into force on 5 August 2011, set up the body of labour inspectors who are henceforth responsible for monitoring the implementation of the principle of equal treatment with regard to persons with disabilities, for advising employers and employees in this field and for ensuring that they comply with the reasonable accommodation obligation

#### **Spain**

##### *Article 10§1*

Since 2006 when the Organic Law of Education entered into force a total of 148 vocational education qualifications have been developed of which 108 were developed during 2011-2014.

##### *Article 15*

Royal Decree 10/2011 of 26 August 2011 on urgent measures to promote youth employment, support job stability and maintain vocational retraining programmes for those who have exhausted their unemployment benefits is aimed at improving the skills of young people.

#### **The United Kingdom**

##### *Article 15*

The Children and Families Act 2014 received Royal Assent on 13 March 2014. Part 3 of the Act applies to England only and sets out a new framework for children and young people who have special educational needs and disabilities.

## *Charter*

### **Andorra**

#### *Article 20*

In its decision of 27 March 2014, the Civil Division of the Supreme Court of Justice held that it was for the company to prove that the dismissal of one of its employers was not an act of discrimination.

### **Armenia**

#### *Article 15*

Law on Employment, which came into force on 1 January 2014 and sets out measures to be taken to help persons with disabilities integrate into the labour market.

#### *Article 20*

On 20 May 2013 the National Assembly of the Republic of Armenia adopted the "Law on ensuring equal rights and equal opportunities for women and men", which prescribes guarantees for ensuring equal rights and equal opportunities for women and men in political, social, economic, cultural and other areas of public life.

### **Austria**

#### *Article 15*

The Insurance Law Amendment Act (Versicherungsrecht-Änderungsgesetz) of 2013 introduced special protection against discrimination for people with disabilities into the Insurance Contract Act (Versicherungsvertragsgesetz).

#### *Article 18*

- The quota system (Bundeshöchstzahl) was repealed as of 1 January 2014.

- The Red-White-Red Card and the EU Blue Card systems were introduced in 2011, has simplified the formalities for obtaining the documents needed for engaging in a professional occupation, in that it has established a combined residence and work permit (administered through a "one-stop shop").

#### *Article 20*

The legislation was amended as of 1 August 2013 to expressly address court proceedings, specifying that the awarded compensation must be effective and proportionate as well as suited to preventing discrimination.

### **Belgium**

#### *Article 1§2*

On 19 March 2012, the German-speaking Community adopted a decree on the fight against certain forms of discrimination, which prohibits direct and indirect discrimination based on "nationality, alleged race, colour, descent or national or ethnic origin; age, sexual orientation, religious or philosophical belief or disability; sex and related criteria such as pregnancy, childbirth and maternity or

transsexualism; civil status, birth, wealth, political ideas, trade union affiliation, language, current or future state of health, physical or genetic characteristics or social background". It applies to all persons, both in the public and in the private sector, including in public bodies, with regard to labour and employment relations.

#### *Article 20*

At federal level, the law on combating the gender pay gap was adopted on 22 April 2012 and requires measures to combat the wage gap to be negotiated at inter-occupational, sectoral and company level.

### **Estonia**

#### *Article 9*

Since 2012, the Unemployment Insurance Fund provides counselling also to persons who are not registered as unemployed. Accordingly, under the programme "Increasing the availability of career services" funded by the European Social Fund, career counselling is now available to all people, regardless of their labour market status.

#### *Article 10§4*

The Reform programme "Estonia 2020" expressly targets the integration and skills development of 'long-term unemployed'. This strategy aims to decrease the long-term unemployment rate to 2.5% by 2020.

### **France**

#### *Article 20*

Act 2012-1189 of 26 October 2012 on establishing "jobs for the future" strengthens the role of collective bargaining between women and men with regard to occupational equality and equal remuneration.

### **Finland**

#### *Article 18§2*

The procedure allowing foreign nationals to receive a personal identity number has been simplified: as a result, as from the end of 2014, they do no longer need to apply for their personal identity number but can receive it together with their first residence permit.

### **Georgia**

#### *Article 1§2*

Law on the Elimination of All Forms of Discrimination, which was enacted by the Georgian parliament on 2 May 2014 and entered into force on 7 May 2014. Its purpose is to eliminate discrimination on various grounds including health and disability (Article 1). The law prohibits all discrimination, both direct and indirect (Articles 2 §2 and 2 §3), and also introduces the notion of positive action in the context of promoting gender equality and in certain specific cases involving, **inter alia**, disability.

## **Hungary**

### *Article 10§1*

With the Act CLV of 2011 on Vocational Contribution and Support to Training Development, the new vocational contribution system introduced in 2012 strengthens the dual approach to practical education in vocational training provided in schools.

### *Article 20*

The report indicates that Section 12 (1) of the Act I of 2012 on the Labour Code (the new Labour Code) states that the requirement of equal treatment must be complied with in relation to employment. The Act defines the concept of wages (as any remuneration in cash or in kind provided to employees directly or indirectly based on their employment), as well as the factors that need to be taken into account when calculating the equal value of work.

## **Italy**

### *Article 1§2*

- The legislative decree 150/2011 widened the range of possible forms of discrimination covered by Article 44 of the Consolidated Immigration Act, by adding to the list discrimination on grounds of national origin, language or skin colour. Discrimination cases involving any of the prohibited grounds are now dealt with under urgent/fast-track procedure rather than under the ordinary procedure.

- Amended legislation brought national law into line with the requirements of ILO Maritime Labour Convention No. 186.

### *Article 10§1*

The Law on the Labour Market Reform of 2012 introduced different types of education, such as formal, non-formal and informal with a view to consolidating the system of life-long learning.

### *Article 15*

- In 2012, a clause was added to Law No. 68/99 stating that employers must make reasonable accommodation for employees with disabilities wishing to work from home or telework (Decree-Law No. 179 of 18 October 2012).

- Under Legislative Decree No. 76/2013, public and private employers are required to make reasonable accommodation to ensure compliance with the principle of equal treatment of persons with disabilities at work.

## **Lithuania**

### *Article 25*

The Law on the Guarantee Fund (Recast) which came into effect on 1 January 2013, establishes a better regulation in order to simplify the calculation of allowances from the Guarantee Fund and to speed up the allowances allocation process.



## **Malta**

### *Article 15*

The Equal Opportunities (Persons with a Disability) Act, amended in 2012, prohibits discrimination in all areas including employment. Under this law employers must not discriminate against persons with disabilities in procedures relating to job applications, recruitment, promotion, dismissal, remuneration, vocational training or other areas linked to employment conditions. It is not permitted for employers to use tests or procedures designed to exclude persons with disabilities unless they can prove that these tests are crucial to the work concerned.

## **Republic of Moldova**

### *Article 15*

Legislation which came into force on 1 January 2013, prohibits all forms of discrimination, including discrimination based on disability, and applies to all individuals and legal persons in the public and private domains.

## **Montenegro**

### *Article 15*

- The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.

- Exercise of the right to medical and technical aids is governed by the "Regulation on exercising the right to medical and technical aids" (Official Gazette of Montenegro, no. 24/2013 and 26/2014).

- The Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

## **Portugal**

### *Article 1§3*

Within the framework of the Programme to Relaunch the Public Employment Service approved by the Council of Ministers Resolution n°. 20/2012 of 9 March 2012, public employment services have been restructured. Following this restructuration, the Institute of Employment and Professional Training (IEFP) is supported by a network of 29 employment and vocational education centres, 23 job centres, and one vocational training and professional rehabilitation centre, for a total of 53 local units.

## **Romania**

### *Article 20*

In April 2014 the Department for Equality of Opportunities between Women and Men (DEOWM) was established to monitor the enforcement of the Gender Equality Law.

## **Russian Federation**

### *Article 1§3*

- Following the amendment in 2012 of Federal Act No.1032-1 "On employment in the Russian Federation" of 19 April 1991, the subjects of the Federation are entitled to conduct active policies to promote employment.
- Act No. 116-FZ " On Amendments to Certain Legislative Acts" of 5 May 2014, set the rules for accreditation and operation of private employment agencies in the Russian Federation.

### *Article 10§3*

The Order of the Ministry of Labour of Russia № 262 of April 17, 2014 approved the Federal state standards of public services, including vocational training and education for the unemployed.

### *Article 15*

- The Law on the Protection of Disabled Persons, as amended by Federal Law no. 168-FZ of 2 July 2013, provides that employers must supply equipment for special jobs for persons with disabilities, regard being had to their disability.

- With effect from 2013, Law No. 183-FZ of 2 July 2013 entitles public authorities to set quotas for the employment of persons with disabilities within organisations which have more than 35 members of staff.

- With regard to the activities of the National Employment Service, standards for public services and public functions in the field of promotion of employment have been drawn up (Federal Law no. 361-FZ of 30 November 2011) in order to guarantee employment and encourage access to the inclusive employment market for persons with disabilities.

### *Article 20*

In 2011 the Council on Gender was created at the Russian Ministry of Labour whose main tasks are to prepare proposals on improvement of legislation in order to ensure gender equality.

## **Serbia**

### *Article 15*

Law on the Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette Nos. 36/2009 and 32/2013), which came into force on

23 May 2009 and was amended on 16 April 2013. It prohibits all discrimination against persons with disabilities and aims to create the conditions for equal access for persons with disabilities to the open labour market and to promote professional rehabilitation.

## **Slovak Republic**

### *Article 10§1*

Act 184/2009 Coll. on Vocational Education and Training is one of the pillars of the reform of the educational system. The Act was amended in September 2012 and the amendment strengthened the coordination of vocational training and education to be better suited to the needs of the labour market. The amendment also introduced the obligation to publish information about the employability of graduates in each individual self-governing region, according to the fields of study and type of the secondary education facility.

### *Article 20*

The Anti-Discrimination Act was amended in 2012 to cover the definition of indirect discrimination and it now enables public administration bodies and legal entities, including employers, to adopt temporary compensatory measures to eliminate disadvantages due to gender.

## **“the former Yugoslav Republic of Macedonia”**

### *Article 15*

The Committee notes that the Law on Prevention of and Protection against Discrimination (the Anti-Discrimination Law), which was adopted in 2010, entered into force on 1 January 2011. It prohibits any direct or indirect discrimination on grounds including disability in areas such as education, science and sport.

### *Article 20*

Law on the Equal Opportunities of Men and Women No. 6/2012 was adopted on 13 January 2012, which additionally promoted the principle equal opportunities and equal treatment of men and women.

## **Ukraine**

### *Article 15*

- Law No. 5207-VI on Principles of Prevention and Combating Discrimination in Ukraine which was enacted on 6 September 2012 forbids direct and indirect discrimination, based, among other things, on disability and applies in particular to the field of education, public services and relations between employers and employees.

- By its Decision No. 872 of 15 August 2011, the Cabinet of Ministers approved the rules governing the organisation of inclusive education in secondary schools.

- Law No. 1324 of 5 June 2014 on amendments to some of the laws on inclusive education was enacted to ensure continuity and consistency in the integration of children with special needs into general education.