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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2020

ALBANIA

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, statements of interpretation, and general questions from the Committee, is contained in the General Introduction to all Conclusions.

The following chapter concerns Albania, which ratified the Revised European Social Charter on 14 November 2002. The deadline for submitting the 11th report was 31 December 2019 and Albania submitted it on 6 March 2020.

The Committee recalls that Albania was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter of 27 May 2019, 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 all findings of non-conformity or deferral in its previous conclusions (Conclusions 2012).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions 2012) found the situation to be in conformity, there was no examination of the situation in 2020.

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 concerned the following provisions of the thematic group I "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).

Albania has accepted all provisions from the above-mentioned group except Articles 9, 10, 15 and 18.

The reference period was from 1 January 2015 to 31 December 2018.

The conclusions relating to Albania concern six situations and are as follows:

– 5 conclusions of non-conformity: Articles 1§1, 1§2, 20, 24 and 25.

In respect of the situation related to Article 1§3, the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Albania under the Revised Charter.

The next report from Albania will deal with the following provisions of the thematic group II "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 23),
- the right to protection against poverty and social exclusion (Article 30).

The deadline for submitting that report was 31 December 2020.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 1 - Right to work

Paragraph 1 - Policy of full employment

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

The Committee recalls that in 2012, it concluded that the situation in Albania was not in conformity with Article 1§1 of the Charter on the ground that the number of persons who had access to active labour market measures was too low (Conclusions 2012).

Employment situation

According to Eurostat, the GDP growth rate increased from 2.2% in 2015 to 4.1% in 2018.

According to the report, the overall employment rate (persons aged 15 to 64 years) increased from 52.9% in 2015 to 59.3% in 2018.

The employment rate for men increased from 60.5% in 2015 to 66.7% in 2018, and the rate for women from 45.5% in 2015 to 52.4% in 2018. The youth employment rate (15 to 29-year-olds) increased from 29.8% in 2015 to 38.5% in 2018.

Again according to the report, the overall unemployment rate fell from 17.5% in 2015 to 12.8% in 2018.

The unemployment rate for men dropped from 17.5% in 2015 to 13.2% in 2018, while for women it fell from 17.4% in 2015 to 12.3% in 2018. The youth unemployment rate (15 to 29-year-olds) fell sharply, from 33.2% in 2015 to 23.1% in 2018. In contrast, long-term unemployment (as a percentage of overall unemployment) rose from 47.5% in 2015 to 50% in 2018.

According to the International Labour Organisation (ILOSTAT), the proportion of 15 to 24-year-olds “outside the system” (not in employment, education or training, i.e. NEET) fell from 29.8% in 2015 to 26.6% in 2018 (as a percentage of the 15 to 24-year-old age group).

The Committee notes that the economic situation improved during the reference period and that this positive trend went hand in hand with favourable developments in the labour market. Nevertheless, unemployment rates remained high, in particular long-term unemployment – which actually increased during the reference period. Moreover, the proportion of young NEETs was still very high in 2018.

Employment policy

In its report, the Government states that in line with the Europe 2020 Strategy and the requirements for Albania’s European integration, it focused its efforts on employment development and workforce skills development. Various measures were implemented to this end under active labour market policies, in particular placement services, employment promotion measures and vocational education and training (VET) programmes.

The number of employment promotion measures increased from five in 2014 to eight in 2018 so as better to target young people, women and other vulnerable groups (unskilled jobseekers, low-skilled jobseekers aged over 45 years, long-term unemployed, unemployed receiving economic assistance, people with disabilities and members of the Roma and Egyptian communities, etc.). The report describes these measures, four of which are intended (in full or in part) for young people. The Government indicates that discussions are under way on devising programmes that are better suited to the needs of vulnerable groups, in particular young people and the Roma and Egyptian communities. The Committee requests that the next report provide updated information on employment promotion measures.

Vocational education and training were reformed during the reference period. In particular, the legal framework was expanded (Law No. 15/2017 on Vocational Education and Training and Law No. 23/2018 on the Albanian Qualification Framework), training centres were refurbished and provided with equipment and most VET programme providers stepped up their co-operation with businesses and increased the share of workplace training. The Government adds that further reforms are to be carried out to ensure a closer match between training and

the labour market. The Committee requests that the next report provide updated information on VET programmes.

According to the report, public expenditure on labour market policies (as a percentage of GDP) fell during the reference period, from 0.11% in 2015 to 0.07% in 2018 in the case of active measures, and from 0.04% in 2015 to 0.02% in 2018 in the case of passive measures.

The Committee notes that these percentages are very low – and falling – against a background of continuing high unemployment. Moreover, the high rates of long-term unemployment, youth unemployment and young NEETs, among others, show that the impact of active labour market policies remains limited.

In this connection, the Committee recalls that labour market measures should be targeted, effective and regularly monitored. It requests that the next report indicate how employment policies are monitored and how their effectiveness is assessed.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

Article 1 - Right to work

Paragraph 2 - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

1. Prohibition of discrimination in employment

The Committee takes note of the information contained in the report and the addendum submitted by Albania.

Article 1§2 of the Charter prohibits all forms of discrimination in employment. The Committee asked the State Parties to provide updated information for this reporting cycle on the legislation prohibiting all forms of discrimination in employment, in particular on grounds of gender (had Article 20 not been accepted), race, ethnic origin, sexual orientation, religion, age, political opinion, disability (had Article 15§2 not been accepted), including information on legal remedies. It furthermore asked to indicate any specific measures taken to counteract discrimination in the employment of migrants and refugees.

The Committee will therefore focus specifically on these aspects. It will also assess the replies to all findings of non-conformity or deferrals in its previous conclusion.

Albania has accepted Article 20 of the Charter. Therefore, it was under no obligation to report on the prohibition of discrimination on grounds of gender, which will be examined under the said provision.

As regards the legislation prohibiting discrimination in general terms, the Committee examined the relevant legal framework in its previous conclusion encompassing the Labour Code, the 2008 Law on Gender Equality, the 2010 Law on the Protection against Discrimination and “the Equality law" (Conclusions 2012). The report provides that significant changes were adopted in the Law on Protection from Discrimination with respect to grievance procedure, such as the principle of discharge of the burden of proof. The Committee notes that the European network of legal experts in gender equality and non-discrimination (European Equality Law Network) in its 2020 country report on Albania observed that the Law on Protection against Discrimination does comply with the EU directives regarding minimum protected grounds and the definitions and forms of discrimination; however, it does not provide for effective, proportionate and dissuasive sanctions. It asks that the next report comment on this observation and, in the meantime, reserves its position on this point.

With regard to the prohibition of discrimination on grounds of disability, the report provides comprehensive information on the various legislative measures adopted in the reference period within a Disability Assessment Reform, as well as on policies for social inclusion of people with disabilities. In particular, the reform is comprised of the 2014 Law on measures to remove environmental and infrastructural barriers in the provision of public services for persons with disabilities, which provides for independent living and for support in overcoming these barriers; the 2016 Law on social services, which lays the foundations of specialized and integrated service. In the implementation of the reform, the government adopted the Social Protection Strategy 2015-2020, with the objectives, *inter alia*, to ensure the quality of social services, improve the budget planning process and provide financial support to services for vulnerable groups. The Committee asks that the next report provide information on the impact of these measures as regards prohibition and prevention of discrimination on the ground of disability in the field of employment.

Apart from general information on the legal framework prohibiting discrimination, the report does not reply to the Committee’s request for information on any specific, targeted legislation and practical measures focused specifically on discrimination on grounds of ethnic origin, race, age, sexual orientation, political opinion or religion. The Committee again asks that the next report provide comprehensive descriptions of how discrimination on these grounds is prevented and combated.

In this respect, in particular with regard to the prohibition of discrimination on grounds of ethnic origin and race, the Committee notes that the Equality Network in its 2020 report, referred to above, pointed to the findings of the Albanian Commissioner for Protection from Discrimination

that structural discrimination, which applies not to an individual, but to a whole group or community, continues to present a problem and that there has been an increase in the number of cases in which complainants claim discrimination for more than one ground, as well as in findings of multiple discrimination. Race is, according to these findings, one of the most common grounds of discrimination claimed by complainants. Furthermore, in 2019, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed its concern about the limited follow-up of recommendations and decisions taken by the equality bodies (see UN CERD 2019). According to the European Commission's 2019 report on Albania, there is a need to review the national approach to employment because of a low level of employment and labour force participation among Roma (European Commission (2019), 'Key Findings of the 2019 Report on Albania').

Furthermore, as regards the discrimination on grounds of sexual discrimination, the European Commission against Racism and Intolerance (ECRI) in its 2020 conclusions on Albania raised concerns that while the LGBTI Action Plan is a useful foundation for achieving positive change, it is far from being fully implemented and various obstacles and problems remain.

The Committee asks that the next report include comments on all these observations in the information requested above.

As regards specific measures taken to counteract discrimination in the employment of migrants and refugees, the report recalls the provisions of the 2013 Law on Foreigners, as well as the 2018 Law on Employment Promotion, determining the rules relating to work permits for foreigners and setting the prohibition of discrimination of foreigners in employment. It furthermore provides that foreigners who benefit from refugee status, as well as asylum seekers, have the right to benefit from support for employment services on an equal footing with persons legally residing in the territory, which include provision of a working permit, in line with the Law on Foreigners.

The Committee further recalls that appropriate and effective remedies must be 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.

The Committee has assessed various aspects of the available remedies in its previous conclusion, such as the shift in the burden of proof or access to court and compensation levels (Conclusions 2012). It noted the low number of cases of discrimination in employment that were brought before the Commissioner and asked what measures were being taken to inform the persons of their rights in this respect. The report also provides data on complaints filed with the Commissioner, which shows an increase in the reference period. The Committee notes from the European Commission's report mentioned above, that the Commissioner and other independent institutions still face poor implementation of their recommendations by the Albanian administration. Similarly, ECRI in its 2020 conclusion, raised concerns about the Commissioner's limited budget, as well as about the fact that a large number of recommendations made by the equality bodies were not followed up with relevant actions by the authorities. The Committee asks for comments in the next report on these observations.

The Committee requires that the next report further provide comprehensive information on the functioning of the domestic legal remedies, in particular on any cases of discrimination in employment dealt with by courts and the Commissioner for Protection against Discrimination, with specific indications regarding their nature and outcome, sanctions imposed on the employers and compensation granted to the employees. It also asks how violations of the legal provisions prohibiting discrimination in the workplace are scrutinised and whether adequate penalties exist and are effectively enforced. Meanwhile, it reserves its position on this point.

The Committee has concluded previously that the situation was not in conformity with Article 1§2 of the Charter as regards the prohibition of discrimination on grounds of nationality, since

it had not been established that the restrictions on the access of foreign nationals to employment were not excessive, i.e. whether nationals of other States Parties had access to civil service jobs. The report does not address this issue and Committee asks again whether some categories of employment are closed to non-nationals, and if so, which ones. Meanwhile, it considers that the situation is still not in conformity with Article 1§2 of the Charter on this point.

2. Forced labour and labour exploitation

The Committee recalls that forced or compulsory labour in all its forms must be prohibited. It refers to the definition of forced or compulsory labour in the ILO Convention concerning Forced or Compulsory Labour (No.29) of 29 June 1930 (Article 2§1) and to the interpretation given by the European Court of Human Rights of Article 4§2 of the European Convention on Human Rights (*Van der Mussele v. Belgium*, 23 November 1983, § 32, Series A no. 70; *Siliadin v. France*, no. 73316/01, §§ 115-116, ECHR 2005-VII; *S.M. v. Croatia* [GC]*,* no. 60561/14, §§ 281-285, 25 June 2020). The Committee also refers to the interpretation by the Court of the concept of « servitude », also prohibited under Article 4§2 of the Convention (*Siliadin,* § 123; *C.N. and V. v. France,* § 91, 11 October 2012).

Referring to the Court's judgment of *Siliadin v. France,* the Committee has in the past drawn the States' attention to the problem raised by forced labour and exploitation in the domestic environment and the working conditions of the domestic workers (Conclusions 2008, General Introduction, General Questions on Article 1§2; Conclusions 2012, General Introduction, General Questions on Article 1§2). It considers that States Parties should adopt legal provisions to combat forced labour in the domestic environment and protect domestic workers as well as take measures to implement them.

The European Court of Human Rights has established that States have positive obligations under Article 4 of the European Convention to adopt criminal law provisions which penalise the practices referred to in Article 4 (slavery, servitude and forced or compulsory labour) and to apply them in practice (*Siliadin,* §§ 89 and 112). Moreover, positive obligations under Article 4 of the European Convention must be construed in the light of the Council of Europe Convention on Action against Trafficking in Human Beings (ratified by almost all the member States of the Council of Europe) (*Chowdury and Others v. Greece,* § 104, 30 March 2017). Labour exploitation in this context is one of the forms of exploitation covered by the definition of human trafficking, and this highlights the intrinsic relationship between forced or compulsory labour and human trafficking (see also paragraphs 85-86 and 89-90 of the Explanatory Report accompanying the Council of Europe Anti-Trafficking Convention, and *Chowdury and Others,* § 93). Labour exploitation is taken to cover, at a minimum, forced labour or services, slavery or servitude (GRETA – Group of Experts on Action against Trafficking in Human Beings, *Human Trafficking for the Purpose of Labour Exploitation*, Thematic Chapter of the 7th General Report on GRETA's Activities (covering the period from 1 January to 31 December 2017), p. 11).

The Committee draws on the case law of the European Court of Human Rights and the above-mentioned international legal instruments for its interpretation of Article 1.2 of the Charter, which imposes on States Parties the obligation to protect effectively the right of the worker to earn his living in an occupation freely entered upon. Therefore, it considers that States Parties to the Charter are required to fulfil their positive obligations to put in place a legal and regulatory framework enabling the prevention of forced labour and other forms of labour exploitation, the protection of victims and the investigation of arguable allegations of these practices, together with the characterisation as a criminal offence and effective prosecution of any act aimed at maintaining a person in a situation of severe labour exploitation. The Committee will therefore examine under Article 1§2 of the Charter whether States Parties have fulfilled their positive obligations to:

- Criminalise and effectively investigate, prosecute and punish instances of forced labour and other forms of severe labour exploitation;
- Prevent forced labour and other forms of labour exploitation;

- Protect the victims of forced labour and other forms of labour exploitation and provide them with accessible remedies, including compensation.

In the present cycle, the Committee will also assess the measures taken to combat forced labour and exploitation within two particular sectors: domestic work and the "gig economy" or "platform economy".

The Committee notes that the national authorities have not replied to the specific, targeted questions for this provision on the exploitation of vulnerability, forced labour and modern slavery (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").

Criminalisation and effective prosecution

Neither the national report nor the additional information sent on 15 July 2020 provide any relevant information on the criminalisation and effective prosecution of forced labour and labour exploitation. The information submitted to the Committee concerns issues related to child labour previously examined by the Committee in the previous cycle of conclusions (Conclusions 2019). However, the Committee refers to the Albanian Criminal Code and notes that Article 110(a) of the Criminal Code penalizes sex and labour trafficking and prescribes penalties of eight to 15 years' imprisonment.

Under Article 110 (a) "The recruitment, transport, transfer, hiding or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical or psychological conditions, or giving / receiving payments or benefits in order to obtain the consent of a person who has control over another person, with the purpose of the exploitation of prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or forms similar to slavery, using or removing organs, as well as other forms of exploitation, both within and beyond the territory of the Republic of Albania, shall be punishable by 8 to 15 years' imprisonment. When such offence is committed against an adult woman, it shall be punishable by 10 to 15 years' imprisonment (…)".

In the absence of any information related to the implementation of the current legislation, the Committee recalls that States Parties must not only adopt criminal law provisions to combat forced labour and other forms of severe labour exploitation but also take measures to enforce them. It considers, as the Court did (*Chowdury and Others*, § 116), that the authorities must act of their own motion once the matter has come to their attention; the obligation to investigate will not depend on a formal complaint by the victim or a close relative. This obligation is binding on the law-enforcement and judicial authorities.

The Committee therefore asks that the next report provide information on the implementation of Article 110(a) of the Criminal Code in practice, particularly with regard to labour exploitation in the forms of forced labour or services, slavery and servitude. The report should provide information (including statistics, examples of case law and specific penalties effectively applied) on the prosecution and conviction of exploiters during the next reference period, in order to assess how the national legislation is interpreted and applied to combat labour exploitation. However, the Committee refers to the European Commission 2019 Country Report. This report indicates that Albania is a source, transit and destination country for trafficking in human beings. According to this report, the Prosecutor's Office registered 30 new criminal proceedings for trafficking in 2017 and 21 in 2018. Most of the referrals involved adults. The number of final convictions remained very low (9 in 2017 and 3 in 2018). In 2018, there were 94 victims of trafficking (VOTs) and potential victims of trafficking (PVOTs) who were identified and assisted. In August 2018, the government adopted new standard operating procedures for the protection of VOTs/PVOTs. These procedures provide for the identification, referral, protection and assistance of VOTs/PVOTs, including children. According to this report, Albania should strengthen its criminal justice system and step up efforts to prevent trafficking in human beings.

The Committee also refers to the United States Department of State, Trafficking in Persons 2017 Report, concluding that the government did not meet minimum standards in several key areas. The police continued to illustrate a limited understanding of human trafficking and failed in some cases to identify victims of human trafficking among individuals involved in forced prostitution or domestic servitude.

Prevention

As the report does not provide any relevant information, the Committee recalls that States Parties should take preventive measures such as data collection and research on the prevalence of forced labour and labour exploitation, awareness-raising campaigns, the training of professionals, law-enforcement agencies, employers and vulnerable population groups, and should strengthen the role and the capacities/mandate of labour inspection services to enforce relevant labour law on all workers and all sectors of the economy with a view to preventing forced labour and labour exploitation. States Parties should also encourage due diligence by both the public and private sectors to identify and prevent forced labour and exploitation in their supply chains.

The Committee refers to the Ministry of Interieur 2018 Report (published on its official website) and takes note of the adoption in 2018 of the National Action Plan for the Fight against Trafficking in Human Beings 2018–2020, that provides the framework for coordination and cooperation between all national bodies, as well as their roles and responsibilities. The Committee notes that the Office of the National Anti-Trafficking Coordinator (ONAC) was set up in 2012, which monitors the implementation of the action plan. It asks that the next report provide information on its implementation and achievements to combat and prevent all forms of forced labour.

The Committee also refers to GRETA (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania, Second Evaluation Round, GRETA (2016)6, 3 June 2016), indicating that the sectors most at risk of forced labour in Albania are agriculture, food processing, textiles, mining, construction, restaurants, hotels, entertainment, transport, domestic work as well as the informal economy. The Roma and Egyptian communities are groups which are particularly vulnerable to trafficking for the purpose of labour exploitation as they are often employed in the informal economy. It asks that the next report provide information on the measures taken and envisaged to combat and prevent all forms of forced labour, in particular those affecting the two communities.

Information is also requested on whether the domestic legislation includes measures designed to force companies to report on action taken to investigate forced labour and exploitation of workers among their supply chains and requires that every precaution be taken in public procurement processes to guarantee that funds are not used unintentionally to support various forms of modern slavery.

Protection of victims and access to remedies, including compensation

The report does not provide any relevant information on this point. The Committee refers to the findings of the above-mentioned report from the US Department of State, 2017 Trafficking in Persons, indicating that two victims were investigated and one punished for unlawful acts committed as a result of being subjected to trafficking, although the law exempts victims from punishment for crimes committed as a result of their exploitation. The Committee considers that protection measures in this context should include the identification of victims by qualified persons and assistance to victims in their physical, psychological and social recovery and rehabilitation.

The Committee asks for information in the next report on the number of formally identified victims of forced labour and labour exploitation and the number of such victims benefiting from protection and assistance measures. It also asks for general information on the type of assistance provided by the authorities (protection against retaliation, safe housing, healthcare, material support, social and economic assistance, legal aid, translation and interpretation,

voluntary return, provision of residence permits for migrants), and on the duration of such assistance.

The Committee asks for information in the next report if the existing legal framework provides the victims of forced labour and labour exploitation, including irregular migrants, with access to effective remedies (before criminal, civil or labour courts or other mechanisms) designed to provide compensation for all damage incurred, not only moral damage but also lost wages and unpaid social security contributions. The Committee also asks for statistics on the number of victims awarded compensation and examples of the sums granted.

Domestic work

The Committee reiterates that domestic work may give rise to forced labour and exploitation. Such work often involves abusive, degrading and inhuman living and working conditions for the domestic workers concerned (see Conclusions 2012, General Introduction, General Questions, and the Court's judgement in *Siliadin v. France*). States Parties should adopt legal provisions to combat forced labour in the domestic environment and protect domestic workers as well as take measures to implement them (Conclusions 2008, General Introduction, General Question). The Committee recalls that under Article 3§3 of the Charter, inspectors must be authorised to inspect all workplaces, including residential premises, in all sectors of activity (Conclusions XVI-2 (2003), Czech Republic, relating to Article 3§2 of the 1961 Charter; Statement of Interpretation of Article 3§3 (i.e. Article 3§2 of the 1961 Charter)). It considers that such inspections must be clearly provided for by law and sufficient safeguards must be put in place to prevent risks of unlawful interferences with the right to respect for private life.

The Committee asks that the next report provide detailed information on the number of inspections carried out in respect of registered domestic workers during the next reference period, and the number, if any, of victims of forced labour or labour exploitation identified as a result.

"Gig economy" or "platform economy" workers

The report provides no information on any measures taken to protect workers in the "gig economy" or "platform economy".

The Committee requests that the next report contain information on concrete measures taken or envisaged to protect workers in the "gig economy" or "platform economy" against all forms of exploitation and abuse. It asks to be informed on the status and rights of these workers (employees or self-employed, or an intermediary category, and their rights in terms of working hours, paid holiday and minimum wage), on whether labour inspection services have any mandate to prevent exploitation and abuse in this particular sector and on any existing remedies they have access to, in particular to challenge their employment status.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 1§2 of the Charter on the grounds that it has not been established that:

- the restrictions on access of foreign nationals to employment are not excessive;
- 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.

Article 1 - Right to work

Paragraph 3 - Free placement services

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

In its previous conclusion (Conclusions 2012) the Committee considered that it had not been established that the employment services operated in an efficient manner. In particular, the Committee noted that the report did not provide information on the quantitative indicators used by the Committee to assess the national situation.

The Committee notes from the report that in 2019 new Employment Promotion Law No. 15/2019 has been approved by the Parliament and the new National Agency for Employment and Skills (NAES) was established. According to this Law, public employment services provided by the employment offices include a three-tiered service delivery model, such as information services to jobseekers, employers and others; job matching and mediation; and job counselling and guidance.

The public employment services are free of charge for employers and jobseekers. The Law No. 15/2019 stipulates that the State is obliged take all necessary measures to establish physical infrastructure, human and material resources with a view to providing specialised services for special groups seeking assistance for their involvement in the labour market. According to the report, 38 employment offices were reorganised in the period 2015-2018 and 329 staff of the office staff and management staff have been trained in providing quality services. The employment services system has been reformatted and the profile of unemployed jobseekers is being processed.

As regards information services to jobseekers, employers and others, the NAES provides information on labour supply and demand for both jobseekers and employers. Employment mediation and job matching aim at finding a suitable job for the jobseeker whose formation, skills and qualities comply with the requirements stated by the employer for this job. Mediation for employment and job matching includes counselling services for employers in order to hire the most appropriate candidates, according to their requirements, and in a timely manner.

The report also refers to the Annex of Functional and Organisational Regulations of 2018, which defines criteria and procedures for monitoring and measuring the performance of the employment service. These include numbers of the unemployed, registered and placed in a job, the number of vacancies advertised, as well as the numbers of persons registered in vocational training courses and placed in a job afterwards.

The report also states that private employment agencies are licensed under Law No. 10081 of 2009 on licenses, authorisations and permits in the Republic of Albania. Private Employment Agencies provide employment services for workers. All these services are performed by charging the client only with the payment of the necessary expenses for completing the administrative file. The State Inspectorate of Labour and Social Services performs periodic inspections to determine the compliance of the agency's activity with the relevant legislation.

The Committee observes that steps have been taken to improve the performance of employment services, by adopting new legislative framework and criteria for the performance monitoring. However, the Committee recalls that to assess whether employment services operate in an efficient manner, it needs information on the following quantitative indicators:

- the total number of jobseekers and unemployed persons registered with the NAES;
- the number of vacancies notified to the NAES;
- the number of persons placed via the NAES;
- the placement rate (i.e. placements made by the employment services as a percentage of notified vacancies);
- the average time taken by the NAES to fill a vacancy;
- the number of placements by the NAES as a percentage of total recruitments on the labour market;

- the respective market shares of public and private services. Market share is defined as the number of placements made as a proportion of total recruitments on the labour market.

Furthermore, the Committee requests data on the ratio of placement staff to registered jobseekers.

In the meantime, the Committee reserves its position regarding whether employment services operate in an efficient manner.

Conclusion

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in 2020.

Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

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

The Committee notes that this report responds to the targeted questions on this provision, which relate specifically to equal pay (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 Committee will therefore focus specifically on this aspect. It will also assess the replies to all findings of non-conformity or deferral in its previous conclusion.

Obligations to guarantee the right to equal pay for equal work or work of equal value

Legal framework

The Committee notes that the principle of equal pay for equal work or work of equal value is set out in legislation in Article 16(7) of Law No. 9970 of 24 July 2008 on gender equality and Article 115(1) of the Labour Code. Under Article 115(1), employers must pay employees equally for the same work or work of equal value, without discrimination on grounds including gender.

The report points out that Law No. 10221 of 4 February 2010 on protection against discrimination prohibits discrimination, particularly on grounds of gender.

The Committee notes that according to the country report on gender equality in Albania drawn up by the European Network of Legal Experts in Gender Equality and Non-Discrimination (2019), remuneration covers basic salary and permanent allowances (Article 109(1) of the Labour Code). The Committee points out in this respect that the concept of remuneration must cover all elements of pay, i.e. basic pay and all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment.

The Committee considers that the situation is not in conformity with the Charter on the ground that the legislation explicitly covers only certain elements of pay for the purposes of equal pay principle.

Effective remedies

The Committee recalls that domestic law must provide for appropriate and effective remedies in the event of alleged pay discrimination. Workers who claim that they have suffered discrimination must be able to take their case to court. Effective access to courts must be guaranteed for victims of pay discrimination. Therefore, proceedings should be affordable and timely. Anyone who suffers pay discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and to act as a deterrent. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and from being sufficiently dissuasive is contrary to the Charter. The burden of proof must be shifted. The shift in the burden of proof consists in ensuring that where a person believes she or he has suffered discrimination on grounds of sex and establishes facts which make it reasonable to suppose that discrimination has occurred, the onus is on the defendant to prove that there has been no infringement of the principle of non-discrimination (Conclusions XIII-5, Statement of interpretation on Article 1 of the 1988 Additional Protocol). Retaliatory dismissal in cases of pay discrimination must be forbidden. Where a worker is dismissed on grounds of having made a claim for equal pay, the worker should be able to file a complaint for dismissal without valid reason. In this case, the employer must reinstate her/him in the same or a similar post. If reinstatement is not possible, the employer must pay compensation, which must be sufficient to compensate the worker (i.e. cover pecuniary and non-pecuniary damage) and to deter the employer (see in this respect collective complaints Nos. 124 to 138, University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden, 5-6 December 2019).

The report states that, under Law No. 10221/2010 on protection against discrimination, any individual who considers him or herself a victim of discrimination may bring a civil action in the courts or lodge a complaint with the authority responsible for criminal proceedings.

The Committee refers to its previous conclusion (Conclusions 2012), in which it stated that any person or group of persons who claimed that they had been discriminated against, or any organisation with a legitimate interest which alleged discrimination on behalf of a person or group of persons could file a complaint with the Commissioner for Protection against Discrimination. The Commissioner investigated the complaint and could order measures to be taken if he/she found discrimination. The report states that filing a complaint with the Commissioner is not a precondition for initiating legal proceedings and does not present any obstacle to the right of all victims to apply to the courts.

According to the report, where it is established that there was a violation of Law No. 10221 on protection against discrimination, the courts award damages (Article 34) and set a deadline by which they must be paid (Article 37(1)). Under Article 28, reparation includes reparation for the infringements of the law and their consequences through restitution, suitable compensation for material and non-material damage, and other appropriate measures.

As to the amount of compensation, the report states that, based on the practice of the Commissioner for Protection against Discrimination as a third party in disputes in which the parties apply for compensation for alleged discrimination, the courts follow two approaches: (1) compensation of an amount equivalent to twelve months' salary under Article 146 of the Labour Code, and (2) compensation under the Civil Code and the Unifying Decisions of the Supreme Court on compensation for material and non-material damage, which is not subject to any upper limit (the amount being decided on by the courts on a case-by-case basis). The Committee asks in which cases Article 146 of the Labour Code is applicable and what type of damages it covers. In particular, it asks whether the obligation to compensate the difference of pay is limited in time or is awarded for entire period of unequal pay, and if there is the right to compensation for pecuniary and non-pecuniary damages. It also asks for examples of compensation awarded by the courts in cases of gender pay discrimination.

The Committee notes from the report that 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)). The Committee understands that the legislation reverses the burden of proof in cases of wage discrimination on the ground of gender and asks for confirmation of this in the next report. It asks how the principle of the reversal of the burden of proof is applied in practice, for instance whether it is systematically applied in the event of pay discrimination.

The Committee asks for the next report to state what rules apply in the event of dismissal in retaliation for a complaint about equal pay.

It also asks whether sanctions are imposed on employers in the event of gender pay discrimination.

In the light of the foregoing, the Committee reserves its position on whether the obligation to ensure effective and adequate remedies has been respected.

Pay transparency and job comparisons

The Committee recalls that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities. States should take measures in accordance with national conditions and traditions with a view to ensuring

adequate pay transparency in practice, including measures such as those highlighted in the European Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender. The Committee regards such measures as indicators of compliance with the Charter in this respect. The Committee also recalls that, in order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, as well as educational and training requirements must be taken into account. States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law. In this respect, job classification and evaluation systems should be promoted and where they are used, they must rely on criteria that are gender-neutral and do not result in indirect discrimination (see in this respect Complaints Nos.124 to 138, UWE, *op. cit*.).

The report does not contain any information on wage transparency on the labour market. However, the Committee notes from the country report on gender equality in Albania drawn up by the European Network of Legal Experts in Gender Equality and Non-Discrimination (2019), that under Law No. 119/2014 on the right to information (2014), public institutions are required to practice wage transparency. Under Article 7(1)(d), every public institution must publish information on its website on the salaries of officials who are required by law to declare their property and assets, and salary structures for other employers. However, according to the same report, there is no law that imposes an obligation on wage transparency in the private sector.

As to the *criteria for identifying work of equal value*, the Committee notes from the report referred to above that Article 115(4) of the Labour Code (as amended) now defines work of equal value on the basis of all the relevant criteria, especially the nature of the work, its quality and quantity, working conditions, vocational training, seniority, physical and intellectual efforts, experience and responsibility. The Committee also notes that according to this report, the legislation authorises differences in pay when they are justified by objective reasons set out in Article 115(4) of the Labour Code. The Committee asks for information in the next report on the way in which Article 115(4) of the Labour Code, as amended, is applied in practice, so that jobs of different types but nonetheless of equal value can be compared.

The Committee also notes that according to the country report on gender equality in Albania drawn up by the European Network of Legal Experts in Gender Equality and Non-Discrimination (2019), the Labour Code has set up two hypothetical comparators to establish differences in treatment: (1) unit of measurement, and (2) work position. According to this report, these comparators derive from the interpretation of Article 115(2), which defines equal pay as follows: “Equal pay, without discrimination, is the pay that: (a) for the same standardised work is calculated on the basis of the same unit of measurement; (b) for the same time rates is the same for the same work position”.

The Committee asks to provide information on whether the law prohibits discriminatory pay in statutory regulations or collective agreements, as well as whether the pay comparison is possible across one company, for example, if such company is a part of a holding company and the remuneration is set centrally by such holding company.

The Committee asks again for information in the next report on the job classification and promotion systems in place as well as the strategies adopted to guarantee wage transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), specifying in particular what time limits are set to make the progress demanded and the criteria applied to measure progress. In the meantime, it reserves its position on this point.

Enforcement

The report states that under Law No. 9634 of 20 October 2006 on labour inspection and Law No. 10433 of 16 June 2001 on labour inspection in the Republic of Albania, the State Labour and Social Services Inspectorate is responsible for ensuring that employees’ rights under the

Labour Code and the relevant laws are protected. The Labour Inspectorate is required to supervise to the implementation of the legal provisions on matters including pay.

The Committee requests that the next report provide information about how equal pay is ensured, notably, about the monitoring activities conducted in this respect by the Labour Inspectorate and other competent bodies. It asks in particular for information on the activities of the Commissioner for Protection against Discrimination in this area, and the number, nature and outcome of discrimination cases relating to equal pay in the private and public sector dealt with by the labour inspectorate, the courts or the People's Advocate.

Obligations to promote the right to equal pay

The Committee recalls that in order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases are crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap. The gender pay gap is one of the most widely accepted indicators of the differences in pay that persist for men and women doing jobs that are either equal or of equal value. In addition, to the overall pay gap (unadjusted and adjusted), the Committee will also, where appropriate, have regard to more specific data on the gender pay gap by sectors, by occupations, by age, by educational level, etc. The Committee further considers that States are under an obligation to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it (see in this respect Complaints Nos.124 to 138, UWE, *op. cit*.).

The Committee notes from the report that, according to data from the Directorate General of Taxation, the gender pay gap was 10.5% in 2017 and 6.3% in 2016 (compared to 19.15% in 2008, Conclusions 2012). However, the Committee notes that, according to a European Commission working document (SWD(2018) 151 final on 17 April 2018), the gender pay gap in 2016 was 12%.

The report states that when the figures are broken down according to sector, in 2017, the gender pay gap is higher in the manufacturing sector (at about 22.7%) and lower in the trade, transport, hotel service, business and administrative services sector (3.3%).

Seen in terms of occupational groups, the gender pay gap is highest among machinery and equipment installation workers (at 28.4%) and lowest among armed forces personnel (at practically zero).

The Committee notes from the European Commission working document (SWD(2018) 151 final on 17 April 2018) that the Institute of Statistics has sufficient resources to contribute to policies with comprehensive and reliable data. However, according to this document, the pay gap methodology still needs to be aligned with Eurostat requirements.

The Committee also notes that the Commission expressed concern about the proportion of women in the informal labour market, especially the textile and shoe industries, without adequate labour and social protection. There are also concerns over the lack of disaggregated data on the number of women in the informal labour economy.

The Committee asks for the next report to provide updated information on the specific measures and activities implemented to promote gender equality, overcome gender segregation in the labour market and reduce the gender pay gap, together with information on the results achieved. It also asks that the next report provide information on the employment rate for both men and women and the gender wage gap for each year in the reference period. In the meantime, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 20 (c) of the Charter on the ground that the legislation explicitly covers only certain elements of pay for the purposes of equal pay principle.

Article 24 - Right to protection in case of dismissal

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

Scope

The Committee addressed specific targeted questions to the States (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") concerning strategies and measures that exist or are being introduced to ensure dismissal protection for workers (labour providers), such as "false self-employed workers" in the "gig economy" or "platform" economy. The Committee notes that the report does not provide information in this respect. It asks what safeguards exist to ensure that employers hiring workers in the platform or gig economy do not circumvent labour law as regards protection against dismissal on the grounds that a person performing work for them is self-employed, when in reality, after examination of the conditions under which such work is provided it is possible to identify certain indicators of the existence of an employment relationship.

Obligation to provide valid reasons for termination of employment

The Committee recalls that Article 24 defines the valid reasons for termination of an employment contract at the initiative of an employer. These reasons are:

- those connected with the capacity or conduct of the employee;
- certain economic reasons.

In its previous conclusion (Conclusions 2012) the Committee noted that the report failed to provide information on all valid grounds of dismissal with notice. The Committee notes from the report in this respect that the Labour Code was amended by Law No 136/2015. According to Article 144 paragraph 2 the employer shall present to the employee the reasons concerning the dismissal and offer him/her the opportunity to express himself/herself. In the written notification, the employer can only indicate the following grounds for terminating employment: the conduct of the employee or the operational requirements of the company.

The Committee notes that as regards valid reasons for termination of employment, the situation is in conformity with the Charter.

Prohibited dismissals

The Committee recalls that under Article 24 of the Charter dismissal on the ground of the temporary absence from work due to illness or injury must be prohibited. A time limit can be placed on protection against dismissal in such cases. Absence can constitute a valid reason for dismissal if it severely disrupts the smooth running of the undertaking and a genuine, permanent replacement must be provided for the absent employee.

The Committee notes from the report in this regard that according to Article 147 of the Labour Code an individual employment cannot be terminated during temporary disability for a period of up to one year. The Committee asks what rules apply in case of termination of employment on the ground of long-term or permanent disability, such as the procedure for establishing long-term disability and the level of compensation paid in such cases.

The Committee recalls that Article 24 of the Charter examines two grounds on which termination of employment by the employer should be prohibited. One of them is filing of a complaint by the employee or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities. Under Article 24, national legislation should contain an express safeguard, in law or case law, which protects employees against retaliatory dismissal if they turn to the courts or another competent authority to enforce their rights (Conclusions 2007, Estonia). In its previous conclusion the Committee asked whether the law provided for safeguards against retaliatory

dismissal. In the absence of a reply in the report, the Committee considers that it has not been established that retaliatory dismissal is prohibited.

Remedies and sanctions

In its previous conclusions (Conclusions 2008 and 2012) the Committee noted that pursuant to Article 146(3) of the Labour Code when the termination of an employment contract is considered to be unlawful, the employer shall be under an obligation to pay the employee a compensation of up to maximum one year's salary. The Committee considered that the situation was contrary to the Charter as the compensation for unlawful dismissal was subject to a maximum of one year's wages. The Committee notes in this respect from the report that according to Article 146 (3) as amended, the employer who has terminated the contract for unlawful causes is obliged to pay the employee damages that may amount up to the salary of one year, which is added to the salary he/she shall receive during the notice. As concerns the employers of the Public Administration, where there is an irrevocable court decision on returning to the same workplace, the employer is obliged to execute this decision.

The Committee recalls that under the Charter, workers dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation systems are considered to comply with the Charter when they provide for:

- reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body;
- the possibility of reinstatement of the worker and/or
- compensation of a high enough level to dissuade the employer and make good the damage suffered by the victim (Finnish Society of Social Rights v. Finland, Complaint No. 106/2014, decision on admissibility and the merits of 8 September 2016, §45; Conclusions 2016, Bulgaria).

The Committee further recalls that (Statement of interpretation on Article 8§2 and 27§3, Conclusions 2011) compensation for unlawful dismissal must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed. If there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues, and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.

The Committee asks the next report to indicate whether non-pecuniary damages can be sought through other legal avenue. In the meantime the Committee reserves its position regarding compensation in case of unlawful dismissal.

As regards reinstatement, the Committee has previously considered that the legislation did not provide for reinstatement in the private sector. The Committee notes that the report does not provide any new information in this regard. Therefore, the Committee also reiterates its previous finding of non-conformity on this ground.

The Committee recalls that under Article 24 of the Charter the law must provide for a shift of the burden of proof between employee and employer in proceedings relating to dismissal. The Committee refers to its Conclusion on Article 20, where it notes from the report that Law No. 136/2015 of 5 December 2015 made amendments to the Labour Code. As a result, where there has been a breach of Article 9 of the Labour Code (Prohibition of Discrimination), 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 Committee asks whether Article 146(2) also provides for the shift in the burden of proof in unlawful dismissal proceedings, not related to discrimination.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 24 of the Charter on the grounds that:

- it has not been established that retaliatory dismissal is prohibited;
- the legislation does not provide for the possibility of reinstatement in the private sector.

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

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

The Committee recalls that in its letter requesting national reports it stated that no information was requested under this provision unless the previous conclusion was one of non-conformity or a deferral.

The report indicates that the Labour Code of the Republic of Albania was amended by Law No. 136/2015. According to new Article 124 of the Labour Code "On Insolvency", an employer is considered to be insolvent when: i) no sufficient assets are left to repay creditors; ii) the obligations towards the employees cannot be settled due to the employer's financial situation.

The report further indicates that the Labor Code as amended confirms the priority for the payment of liabilities to employees over all other liabilities that the employer may have in insolvency, even if they are guaranteed by movable or immovable property.

However, the Committee notes that the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) in its comments published in 2019 (108th session of the International Labour Conference) concerning Convention No. 173 on Protection of Workers' Claims (Employer's Insolvency) (1992) founds that the amendment of Article 605 of the Civil Code, following the adoption of Act No. 113/2016, which clarifies that Article 605 does not apply to bankruptcy proceedings. The CEACR further notes that: (i) Article 124 of the Labour Code, which provides that, in case of insolvency, the employer's obligations to the worker have priority over all other debts, also provides that such priority is not suspended by the procedure of bankruptcy; (ii) the new Bankruptcy Act (No. 110/2016) which repealed the previous legislation on bankruptcy (No. 8901/2002) contains provisions on workers' claims which appear to be inconsistent with Article 124 of the Labour Code; and (iii) the new Bankruptcy Act appears to give workers' claims the same rank as claims for unpaid taxes (sections 38 and 144 of the Bankruptcy Act read together). The Committee asks the next report to clarify the situation. In the meantime, it reserves its position on this point.

The Committee also notes that the Labour Code as amended provides that the first rank privileges granted claims under Article 124 covers the following claims:

- Workers' claims for wages, for a period of not less than three months before the termination of employment;
- Workers' claims for payment of unpaid leave, for the corresponding part of the year of the termination of employment, as well as during the previous year; and
- the severance payment upon termination of employment.

In its previous conclusion (Conclusions 2012), the Committee noted that there was no alternative mechanism to the privilege system, which in it itself does not provide effective guarantee of protection of workers' claims in situations where the employer no longer has any assets. Therefore, it concluded that the situation was not in conformity with Article 25 of the Charter. Given that the amendments on the Labour Code confirmed the establishment only of a privilege system, not complemented by an alternative mechanism to effectively guarantee workers claim's in cases where there are no assets, the Committee reiterates its previous finding of non-conformity on the ground that workers claims are not effectively protected in case of insolvency of their employer under the privilege system alone.

In its previous conclusion, the Committee asked to indicate what is the average period of time from when a claim is lodged to when the worker is paid in practice. The report does not provide any information in this respect. The Committee accordingly reiterates its request. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Albania is in conformity with Article 25 of the Charter on this point.

Conclusion

The Committee concludes that the situation in Albania is not in conformity with Article 25 of the Charter on the ground that workers claims are not effectively protected in case of insolvency of their employer under the privilege system.