



European
Social
Charter

Charte
sociale
européenne



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

March 2021

Committee used only

PRESS BRIEFING ELEMENTS

Conclusions 2020

Document prepared by the Secretariat

The European Committee of Social Rights' Conclusions 2020: press briefing elements

The European Committee of Social Rights in 2020 examined reports submitted by 33 States Parties on the provisions of the Charter relating to "Employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18);
- the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (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).

The reports covered the reference period 1 January 2015 to 31 December 2018.

The following 33 countries were examined:

[Albania](#), [Andorra](#), [Armenia](#), [Austria](#), [Azerbaijan](#), [Bosnia and Herzegovina](#), [Croatia](#), [Cyprus](#), [the Czech Republic](#), [Denmark](#), [Estonia](#), [Georgia](#), [Germany](#), [Hungary](#), [Iceland](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Malta](#), [Montenegro](#), [the Netherlands](#), [the Netherlands in respect of Curacao](#), [the Netherlands in respect of Sint Maarten](#), [North Macedonia](#), [Poland](#), [Romania](#), [the Russian Federation](#), [Serbia](#), [the Slovak Republic](#), [Slovenia](#), [Spain](#), [Sweden](#), [Turkey](#), [Ukraine](#) and [the United Kingdom](#).¹

Comments from civil society

For its examination of the State reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

The outcome: key figures

The Committee adopted 349 conclusions in respect of the 33 States, including 152 conclusions of non-conformity and 97 conclusions of conformity.

In 100 cases, the Committee was unable to assess the situation due to lack of information ("deferrals").

Main findings

- Problems identified

The problems highlighted in respect of the Charter provisions examined appear in **Appendix I**.

¹ No report was received from the Republic of Moldova and Norway.

The Committee posed a **general question** to States Parties under Article 15§3 of the Revised Charter (right of persons with disabilities to independence, social integration and participation in the life of the community):

- **General Question on Article 15§3**

The prevalence of poverty amongst people with disabilities 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 people with disabilities to enjoy independence, social integration and participation in the life of the community.

The obligation of states to take measures to promote persons with disabilities full social integration and participation in the life of the community is strongly linked to measures directed towards the amelioration and eradication of poverty amongst people with disabilities. Therefore, the Committee will take poverty levels experienced by persons with disabilities into account when considering the state's obligations under Article 15§3 of the Charter. The Committee asks the next report to provide information on the rates of poverty amongst persons with disabilities as well as information on the measures adopted to reduce such poverty, including non-monetary measures.

Information should also be provided on measures focused on combatting discrimination against, and promoting equal opportunities for, people with disabilities from particularly vulnerable groups such as ethnic minorities, Roma, asylum-seekers and migrants.

States should also make clear the extent to which the participation of people with disabilities is ensured in work directed towards combatting poverty amongst persons with disabilities.

The Committee also adopted a **statement of interpretation** on Article 15§1 of the Revised Charter (right to education and vocational training for persons with disabilities).

Introduction

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities"). The questions posed for this cycle of supervision focused exclusively on the education of children with disabilities.

The Committee recalls nonetheless that under Article 15 all persons with disabilities, irrespective of age and the nature and origin of their disabilities, are entitled to guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialized bodies, public or private.

Therefore, in its next cycle of supervision, the Committee will examine Article 15§1 issues as they apply to all persons with disabilities (not just as they apply to children)

Definition of Disability

The Committee has previously stressed the importance of moving away from a medical definition of disability towards a social definition. An early example is that endorsed by the World Health Organisation in its International Classification of Functioning, Disability and Health (ICF 2001) which focuses on the interaction of health conditions, environmental

factors and personal factors. Article 1 of the UN Convention on the Rights of Persons with Disabilities (CRPD) (2006) crystallises this trend by emphasizing that persons with disabilities include those with long term disabilities including physical, mental or intellectual disabilities which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Importantly, this means there is no a priori exclusion from inclusive education based on the type of disability. Indeed, Article 2 of the UN CRPD which prohibits discrimination “on the basis of disability” may be read to go further by including those who have had a record of disability in the past but who continue to be treated negatively and those who never had a disability but may nevertheless be treated by others as if they had a disability (‘the so-called attitudinally disabled’).

The Committee therefore asks the next report to clarify whether the assessment of ‘disability’ in the fields of education and vocational training takes into account the personal and environmental factors interacting with the individual. These factors are particularly relevant when it comes to an assessment of ‘reasonable accommodation’.

Access to Education

In order to assess the effective equal access of children with disabilities to education, the Committee needs States Parties to provide information, covering the reference period, on:

- the number of children with disabilities, including as compared to the total number of children of school age;
- the number and proportion of children with disabilities educated respectively in
 - mainstream classes
 - special units within mainstream schools (or with complementary activities in mainstream settings)
 - in special schools
- the number and proportion of children with disabilities out of education
- the number of children with disabilities who do not complete compulsory school, as compared to the total number of children who do not complete compulsory school
- the number and proportion of children with disabilities in other types of educational settings, including:
 - home-schooled children
 - attending school on a part time basis
 - in residential care institutions whether on a temporary or long-term basis
- the drop-out rates of children with disabilities compared to the entire school population.

Measures aimed at promoting inclusion and ensuring quality education

The Committee recalls that Article 15§1 of the Charter makes it an obligation for States Parties to provide quality education for persons with disabilities, together with vocational guidance and training, and that priority should be given to inclusive education in mainstream school. States parties must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems.

The Committee has recognised that ‘integration’ and ‘inclusion’ are two different notions and that integration does not necessarily lead to inclusion (Mental Disability Advocacy Centre (MDAC) v. Belgium Complaint No. 109/2014, Decision on the admissibility and merits 16 October 2017, International Federation for Human Rights (FIDH) and Inclusion

Europe v. Belgium Complaint No. 141/2017, Decision on the merits of 20 September 2020). The right to an inclusive education relates to the child's right to participate meaningfully in mainstream education.

The Committee notes that the UN Committee on the Rights of Persons with Disabilities, in its General Comment No. 4 (2016) on the Right to Inclusive education has stated that "inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion."

The Committee also recalls that inclusive education implies the provision of support and reasonable accommodations which persons with disabilities are entitled to expect in order to access schools effectively. Such reasonable accommodations relate to an individual and help to correct factual inequalities (*Mental Disability Advocacy Centre (MDAC) v. Belgium*, Complaint No. 109/2014, Decision on admissibility and merits 16 October 2017, para 72). Appropriate reasonable accommodations may include: adaptations to the class, its location, provision of different forms of communication and educational material, provision of human or assistive technology in learning or assessment situations as well as non-material accommodations, such as allowing a student more time, reducing levels of background noise, sensitivity to sensory overload, alternative evaluation methods or replacing an element of the curriculum by an alternative element.

The Committee asks the States Parties to provide information on how reasonable accommodation is implemented in mainstream education, whether and to what degree there is an individualised assessment of 'reasonable accommodation' to ensure it is adequately tailored to an individual's circumstances and learning needs, and to indicate what financial support is available, if any, to the schools or to the children concerned to cover additional costs that arise in relation to ensuring reasonable accommodations and access to inclusive education.

It asks in particular, what measures are taken to ensure that teachers and assistants dealing with pupils and students with disabilities are adequately qualified.

It furthermore asks whether the qualifications that learners with disabilities can achieve are equivalent to those of other learners (regardless of whether learners with disabilities are in mainstream or special education or of whether special arrangements were made for them during the school-leaving examination). The Committee also asks whether such qualifications allow persons with disabilities to go on to higher education (including vocational training) or to enter the open labour market. The Committee also asks the state to provide information on the percentage of disabled learners who go on to higher education or training. The Committee also asks what percentage of learners with disabilities enter the open labour market.

Remedies

The Committee asks the next report to provide information on the remedies available in the case of discrimination on the ground of disability with respect to education (including access to education, including the provision of adequate assistance or reasonable accommodation) and the relevant case-law.

- *Progress identified*

The Conclusions 2020 also show a number of positive developments which have taken place during the period under consideration. They appear in **Appendix II**.

Appendix I: Summary of main findings

Article 1 - The right to work

Article 1§1 concerns the effective exercise of the right to work (policy of full employment)

By accepting Article 1§1 of the Charter, States Parties undertake to pursue a policy of full employment. This means that States Parties:

- must adopt and follow an economic policy which is conducive to creating and preserving jobs;
- and must take adequate measures to assist those who become unemployed in finding and/or qualifying for a job.

Of the 35 findings of Section 1§1 of the Charter, the Committee considered that the situation was not in conformity with the requirements of this provision in nine cases (approximately 25.7%). The States Parties concerned are **Albania, Armenia, Bosnia and Herzegovina, Montenegro, the Netherlands in respect of Curacao, the Netherlands in respect of Sint Maarten, Northern Macedonia, Spain and Ukraine**. These findings of non-compliance are based on the fact that the authorities have not demonstrated that their efforts in terms of job creation, training and assistance to the unemployed are sufficient in view of the economic situation and the level of unemployment.

Article 1§2 concerns discrimination in employment and prohibition of forced or compulsory labour as well other aspects of the right to earn one's living in an occupation freely entered upon.

a) Non-discrimination

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).

Under this provision, the Committee examined in this cycle:

- The relevant legislation prohibiting discrimination in employment (in general terms and for some specific grounds such as: **gender** (if not accepted Article 20/Article 1 AP), **race**, **ethnic origin**, **sexual orientation**, **religion**, **age**, **political opinion**, **disability** (if not accepted Article 15§2).

Examples of non-conformities:

- indirect discrimination is not defined and prohibited by legislation (**Armenia**).
- there is no protection against discrimination in employment on grounds of sexual orientation (**Armenia, Azerbaijan** (it has not been established), **Turkey**).
- it has not been established that there is sufficient protection against discrimination in employment, in particular on grounds of sexual orientation, ethnic origin and political opinion (**Turkey**).

As regards prohibition of discrimination the most problematic matter for States has been the restrictions on access of foreign nationals to employment and the requirement that the only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority

(Albania, Armenia, Bosnia and Herzegovina, Croatia, Latvia, Montenegro, North Macedonia, Turkey, Serbia).

A particular emphasis was given to the issues of **remedies**.

The Committee examined whether **appropriate and effective remedies** are ensured in the event of an allegation of discrimination. The notion of effective remedies encompasses judicial or administrative procedures available in cases of an allegation of discrimination, an appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment. In the event of a violation of the prohibition of discrimination, **sanctions** that are a sufficient deterrent to employers, as well as adequate **compensation** proportionate to the damage suffered by the victim are required; **protection against dismissal** or other retaliatory action by the employer against an employee who has lodged a complaint or taken legal action.

Grounds of non-conformity:

- the upper limit on the amount of compensation awarded in discrimination cases might preclude damages from fully compensating the loss suffered and from being a sufficient deterrent (**Armenia, Turkey**);
- it has not been established that appropriate and effective remedies are provided to victims of alleged discrimination in employment (**Azerbaijan**);
- legislation does not provide for a shift in the burden of proof in discrimination cases (**Armenia** (it has not been established), **Azerbaijan, the Russian Federation, Serbia**(it has not been established), **Ukraine**).

b) Prohibition of forced and compulsory labour

During 2020 cycle, the ECSR also assessed measures taken to combat forced labour and exploitation within two particular sectors: domestic work and the “gig economy” or “platform economy”. It had also asked states to report on the problem of exploitation of vulnerability, and modern slavery.

Grounds of non-conformity:

- it had not been established that the national authorities have fulfilled their positive obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences (**Albania, Azerbaijan, Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia, Serbia**);
- it has not been established that the national authorities have fulfilled their obligations to prevent labour exploitation of domestic workers (**Romania**).

c) Other aspects of the right to earn one’s living in an occupation freely entered upon

- the duration of alternative civil service amounts to an excessive restriction of the right to earn one’s living in an occupation freely entered upon (**Armenia, Cyprus**);
- it has not been established that civil servants are sufficiently protected against arbitrary suspensions or transfers (**Turkey**).

Overall, the ECSR examined 35 situations, it found only 1 State to be in conformity (Denmark), 15 States not to be in conformity and deferred its conclusion in 19 situations.

Article 9 - The right to vocational guidance

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

The right to vocational training (Article 10)

Article 10§1 - Technical and vocational training; access to higher technical and university education

The ECSR examined the situation in 23 States, it found 11 States to be in conformity, 4 not to be in conformity (**Cyprus, Montenegro, Poland, Ukraine**) and deferred its conclusion in 8 situations.

Article 10§2 - Apprenticeship

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

Article 10§3 - Vocational training and retraining of adult workers

The ECSR examined a total of 23 situations; it found 9 States to be in conformity with the provision, 5 not in conformity and deferred its conclusion in respect of 8 States. Non-conformities concern lack of individual leave for training of employed persons (**Malta, Serbia, Ukraine**) or more general a failure to establish that the right of adult workers to vocational training and retraining is guaranteed (**Montenegro, Spain**).

Article 10§4 - Revised Charter- Long term unemployed persons

The ECSR examined a total of 19 situations; it found 11 States to be in conformity with the provision, 5 not in conformity and deferred its conclusion in respect of 3 States. Non-conformities were due to special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted (**Georgia, Montenegro, Turkey, Ukraine**) or equal treatment regarding access to training and retraining for the long-term unemployed is not guaranteed to nationals of other States Parties lawfully resident on the territory (**Georgia, Slovak Republic, Ukraine**).

Article 10§4 - 1961 Charter - Full use of facilities available

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

Article 10§5 - Revised Charter - Full use of facilities available

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

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

Article 15§1 guarantees the right of persons with disabilities to guidance, education and vocational training. This cycle the ECSR focussed on the right to education of children with disabilities of compulsory school age. Article 15§1 of the Charter makes it an obligation for States Parties to provide quality education for children with disabilities, priority should be given to inclusive education in the mainstream school system. States parties must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems. The Committee issued a statement of interpretation as to the meaning and requirements of Article 15§1 (see above).

The ECSR examined a total of 26 situations; it found 4 States to be in conformity with the provision, 8 not in conformity and deferred its conclusion in respect of 13 States.

Luxembourg and the Russian Federation were found not to be in conformity on the grounds that it could not be established that there are adequate remedies in the event of discrimination on grounds of disability in education. **Montenegro, Serbia and Turkey** were found not to be in conformity on the ground that it has not been established that the right of children with disabilities to mainstream education and training is effectively guaranteed. However, in 3 other cases, **Poland, Romania, Ukraine** the ECSR concluded that in the light of the information available that the right of children with disabilities to mainstream education is not effectively guaranteed and hence it found the situation not to be in conformity with the Charter.

Article 15§2 guarantees the right of persons with disabilities to employment. States must promote an equal and effective access to employment on the open labour market.

The ECSR examined a total of 27 situations; it found 9 States to be in conformity with the provision, 11 not in conformity and deferred its conclusion in respect of 7 States.

The main reasons for the findings on non-conformity were:

- it had not been established that persons with disabilities are guaranteed adequate protection against discrimination in employment (**Cyprus**);
- it had not been established that persons with disabilities are guaranteed effective and equal access to employment (**Cyprus, Luxembourg, Montenegro, North Macedonia, Russian Federation, Slovak Republic**);
- it had not been established that there are adequate remedies in the event of discrimination in employment (**Hungary**);
- it had not been established that the obligation to provide reasonable accommodation is guaranteed (**Serbia, Turkey, Ukraine**);
- persons with disabilities are not guaranteed effective access to employment (**Romania**).

Article 15§3 guarantees the right of persons with disabilities full social integration and participation in the life of the community. The ECSR focussed its examination under this provision in cycle 2020 on the right to live independently in the community, stressing the importance of the right to personal assistance, the deinstitutionalisation of persons with disabilities, access to housing, transport, communication technologies as well as to cultural, leisure and sporting facilities.

The Committee examined the situation in 17 States, it found 3 States to be in conformity and 7 not to be in conformity, in 7 situations it deferred its conclusion.

Grounds of non-conformity:

- no legislation prohibiting discrimination on grounds of disabilities covering the fields of housing, transport, telecommunications and cultural and leisure activities (**Armenia, Estonia, Turkey**);
- it had not been established that persons with disabilities have effective access to housing (**Armenia, Georgia, Hungary, Serbia**);
- it had not been established that persons with disabilities have effective access transport (**Armenia, Cyprus, Georgia, Serbia**);
- it had not been established that persons with disabilities have effective access to communication technologies (**Cyprus, Georgia, Serbia**);
- It had not been established that persons with disabilities have effective access to cultural and leisure activities (**Cyprus**).

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

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

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

The Committee focussed its examination under this provision in cycle 2020 on equal pay for work of equal value. The Committee examined the situation in 30 States, it found 3 States to be in conformity and 27 not to be in conformity.

Grounds of non-conformity:

- **Armenia, Azerbaijan, Georgia, Hungary:** there is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value.
- **Albania, Slovak Republic:** the legislation explicitly covers only certain elements of pay for the purposes of equal pay principle.
- **Azerbaijan, Bosnia and Herzegovina, Montenegro, Russian Federation, Turkey:** women are not permitted to work in all professions which constitutes discrimination based on sex.
- **Armenia:** the upper limit on the amount of compensation that may be awarded in gender discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive.
- **Armenia:** it has not been established that legislation provides for a shift in the burden of proof in gender pay discrimination cases.
- **Azerbaijan, Russian Federation:** legislation does not provide for a shift in the burden of proof in gender pay discrimination cases.
- **Croatia:** the obligation to ensure access to effective remedies in cases of pay discrimination has not been fulfilled.
- **Serbia:** it has not been established that the right to compensation is provided for in gender pay discrimination cases.
- **Bosnia and Herzegovina, Croatia:** the obligation to ensure pay transparency has not been satisfied.
- **Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, the Czech Republic, Denmark, Georgia, Malta, North Macedonia, the Russian Federation, the Slovak Republic, Turkey:** the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

Article 24 - Right to protection in case of dismissal

The ECSR examined 18 situations; it found 10 States to be in conformity, 5 not to be in conformity and deferred its conclusion in respect of 3 States.

The grounds of non-conformity relate to:

- inadequate protection against dismissal during probationary period (**Cyprus, Malta**);
- termination of employment at the initiative of the employer on the sole ground that the person has reached the pensionable age (**Malta, the Netherlands**);
- inadequate compensation in case of unlawful dismissal (**Turkey**);
- no possibility of reinstatement in the private sector (**Albania**);
- the categories of persons excluded from protection against unlawful dismissal go beyond what is allowed under the Appendix to the Charter (**Cyprus**).

Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral. Only 3 situations were examined; all were conclusions of non-conformity (**Albania, Romania, Turkey**)

Appendix II: Positive Developments

Conclusions 2020: examples of progress in the application of the European Social Charter relating to Employment, training and equal opportunities":

In its Conclusions 2020/XXII-2, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or in some cases on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information). Below follows a selection of examples:

Article 1§1

Germany

Thanks to a programme designed to help young people between 12 and 26 years of age with special needs for assistance in integrating into school, training and work (*Jugend stärken im Quartier*, Supporting Youth in the Neighbourhood), 175 projects were implemented nationwide between 2015 and 2018 reaching nearly 57,000 young participants, of whom around 59% subsequently started (or restarted) school or vocational training.

Lituanie

The project entitled "Support for the long-term unemployed" enabled 67.7% of the 15,000 participants to find a job (2014-2018), and the project entitled "Support for older unemployed people" enabled more than half (53.5%) of the 14,400 participants to return to the job market (2015-2018).

République slovaque

Law No. 336/2015 on Support for the Least Developed Districts was adopted in 2015 with a view to mitigating regional disparities. On the basis of this law, in 2017, the funds allocated to active labour market measures in the 12 least developed districts accounted for 113% of the funds allocated to the other districts (on average), and approximately 49,300 jobs were created there.

Suède

During the 2015-2018 period, nearly 397,200 long-term unemployed persons (of whom approximately 45.6% were women) participated in the "Job and Development Guarantee" programme created for their benefit.

Article 1§2

Andorra

With regard to legislation prohibiting discrimination in general, the report states that at the beginning of 2019, the *Consell General* approved Law No. 13/2019 of 15 February 2019 on equal

treatment and non-discrimination (*Llei per a la igualtat de tracte i la no discriminació*). This Law came into force on 21 March 2019 (outside the reference period). The Committee takes note of this major development in anti-discrimination legislation. Given that Law No. 13/2019 came into force outside the reference period, the Committee asks for the next report on this thematic group to provide detailed information on the contents of this law, particularly in response to the aforementioned questions regarding the legislation prohibiting all forms of discrimination in employment, particularly those on grounds of race, ethnic background, sexual orientation, religion, age, political opinions and information on available remedies.

Latvia

As regards the burden of proof in cases of alleged discrimination in employment, the Committee notes in the 2019 Country Report on Non-discrimination of the European Equality Law Network that the provision on the shift in the burden of proof included in the Labour Law. The same source indicates that in 2018, the Labour Law was amended to include a provision on the shift in the burden of proof in alleged discrimination cases on grounds of language.

Article 10§1

Slovak Republic

The ECSR noted in its conclusion that a substantial reform of the system of vocational education and training (Law No. 61/2015) was implemented as of the 2016/2017 school year. It notes that this dual education system allows pupils to acquire theoretical knowledge at school which is put into practice during workplace training in companies. According to the information provided, the new system put in place by the authorities demonstrated positive results and the situation has been brought into conformity in this respect, although information is still awaited on measures taken to integrate migrants and refugees in vocational education and training.

Slovenia

The reform of vocational and technical education paved the way for the introduction of modular education programmes offering a wider range of options, with an increase in practical training taking account of local employers' needs in terms of vocational skills. In 2017, at the end of a consultation process carried out with employers' organisations and trade unions, the authorities reintroduced apprenticeships in the education system. The chosen mechanism enables apprentices, who have student status, to spend at least 50% of their time in practical training (on average, an apprentice spends two days a week at school and three days with his/her employer). They are also protected by labour legislation and have the right to be paid.

Article 15§1

In Austria the Committee noted an increase in the number of children with disabilities in inclusive education and noted the adoption and implementation of a programme on Inclusive Model regions to enable children with disabilities to attend mainstream schools.

In Denmark a general law prohibiting discrimination in employment was adopted which prohibits discrimination on grounds of disability in education.

Article 15§2

In Iceland legislation prohibiting discrimination on grounds of disability in employment and providing for reasonable accommodation entered into force - Equal treatment on the Labour Market Act 86/2018

Article 20

Albania

Law No. 136/2015 of 5 December 2015 (which came into force in June 2016) made amendments to the Labour Code. As a result, where there has been a breach of Article 9, the burden of proof has now been shifted to the employer where the plaintiff is able to provide evidence enabling the court to presume that the employer has engaged in discriminatory conduct. The report also states that a new Code of Administrative Procedure (Law No. 44/2015 approved by the Assembly of the Republic of Albania on 30 April 2015), which came into force on 28 May 2016, contains a provision which reverses the burden of proof in cases of discrimination (Article 82(2)).

Andorra

The Equal Treatment and Non-Discrimination Act, No. 13/2019 of 15 February 2019 entered into force on 21 March 2019. It defines the principle of equal pay between men and women. Under Article 13(1), the principle entails an obligation to provide the same remuneration, whatever the nature of this remuneration, for work of equal value, without any form of discrimination against women regarding the elements or conditions of the work in question. This Act applies to both private and public sectors.

Moreover, the Industrial Relations Act, No. 31/2018 of 6 December 2018 (which was amended by the Equal Treatment and Non-Discrimination Act, No. 13/2019, and which came into force on 1 February 2019) states explicitly that women must not be subject to any discrimination concerning the elements or conditions of their remuneration.

Montenegro

The new Labour Code (No. 74/19) published in the Official Gazette on 30 December 2019 and which came into force on 8 January 2020 (*outside the reference period*) has replaced the 2008 Labour Code. The new Labour Code provides that every worker is entitled to equal pay for equal work or work of equal value.

Romania

The Agency for Equal Opportunities between Women and Men was re-established in 2015 (by Law No. 229/2015 amending and supplementing Law No. 202/2002). As a legal entity, it is a specialised body of the central public administration under the Ministry of Labour and Social Protection, and its purpose is to promote the principle of equal opportunities and treatment for women and men so as to eliminate all types of gender discrimination from all national policies and programmes.