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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2020

ESTONIA

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 Estonia, which ratified the Revised European Social Charter on 11 September 2000. The deadline for submitting the 17th report was 31 December 2019 and Estonia submitted it on 21 January 2020.

The Committee recalls that Estonia 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 2016).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions 2016) 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).

Estonia has accepted all provisions from the above-mentioned group except Articles 10§5 and 18§3.

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

The conclusions relating to Estonia concern 12 situations and are as follows:

- 5 conclusions of conformity: Articles 1§1, 1§4, 10§3, 15§2 and 24;
- 2 conclusions of non-conformity: Articles 15§3 and 20.

In respect of the other 5 situations related to Articles 1§2, 10§1, 10§2, 10§4 and 15§1, 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 Estonia under the Revised Charter.

The next report from Estonia 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 Estonia.

Employment situation

According to Eurostat, the GDP growth rate increased from 1.8% in 2015 to 4.4% in 2018, considerably exceeding the average for the 28 European Union (EU) member States (2% in 2018).

The overall employment rate (persons aged 15 to 64 years) increased from 71.9% in 2015 to 74.8% in 2018, exceeding the EU 28 average (68.6% in 2018).

The employment rate for men increased from 75.3% in 2015 to 78.1% in 2018, exceeding the EU 28 average (73.8% in 2018). The employment rate for women rose from 68.5% in 2015 to 71.4% in 2018, which is well above the EU 28 average (63.3% in 2018). The employment rate for older workers (55 to 64-year-olds) increased from 64.5% in 2015 to 68.9% in 2018, exceeding the EU 28 average (58.7% in 2018) by more than ten percentage points (pps). The youth employment rate (15 to 24-year-olds) increased from 36.3% in 2015 to 41.7% in 2018, which is higher than the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) fell from 6.3% in 2015 to 5.4% in 2018, which is below the EU 28 average (7% in 2018).

The unemployment rate for men decreased from 6.3% in 2015 to 5.4% in 2018, which is below the EU 28 average (6.7% in 2018). The unemployment rate for women decreased from 6.2% in 2015 to 5.5% in 2018, which is below the EU 28 average (7.2% in 2018). The youth unemployment rate (15 to 24-year-olds) decreased from 13.1% in 2015 to 11.8% in 2018, which is below the EU 28 average (15.2% in 2018). Long-term unemployment (12 months or more, as a percentage of overall unemployment for persons aged 15 to 64 years) fell considerably, from 38.8% in 2015 to 23.7% in 2018, which is nearly 20 pps below the EU 28 average (43.4% in 2018).

The proportion of 15 to 24-year-olds “outside the system” (not in employment, education or training, i.e. NEET) fell from 10.8% in 2015 to 9.8% in 2018 (as a percentage of the 15 to 24-year-old age group), a rate which is below the EU 28 average (10.5% in 2018).

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 (an increase in the employment rate and falling unemployment). It notes in particular the progress made in reducing long-term unemployment.

Employment policy

According to the report, the government Employment Programme for 2017-2020 introduced new measures to prevent unemployment and contribute to structural changes in the economy. The measures to curb unemployment which were implemented from 2017 onwards include support for training, both for employees (particularly those whose qualifications are inadequate or obsolete, those aged 50 or over whose salaries are equal to or below the average wage, and those suffering from health problems) and for employers (for example where they take on long-term unemployed persons).

Again under this government programme, job creation support measures have been set up in the regions most affected by unemployment. These measures led in particular to the creation of 638 new jobs between May 2016 and December 2017 in the north-east of the country (Ida-Viru). In addition, employment promotion measures over a broader area (the north-east and the south-east) were devised during the reference period [and implemented from January 2019, i.e. outside the reference period]. The Committee requests that the next report provide information on the results of these measures.

The report also states that various programmes have been launched under the Youth Guarantee scheme. In particular, in 2015, the Ministry of Education and Research initiated a programme whose goal was to offer support services to young NEETs between the ages of 15 and 26. The aim is to locate these young people and provide individualised support to encourage them to return to work, studies or training. Between 2015 and 2018, 7,893 young NEETs were enrolled in this programme and 5,887 exited it. At the end of 2018, 3,269 of those who had exited the programme had done so over six months ago and 2,225 of these (68.1%) were still active (i.e. at school, in work or on an apprenticeship or traineeship); this is a considerably higher percentage than the aim set (40% still active after six months).

The Committee notes that in other sources, it is reported that some groups such as the Russian-speaking minority have difficulty in accessing the labour market (Council of Europe, Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Estonia, adopted by the Committee of Ministers on 26 October 2016, CM/ResCMN(2016)15; UN, Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Estonia, 27 March 2019, E/C.12/EST/CO/3, §§ 12 and 13; UN, Human Rights Committee, Concluding observations on the fourth periodic report of Estonia, 18 April 2019, CCPR/C/EST/CO/4, §§ 37 and 38). The Committee requests that the next report provide information on the labour market policy measures taken by the authorities to support national, ethnic and/or linguistic minorities with distinct levels of under-employment or unemployment, and on the results of these measures.

According to European Commission data, public expenditure on labour market policies (as a percentage of GDP) increased from 0.63% in 2015 to 0.8% in 2017 (of which 0.1% and 0.28% respectively was for active measures). The Committee requests that the next report provide information on the activation rate (i.e. the average number of participants in active measures as a percentage of the total number of unemployed).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Estonia is in conformity with Article 1§1 of the Charter.

Article 1 - Right to work

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

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

1. Prohibition of discrimination in employment

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, accordingly, focus its assessment specifically on these aspects. It will also examine responses to any findings of non-conformity or deferrals of its previous conclusion.

The Committee recalls that Estonia has accepted Article 15§2 of the Charter and Article 20 of the Charter. For aspects concerning discrimination in employment on grounds of disability and gender, the Committee thus refers to its Conclusions on these provisions.

As regards the legislation prohibiting discrimination in general terms, the Committee noted previously that the Equal Treatment Act (ETA) provides protection against discrimination on the grounds of ethnic origin, race, colour, religion or other beliefs, age, disability or sexual orientation in employment related areas (Conclusions 2012). The report indicates that there have been no changes in the general legal framework concerning prohibition of discrimination in employment, which the Committee previously found to be in conformity with the Charter (Conclusions (2016)).

The report provides information on activities carried out with the aim of promoting equal treatment in employment, including under the “Diversity Enriches” project and the concept of the Diverse Workplace Label to complement the Diversity Charter. The activities related to the Diverse Workplace Label support increasing diversity in the working environment, taking into account and respecting workers’ age, gender, ethnicity, native language, race, religion and beliefs, health condition (including disability and reduced working ability) and sexual orientation. The first Diverse Workplace Labels were awarded in Spring 2018.

The Committee notes that the European Commission against Racism and Intolerance 2015 recommended that the Estonian authorities should take steps to solve problems relating to the application of the Language Act where Russian speakers are concerned, in order to ensure that this legislation does not contain any provisions that might give rise to indirect discrimination in access to employment for the persons whose mother tongue is not Estonian, to reduce unemployment in regions where the majority of the population speaks Russian and to establish a system for the collection of data on equality (ECRI Report on Estonia, fifth monitoring cycle, 2015). The Committee asks for information on the measures taken to ensure equal treatment in access to employment and conditions of employment for all, including the Russian speakers.

The current report does not provide information on specific measures taken to counteract discrimination in the employment of migrants and refugees. The Committee reiterates its question and reserves its position on this point.

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, able to provide reinstatement and compensation, as well as adequate penalties effectively enforced

by labour inspection; furthermore, 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 explicitly requested information on remedies for this examination cycle.

With regard to the judicial or administrative procedures available, the Committee noted previously that discrimination disputes may be resolved by a court or labour dispute committees established within the local labour branches of the Labour Inspectorate (quasi-judicial body). Discrimination disputes may also be resolved by the Chancellor of Justice by way of conciliation proceedings (Conclusions 2012). It also noted that the Gender Equality and Equal Treatment Commissioner provides advice and assistance for persons in disputes regarding discrimination (Conclusions 2016).

The Committee notes from the Country Report on Non-discrimination (2019) of the European Equality Law Network that conciliation procedures may be conducted by the Chancellor of Justice. If the conciliation procedure fails, a victim may seek the protection of his or her rights in court. Participation in a conciliation procedure is *not* compulsory before lodging the lawsuit to the court. It further notes that the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner are entitled to conduct ombudsperson-like procedures, the results of which are not legally binding. The decision of a court, a labour dispute committee decision or an agreement between parties in a conciliation procedure is legally binding.

With regard to compensation, the Committee took note previously that, according to Section 24 of the Equal Treatment Act (ETA), victims of discrimination are entitled to demand an end to the discrimination they face and compensation for the damage (both material and moral) caused by the violation. The scope, duration and nature of the discrimination are taken into account in determining the amount of compensation (Section 24(3) of ETA). In case of non-proprietary (or moral) damage, the victim can ask for '*a reasonable amount of money*' as compensation (ETA Section 24(2)). In case of moral damage, if the exact amount of the damage cannot be established or if the establishment thereof would involve major difficulties or unreasonably high costs, the court will assess the amount of compensation at its discretion (Conclusions 2016). With regard to the ceiling of compensation, the Committee notes that, according to the Country Report on Non-discrimination (2019) of the European Equality Law Network, no upper limits were established in the Equal Treatment Act.

The Committee notes from the Country Report on Non-discrimination of the European Equality Law Network that the limitation period of discrimination claims is one year from the date when the injured party became aware or should have become aware of the damage caused (Article 25 of ETA). The Committee asks how this rule is applied in practice.

The Committee asks whether legislation provides for any sanctions/penalties to be enforced against the employers in cases of discrimination in employment (the minimum/maximum amount of fines).

The Committee also asks for information on the remedies available for victims in case of discriminatory termination of employment (whether reinstatement is available and what rules govern the amounts of compensation awarded).

As regards the burden of proof in cases of alleged discrimination in employment, the Committee noted previously that the ETA provides for a shift in the burden of proof from the complainant to the respondent (Conclusions 2012).

With regard to equality bodies, the Committee noted previously that the ETA established the Gender Equality and Equal Treatment Commissioner who is responsible for ensuring that the Equal Treatment Act and Gender Equality Act are respected. It may be seized by both employees and employers. The Commissioner provides advice and assistance to the persons in disputes regarding discrimination and expert opinions with regard to cases of discrimination (Conclusions 2016).

The report provides information on the number and nature of discrimination cases dealt with by the Commissioner for Gender Equality and Equal Treatment during the reference period 2015-2018. For example, in 2018 the Commissioner received an overall number of 304 inquiries, among which 117 complaints and requests for information concerning labour relations. The Commissioner considered that in 5 cases there had been a discriminatory conduct.

The Committee asks updated information on discrimination cases in employment before the courts, the labour disputes committees and the Chancellor of Justice as well as those dealt with by the Commissioner for Gender Equality and Equal Treatment, including information on measures/sanctions imposed on employers and the amount of compensation granted to victims of discrimination.

Pending receipt of the information requested, the Committee concludes that the situation in Estonia is in conformity with Article 1§2 of the Charter with regard to the aspect of prohibition of discrimination in employment.

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 Musselle 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 present report does not address the specific, targeted questions for this provision on 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

The Committee refers to its previous conclusion (Conclusions 2016) in which it noted that the Constitution prohibits forced labour (see also Conclusions 2008 in this respect) and that the Penal Code gives a definition of human trafficking, which includes forced labour, and sets out penalties. The current report states that in 2017, Article 133 of the Penal Code concerning human trafficking was amended and, in addition to criminalising forced labour, it also criminalises forced marriage. Under this paragraph, placing a person, in a situation where he or she is forced to marry, or work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other distasteful duties, and keep a person in such a situation for the purpose of gaining economic benefits or without it, if such an act is performed through deprivation of liberty, violence, deceit, threat to cause damage, by taking advantage of dependence on another person, the person’s helplessness or vulnerability, is punishable by one to seven years’ imprisonment. Supporting/facilitating human trafficking has also been criminalised under Article 1331, i.e., the transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorisation of a person placed in the situation described above, buying sex from him or her, or encouraging his or her forced acts in any other way without prior authorisation. The report further indicates that on 13 June 2016, the 2014 Protocol to the ILO Convention on Forced Labour Convention was ratified.

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 European Court of Human Rights 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 notes from GRETA’s Report on Estonia (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia, first evaluation round, GRETA (2018)6, 12 June 2018, para. 43) that several forms of exploitation are missing in Article 133 of the Penal Code, namely forced labour or services, slavery or practices similar to slavery, and servitude. The Estonian authorities explained to GRETA that according to the explanatory comments to Article 133 of the Penal Code, “working under unusual conditions” covers situations where a person is working without payment or is paid a very low salary, or has his/her salary or identity documents withheld.

The Committee asks the next report to clarify whether all cases of forced labour or services and servitude can be prosecuted under Article 133 of the Penal Code and if so, to provide information (including statistics and examples) on prosecutions and convictions for such forms of exploitation under this heading, in order to assess in particular how the legislation referred to is interpreted and applied.

Prevention

The Committee considers 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 current report states that since January 2019 the Labour Inspection/Inspectorate has had an obligation to perform state supervision over private employment mediators and intermediaries of temporary agency work. Furthermore, the Strategy for Preventing Violence (2015-2020), adopted in February 2015, includes activities (awareness-raising, support measures for victims and interventions concerning perpetrators) in the area of trafficking in human beings, among others. In 2017, a state-initiated social campaign (1ELU (1LIFE)) took place in the biggest towns of Estonia and in the national media, including online news portals, Facebook and YouTube. It was supported by the European Commission Internal Safety Fund and by the Ministry of Internal Affairs. The first part of the campaign was dedicated to labour exploitation and consisted of videos that were shown in shopping centres, bus stations, ports, airports, Tallinn ferries and cinemas.

The Committee notes that the Strategy for Preventing Violence (2015-2020) refers to certain challenges in combating human trafficking, such as the lack of information about the extent of trafficking in human beings for the purpose of labour exploitation. It also notes that according to GRETA (abovementioned Report, pars. 10-11), the statistical information provided by the authorities probably did not reflect the real scale of the phenomenon of trafficking in human beings as insufficient attention was paid to detecting trafficking for purposes other than sexual exploitation (see also Conclusions 2019, Article 7.10, concerning trafficking in children). There were reports of foreign nationals trafficked to Estonia, mostly for the purpose of labour exploitation, who were deported as irregular migrants (GRETA Report, pars. 11, 55 and 127: construction workers from non-EU countries arriving to Estonia as “posted workers” with contracts to work in other EU member States). In this context, GRETA urged the Estonian authorities to enhance the role and capacity of labour inspectors in the detection of trafficking in human beings for labour exploitation and improve the identification of victims among foreign nationals (para. 135).

The Committee recalls that, in its Conclusions 2017, it considered that the situation in Estonia was not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system, insofar as it concerned occupational health and safety, was inefficient, as labour inspection services were not sufficiently developed in practice. It asks that the next report provide information on any measures taken to reinforce the capacity of the Labour Inspectorate, particularly with regard to the detection and prevention of forced labour and labour exploitation, including among foreign nationals. The Committee asks for up-to-date information on the actions carried out by the Labour Inspectorate with a view to detecting and effectively preventing forced labour and labour exploitation in economic sectors such as agriculture, construction, hospitality and manufacturing, and also with regard to private agencies offering employment abroad, including the number of victims of such practices who have been identified as a result of inspections.

The report does not provide any information on whether Estonian 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 is taken in public procurement processes to guarantee that funds are not used unintentionally to support various forms of modern slavery. Consequently, the Committee repeats its question in this respect.

Protection of victims and access to remedies, including compensation

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 current report states that in November 2016 the Victim Support Act (in force since 2004) was amended in order to provide better assistance to the victims of human trafficking and to identify them as early as possible. Before this amendment (entered into force on 1 January 2017), the victim support was provided only to victims whose criminal proceedings had been initiated; now it is also provided to alleged victims before any criminal proceedings have been initiated.

The Committee asks for information in the next report on the number of identified victims of forced labour and other forms of labour exploitation (including “alleged victims” and victims employed through agencies providing employment abroad) and the number of such victims benefiting from protection and assistance measures. It also asks for general information on the type of assistance provided (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. In this respect, the Committee observes that GRETA considered that the Estonian authorities should ensure that assistance to victims of trafficking is provided as long as necessary to presumed and formally identified victims and is not discontinued after 60 days if no criminal proceedings are initiated or if the presumed victim is not formally identified in criminal proceedings (GRETA Report, pars. 139 and 149).

The Committee also asks for confirmation that the existing legal framework affords the victims of forced labour and labour exploitation, including irregular migrants, access to effective remedies (before criminal, civil or labour courts or other mechanisms) designed to provide compensation for all damage incurred, including 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 awarded. In this context, the Committee refers to the 2014 Protocol to the 1930 ILO Forced Labour Convention (ratified by Estonia on 24 November 2016), which requires Parties to provide access to appropriate and effective remedies to victims, such as compensation, irrespective of their presence or legal status in the national territory.

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 judgment 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.

In its previous conclusion (Conclusions 2016), the Committee noted from the information supplied by the Estonian authorities that the legislation on forced labour included all situations where a person is forced to work under unusual conditions, therefore covering domestic work performed under such conditions (i.e., involving coercion). Referring to the general questions

concerning Article 1.2 in the general introduction to Conclusions 2012, it asked that the next report indicate whether the homes of private individuals who employ domestic staff may be inspected (see also Conclusions 2017, relating to Article 3§2 of the Charter and the personal scope of national legislation on safety and health at work, in which the Committee asked how the protection provided by this legislation for the self-employed, home workers and domestic staff is applied in practice).

The current report indicates that the Labour Inspectorate may supervise private individuals who employ domestic staff in the event of a complaint, in which case the Labour Inspectorate may supervise the private premises only with the permission of the possessor. Without the owner's knowledge, a dwelling may be entered by law enforcement agents (i.e., the police), only if the owner cannot be notified after reasonable efforts and entry is necessary for countering a disturbance or an immediate serious threat. The Committee further notes from Section 115 of the Employment Contract Act that the Labour Inspectorate may apply the special state supervision measures provided for entry into premises in Section 50 of the Law Enforcement Act. It appears from Section 50(1) of this law that the police or another law enforcement agency may enter without the owner's consent if: it is necessary for ascertaining or countering a serious threat; if there is a reason to believe that a person who may be deprived of liberty in the sense of the law, or whose life, health or physical inviolability is in danger due to his or her need of assistance is present in the building or room; if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder while ensuring the compliance with the requirements established by law. The verification of compliance with such requirements lies within the competence of the law enforcement agency entering the premises.

The Committee asks that the next report confirm that the Labour Inspectorate may enter the premises of private households in cases of allegations of forced labour or labour exploitation of domestic workers under the abovementioned legislation. It also requests that the next report explain how respect for employment regulations (on health and safety, pay, hours worked and leave) for domestic workers is regularly monitored and ensured where no such allegation or complaint has been brought to the Labour Inspectorate's attention.

The Committee also takes note of the information contained in the report relating to employment of foreign nationals as *au pair* in private households.

“Gig economy” or “platform economy” workers

The Committee notes that the report does not reply to its request for information on the measures taken to protect workers from exploitation in the “gig economy” or “platform economy”.

The Committee therefore repeats its request and asks for information in the next report on whether workers in the “platform economy” or “gig economy” are generally regarded as employees or self-employed workers. It also asks whether the powers of the Labour Inspectorate include the prevention of exploitation and unfair working conditions in this particular sector (and if so, how many inspections have been carried out) and whether workers in this sector have access to remedies, particularly to challenge their status and/or unfair practices.

In the meantime, pending receipt of the information requested in respect of all the points mentioned above (criminalisation, prevention, protection, domestic work, gig economy), the Committee reserves its position on the issue of forced labour and labour exploitation.

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

The Committee recalls that 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") no information was requested under this provision unless the previous conclusion was one of non-conformity or a deferral.

As Estonia has accepted Article 9, 10§3 and 15§1 of the Charter, measures relating to vocational guidance, to vocational training and retraining of workers, and to vocational guidance and training for persons with disabilities are examined under these provisions.

The Committee considered the situation to be in conformity with the Charter as regards measures relating to vocational guidance (Article 9) (Conclusions 2016), and to vocational training for persons with disabilities (Article 15§1) (Conclusions 2016).

The Committee considered the situation also to be in conformity with the Charter as regards measures concerning vocational training and retraining of workers (Article 10§3) (Conclusions 2020).

Conclusion

The Committee concludes that the situation in Estonia is in conformity with Article 1§4 of the Charter.

Article 9 - Right to vocational guidance

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 10 - Right to vocational training

Paragraph 1 - Technical and vocational training; access to higher technical and university education

The Committee takes note of the information contained in the report submitted by Estonia, including the details provided in response to the Committee's requests in its 2016 conclusions.

The Committee refers to its previous conclusions for a description of the situation that it found to be in conformity with the Charter (see Conclusions 2016). It notes the legislative amendments in 2015 in connection with the legislation on professions.

Measures taken to match the skills with the demands of the labour market

The report submitted by the authorities indicates that the Ministry of Education and Research launched a programme (OSKA) implemented by the Estonian Qualification Authority (Kutsekoda) to monitor the labour market and forecast its needs by improving the relevance of vocational education and training.

The Committee notes that since February 2018, the number of students who can spend an extra year at school to develop key skills in connection with vocational training or the labour market, which is an option under the Estonian system, has been expanded (February 2018 amendment to the Act on Basic Schools and Upper Secondary Schools).

Since 2014, the Ministry of Education and Research and the Ministry of Social Affairs have set up a support mechanism to provide young people aged 15 to 26 not in education, employment or training (NEETs) with initial and further training or apprenticeships. The report indicates that more than two-thirds of young people are still active six months after completing these programmes.

Measures taken to integrate migrants and refugees

The Committee notes that no information has been provided by the Estonian authorities on this issue. Consequently, considering that it is not able to assess whether the measures taken to integrate migrants and refugees into vocational education and training are in conformity with Article 10§1, the Committee reserves its position and asks the authorities to submit such information.

Conclusion

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

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

The Committee notes that Estonia was asked to reply to the specific targeted questions 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 Committee takes note of the information included in the report concerning adult education, in particular under the Adult Education Act and the training and support services, as well as financial support, offered by the Estonian Unemployment Insurance Fund (EUIF) to both employed and unemployed persons. It also takes note of the measures in place and projects promoting adult learning and that the rate of participation in lifelong learning, which was 12.2% in 2015, increasing to 19.7% in 2018. The report, however, does not contain information on strategies and measures in place to ensure skilling and re-skilling of workers, in particular as regards digital literacy, new technologies, human-machine interaction and new working environment, use and operation of new tools and machines. The Committee, therefore, reiterates its targeted questions and request for information on this point

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Estonia is in conformity with Article 10§3 of the Charter.

Article 10 - Right to vocational training

Paragraph 4 - Long term unemployed persons

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

The Committee recalls that Estonia was asked to reply to the specific targeted questions for this provision; to indicate the nature and extent of special retraining and reintegration measures taken to combat long-term unemployment as well as figures demonstrating the impact of such measures (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 notes that, according to « Statistics Estonia », the long-term unemployment rate has gradually declined over the reference period, from 2.4% in 2015 to 1.3% in 2018. In figures, this represents 16,200 persons in 2015 compared to 9,400 persons in 2018.

It also notes that data from the Estonian Unemployment Insurance Fund show that the participation of the long-term unemployed (12 months or more) in labour market training courses provided by the Fund has increased steadily: from 1,523 persons in 2015 to 2,437 persons in 2018.

The Committee notes from the report that a number of employment programmes and financial assistance for people undergoing vocational retraining are intended to promote the return to work or the integration of unemployed people. However, it requests that the next report provide information on the nature and extent of special retraining and reintegration measures taken to combat long-term unemployment.

Conclusion

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

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

Paragraph 1 - Vocational training for persons with disabilities

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

The Committee previously concluded that the situation in Estonia was in conformity with Article 15§1 of the Charter (Conclusions 2016).

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).

Legal framework

The Committee notes from the report that the Basic Schools and Upper Secondary Schools Act, 2010, provides that inclusive education is a fundamental principle of the Estonian education system. Under the law, general (compulsory) education must follow the principles of inclusive education and be equally accessible to all people, regardless, inter alia, of their special educational needs.

The Committee notes from the report under Article 15§3 of the Charter that the Equal Treatment Act does not prohibit discrimination on grounds of disability in education. It notes that according to the report amendments to the legislation to expand the prohibition on discrimination on grounds of disability to other areas, such as education and access to goods and services are being prepared. The Committee asks whether other legislation prohibits discrimination on grounds of disability in education. Meanwhile it reserves its’ position on the situation.

According to the report an amendment to the Basic and Upper-Secondary School Act entered into force in 2018. This made changes to the educational arrangements for pupils with special educational needs (SEN), in order to respond better to the needs of children with SEN. Among the main amendments was an increase in expenditure for the implementation of enhanced support or special support for students with SEN and for the labour costs of support specialist. In addition the national supervision of the teaching arrangements of children in need of support was increased.

As regards the 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 (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) 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 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

According to the report there were 14,025 persons under the age of 19 with a disability or special educational need, 12, 914 were in education corresponding to 92.1% (2018). There were 9881 children with disabilities between 7 and 17 years of age, of whom 98.4% were in education. The Committee asks why there are some children between the ages of 7 and 17 with disabilities/SEN who apparently seem not to be receiving any type of educational provision.

The report further states that in 2018/2019, 39 special schools provided education to pupils with disabilities/ SEN. In total 989 special classes are open in mainstream schools for pupils with disabilities / SEN. In addition, according to the report, many pupils are included in mainstream class. However no information is available on the exact number of classes or pupils who are integrated.

According to other sources (The Academic Network of European Experts on Disability ANED) in the school year 2017/2018, there were 39 schools for students with special educational needs (both state and municipal schools) offering basic and secondary education. Altogether they were attended by 2,895 students at the basic level and 431 at the secondary level.

The Committee notes there has been a slight decrease in the number of special schools since the last reference period.

According to data provided in the European Agency Statistics on Inclusive Education (EASIE) in the 2018 Dataset Cross-Country Report, 7.38.% of children were recognised as having SENs in primary and lower secondary schools providing compulsory education; 37.34% of them were in inclusive education, 26.98% were in special classes in mainstream schools and 35.68% in special schools.

The Committee notes that the UN Committee on the Rights of the Child [Concluding Observations on the combined second to fourth periodic reports of Estonia (CRC/C/EST/CO/2-4, 3 February 2017)] expressed concern about the inability of local authorities to guarantee all children with disabilities a place in a kindergarten and school near their place of residence. The UN Committee further expressed concern about the limited access to education for children with disabilities, as well as concern about the fact that teachers do not receive sufficient support to teach children with disabilities and that children with intellectual and psychosocial disabilities were sometimes placed in reform schools along with young offenders and children with behavioural problems.

The Committee asks for the Governments comments on this.

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 under 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.

As regards measures in place to address the issue of costs associated with education the Committee asks whether children with disabilities or SEN are entitled to financial support to cover any additional costs that arise due to their disability.

Measures aimed at promoting inclusion and ensuring quality education

According to the report legislation provides that where a student who is unable to follow or keep up with the curriculum a school must provide general support. Such support may involve the provision of a special education teacher, a speech therapist, a psychologist and a social educator. Where the general support provided by the school is not sufficient, enhanced support or special support may be applied upon recommendation of an external advisory team. An individual curriculum may be drawn up for students where necessary.

The Committee notes from the report and ANED that since 2014 there is a nationwide network of Educational Support Service Centres (*Rajaleidja*) which provide counselling and support to pupils with disabilities/SEN, their teachers and parents. These centres employ speech therapists, psychologists, social pedagogues and special educational teachers.

According to the report in order to use the resources of specialists supporting children with disabilities/SEN more appropriately, a model of integrated services in the fields of social work, education, and healthcare is being developed in cooperation with the Ministry of Social Affairs. The aim of the cooperation is to provide long-term and varied assistance to children in need and support for their families from one source. Pilot programmes have been launched in seven local governments. Amendments to legislation are planned for 2020. The Committee asks to be kept informed of all developments in this respect.

The report states that inclusive education is a key priority of in-service training programmes for teachers, teaching teams and school leaders (*Õpetajate ja Koolijuhtide Professionaalse Arengu Toetamine* - Support for Professional Development of Teachers and School Leaders). One of the elective modules in initial teacher training and part of a teacher's professional qualification is the skill of supporting a learner with special educational needs. Required competences include identifying the specific educational needs of the learner; adapting the learning environment to the needs of a learner with special needs; supporting the development of a learner with special needs; cooperating with colleagues, professionals and parents.

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 (*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 and 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 individualized 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 updated 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.

Conclusion

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

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

Paragraph 2 - Employment of persons with disabilities

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

The Committee notes that the present report was 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”) as well as conclusions of non-conformity and deferrals.

The Committee previously concluded that the situation was in conformity with Article 15§2 of the Charter (Conclusions 2016).

Legal framework

The Committee refers to its previous conclusion (Conclusions 2012) setting out the relevant legislation (the Equal Treatment Act) concerning non-discrimination against persons with disabilities in relation to employment, and reasonable accommodation which it deemed to be in conformity with Article 15§2 of the Charter.

The report refers to new legislation the Work Capacity Benefit Act setting out new rules for evaluating applicants’ work capacity and eligibility rules for the monthly financial social security benefit. It also refers to another bill (Act on Amendments to Social Welfare Act, Labour Market Services and Benefits Act and other Acts) which focuses on occupational and social rehabilitation services. The Committee notes from other sources (EUROFOUND) that this Bill entered into force in 2016.

Access of persons with disabilities to employment

According to the report the labour force participation rate of persons with reduced capacity for work has increased slightly over the reference period from 55.0% in 2015 to 58.9% in 2018, the employment rate has increased from 48.8% to 51.5% over the same period. The unemployment rate has also increased from 11.3% to 12.5% between 2015 and 2018.

The Committee notes from the ANED report (Academic Network of European Disability Experts) on the European Semester (published in 2019, but concerning data from 2016-2017 or earlier) that according to the comparative estimates available from EU-SILC data, the overall disability employment rate in Estonia is one of the highest in the EU, both for women and for men, as it is for non-disabled persons. The two rates have evolved in parallel over recent years, but the disability employment gap has not closed. The disability unemployment indicator is also well below the EU average. These positive indicators are less marked for persons with more severe impairments.

The Committee asks that the next report provide up-to-date figures relating to the reference period, on the total number of persons with disabilities of working age, specifying how many of them are active in the labour market, and in work (in the public and private sector, and in the open labour market or in sheltered employment) and how many are unemployed.

Measures to promote and support the employment of persons with disabilities

In 2016, a new system (Work Ability Reform) was set up for supporting working ability, which changed the way of assessing working ability, amended the subsidies system and the range of services provided by the Unemployment Insurance Fund. The general approach is based on individual assessment and support from the Unemployment Insurance Fund, including a monthly work ability allowance that decreases with earned income.

The report provides details of measures available to employees with reduced working capacity and to employers of such persons these include:

- Advice and training for employers who are prepared to employ or have already employed people with disabilities but need knowledge and guidance to support them.
- If the employee has difficulties accessing their workspaces or using the work equipment provided, the Unemployment Insurance Fund will help adjust the workplace and work equipment in a way that makes them accessible and usable. Home workspaces can also be adjusted.
- Training costs will be compensated to an employer if the employee is unable, due to a disability or their state of health, to continue their work and after completing retraining or ongoing training the employer offers them a new job; or before starting work the employee had been registered as unemployed for at least 12 months and now needs to develop their working knowledge and skills.
- An employer who employs an employee with decreased working ability can apply for a tax reduction from the Unemployment Insurance Fund. According to the report the number of employees concerned by this measure has increased from 15 256 in the average month in 2015 to 25 732 in the average month in 2018, an increase of 69%.
In addition, other wages subsidies can be granted to employers who employ a person with decreased working capacity.

Remedies

The report does not provide any new information on the remedies available in the event of discrimination in employment and developments in the relevant case-law. The Committee refers to the information available on this point in its previous conclusions and asks the next report to provide updated information on the remedies which are available and examples of relevant case law. It recalls that legislation must confer an effective remedy on those who have been discriminated against on grounds of disability and denied reasonable accommodation.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Estonia is in conformity with Article 15§2 of the Charter.

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

Paragraph 3 - Integration and participation of persons with disabilities in the life of the community

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

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

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”) as well as previous conclusions of non-conformity or deferrals.

The Committee previously concluded that the situation in Estonia was not in conformity with Article 15§3 of the Charter on the ground that there was no anti-discrimination legislation for persons with disabilities which specifically covers the areas of housing, transport, communications, culture and leisure (Conclusions 2016).

Relevant legal framework and remedies

The Committee considers that Article 15 reflects and advances the change in disability policy that has occurred over the last two decades away from welfare and segregation and towards inclusion, participation and agency. In light of this, the Committee emphasises the importance of the non-discrimination norm in the disability context and finds that this forms an integral part of Article 15§3 of the Revised Charter. The Committee in this respect also refers to Article E on non-discrimination.

The Committee previously concluded that the situation was not in conformity with Article 15§3 of the Charter on the ground that there was no anti-discrimination legislation for persons with disabilities which specifically covered the areas of housing, transport, communications, culture and leisure (Conclusions 2016).

According to the report during the reference period there have been no changes to the Equal Treatment Act with regards to persons with disabilities. However, the Ministry of Social Affairs is currently preparing amendments to the legislation to expand the prohibition on discrimination due to disability to other areas, such access to goods and services. As there was no change during the reference period the Committee reiterates its previous conclusion.

According to the report in 2019 (outside the reference period), the amendment to the Chancellor of Justice Act came into force. The amendment designated the institution of the Chancellor of Justice with the tasks to promote, protect and monitor implementation of the UN Convention on the Rights of Persons with Disabilities.

In 2019, a Disability Council was established by the Chancellor of Justice (outside the reference period). The tasks of the Council are to advise the Chancellor of Justice on promotion and monitoring of rights of persons with disabilities.

Consultation

According to the report in 2018, the Estonian Government, with the support of European Commission Structural Reform Support Service (SRSS) and together with International Foundation of Integrated Care, started a comprehensive reform project with the overall aim to contribute to a more integrated and person-centred provision of social, medical and vocational support services to people with disabilities. The Committee asks the next report to provide further information on the mandate, operation and outputs of the Council.

The Committee recalls that Article 15§3 of the Charter requires inter alia that persons with disabilities should have a voice in the design, implementation and review of coordinated disability policies aimed at achieving the goals of social integration and full participation of

persons with disabilities. It asks the next report to provide information on consultation with people with disabilities, as well as other measures to ensure their participation in the design, implementation and review of disability policies.

Measures to ensure the right of persons with disabilities to live independently in the community

Financial and personal assistance

The report states that since 2016, number of changes in the social rehabilitation service have been implemented, including widening the basis of the rehabilitation service and changing the financing etc. The Committee asks whether this has resulted in a reduction in the number of people on waiting lists for rehabilitation services.

The report states that the transition from institutional to community-based care is supported by special care services which are person-centred and flexible provided at local level. The first phase of the project, implemented in 2018, aimed at analysing the special care services and designing them according to the needs of the clients and principles of de-institutionalisation.

In 2018, Estonia introduced a new special day- and weekly care service for adults with moderate, severe or profound intellectual disabilities who require a degree of support. The service's aim is to allow intellectually disabled person to live at home. In 2019, special funds were allocated from the state budget to support local governments in establishing the service places. Estonia has also launched a special 24-hour care service for people with autism spectrum disorders.

Despite the recent increase from € 22,7 million in 2015 to € 36,9 million in 2019 in the special care services budget, the waiting list has not decreased. The Ministry of Social Affairs has applied for additional funding from the State Budget in order to address waiting lists.

The Committee asks the next report to provide information on personal assistance schemes; the legal framework, the implementation of the scheme, the number of beneficiaries, and the budget allocated. It also asks whether funding for personal assistance is granted based on an individual needs' assessment and whether persons with disabilities have the right to choose services and service providers according to their individual requirements and personal preferences. Further the Committee asks what measures have been taken to ensure that there are sufficient numbers of qualified staff available to provide personal assistance.

The Committee asks for updated information on different allowances and benefits available to persons with disabilities in order to enable them to live independently in the community.

The Committee previously noted that the poverty level was very high among persons with disabilities. The Committee asked the next report include the steps taken to improve this situation (Conclusions 2016).

The Committee notes the information in the report on poverty levels among persons with disabilities. According to the report in 2017, the at-risk-of-poverty rate of disabled people (42,7%) exceeded the at-risk-of-poverty rate of the total population by 1.9 times on average. In 2017, 1.1% of persons with disabilities lived below the absolute poverty line (the absolute poverty rate of the total population was 3.4% at the same time). In 2017, 8.1% of disabled persons lived in severe material deprivation, which was 4 percentage points higher than the total population.

According to the report the Welfare Development Plan 2016-2023 was approved by the Government in 2016. Two of its four sub- objectives seek to improve the living conditions of persons with disabilities by ensuring the availability, adequacy and sustainability of social protection measures implemented in the case of social risks and improving the accessibility and quality of social services, the development of services that include people in society, and the protection of fundamental rights. The Development Plans is implemented by yearly-renewed programmes and progress is monitored and among the indicators include poverty

rates of persons with disabilities and social services provided to people with disabilities. The advisory committee of the Development Plan includes also a representative of the Estonian Chamber of Disabled People .

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.

Technical aids

According to the report the Estonian technical aids system was reorganized in 2016 with the aim to give people the opportunity to purchase technical aids from companies all over Estonia (including pharmacies). New contracts, established under the new regulation, abolished service capacity limits and gave companies the opportunity to establish new service points.

The report states that the reorganisation of the technical aids system has made the service more available, accessible and personalised. Since 2019 (outside the reference period) for a trial period of 2 years, the technical aids budget is unlimited, with the result there are no waiting lists for aids.

The number of service users has increased significantly in recent years, from 46, 322 service users to 56, 664 in 2019.

The reorganisation has also simplified the evaluation of person's need for technical aids. Before 2016 only doctors could evaluate the need for assistive devices and give a certificate for certain devices, after reorganizing, rehabilitation teams also have the right to evaluate the need. In 2018, the right was expanded to include physiotherapists, occupational therapist and in 2019 also to nurses.

The Committee asks the next report to provide updated information on the proportion of the cost of technical aids to be borne by the recipient.

Housing

The report states that with the resources from the European Regional Fund (ERF) local governments financially support the adaptation of homes of persons with disabilities.

In 2018 the adaptation of homes for 472 persons with disabilities was funded. In 2019 (outside the reference period) the adaptation of homes for 1229 persons with disabilities was funded.

In total, 2000 homes will be adapted between 2017-2022. The total budget for the adaptations is approximately € 10 million . One of the preconditions for local governments to apply for funding is the requirement to establish their own regulations for home adaptations to ensure that they will continue with the adaptations after the ERF supported programme is ended.

Since 2017, the Estonian Social Insurance Board has a team of specialists who provide counselling and information materials for persons, local governments and enterprises about the adaptation of homes and workplaces. The counselling is free of charge

According to the report, transition from institutional to community-based care (de-institutionalisation,) is one of the priorities in Estonia (see above) The process has two dimensions:

1) Providing services in smaller, home-like institutions (family-type houses). It is expected that the proportion of people who received 24-hour special care services in more than 30- people institutions of all people receiving 24 hour special care services will decrease from over 54% in 2018 to 34% in 2022.

2) Developing and providing community-based, supportive services for preventing the need for institutionalisation and enabling people to live independently.

European Regional Funds have been used to transfer persons from hospital-type institutional care to family- based care and to improve living, studying and working conditions of people with special needs. Nine large hospital-like care institutions with 1265 places will be reorganised between 2014 to 2023, including 973 places in community-based and family-based 24- hour homes and 292 places in the community. In addition, new community support services for 528 people will be established by 2023.

The Committee asks the next report to provide updated information on the progress made to phase out large institutions (including information on measurable targets clear timetables and strategies to monitor progress) and whether there is a moratorium on any new placements in large residential state institutions. It asks what proportion of private and public housing is accessible. It asks for information about the existence accessible sheltered housing.

The Committee asks how many persons with disabilities live independently with support and how many live institutions and small group homes.

Mobility and transport

In 2015, the Accessibility Council was established, comprising of representatives of disability organisations, architects, constructors, designers, parliament, universities, other ministries, relevant government agencies and local governments. The Council meets twice a year. As a result of its work the Minister of Entrepreneurship and Information Technology approved a regulation in 2018 that provides detailed requirements on the accessibility of buildings. The regulation applies primarily to the buildings where public services are provided and to public roads in urban areas and publicly accessible private roads. As of 2019, the regulation is being supervised by the Consumer Protection and Technical Regulatory Authority.

The Government launched a task force to develop a comprehensive accessibility policy for Estonia. The task force includes a wide list of members bringing together all relevant stakeholders and it started working in September 2019, holding a mandate for two years.

The Committee asks the next report to provide information on the implementation of the 2018 regulation as well as information on the proportion of buildings that are accessible to persons with disabilities as well as information on sanctions that are imposed in the event of a failure to respect the rules regarding the accessibility of buildings (including the nature of sanctions and the number imposed). It also asks for information on monitoring mechanisms to ensure the effective implementation of the rules.

The Ministry of Social Affairs, in cooperation with the Ministry of Economic Affairs and Communications has initiated an accessibility analysis of Estonian public transport infrastructure. The analysis aims to map the main routes that people with special needs use, evaluate the public transportation infrastructure regarding the accessibility and makes proposals for improvement accordingly. The results were to be available in February 2020.

The Committee asks to be kept informed of the outcome of this analysis as well as information on concrete measures taken to ensure the accessibility of the public transport system as well as any other measures in place to facilitate mobility for persons with disabilities.

Communication

In order to support the development sign language, the Ministry of Social Affairs together with its partners (Astangu Vocational Rehabilitation Centre and Estonian Social Insurance Board) has initiated a number of activities, including the training of sign language interpreters. In April 2020, the Minister of Social Affairs was to present proposals on how to improve the accessibility of sign language and guarantee the necessary training of interpreters to the Cabinet of Ministers.

The Committee asks the next report to provide updated information on this.

The Committee asks the next report to provide information on the measures taken to ensure sufficient accessibility to all public and private information and communication services, including television and the Internet, for all persons with disabilities.

Culture and leisure

The Committee asks the next report to provide updated information on measures taken to ensure access of persons with disabilities to culture and leisure activities including sporting activities, especially for those in rural areas.

Conclusion

The Committee concludes that the situation in Estonia is not in conformity with Article 15§3 of the Charter on the ground that there was no legislation prohibiting discrimination against persons with disabilities specifically covering the areas of housing, transport, communications and culture and leisure activities during the reference period.

Article 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 1 - Applying existing regulations in a spirit of liberality

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 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 2 - Simplifying existing formalities and reducing dues and taxes

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 18 - Right to engage in a gainful occupation in the territory of other States
Parties**

Paragraph 4 - Right of nationals to leave the country

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 Estonia.

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 report states that no amendments have been made to the Gender Equality Act or the Civil Service Act concerning the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex in 2015-2018.

In August 2018, after two years of drafting and consultations, the Government approved and sent to the Parliament a draft amendment to the Gender Equality Act. The main aim of this draft was to provide the Labour Inspectorate with a right to exercise administrative and state supervision over implementation of the requirement of equal pay for women and men in the public sector organisations in order to enforce implementation of this principle. The draft also specified some already existing requirements directed to all employers (both public and private sector), e.g. concerning data collection and informing employees or their representatives, with proposed amendments paying special attention to questions of equal pay. As the Parliament did not adopt the draft before the parliamentary elections in March 2019, upon the expiry of the mandate of the *Riigikogu*, all draft legislation on which the proceedings were not completed during the mandate of that *Riigikogu* were dropped from the Parliaments proceedings. The report observes that the present Government has not made any decisions yet concerning restarting the proceedings.

The Committee had asked in its previous conclusions (2016, 2018) whether the legislation guarantees the right to equal pay for equal work or work of equal value. There is no specific reply in the report, but the Committee observes that the *Welfare Development Plan 2016-2023* provides for a gender equality strategy and points out shortcomings in policies and the legal framework, including the need to define equal work or work of equal value in law. The Committee notes that Article 6(2)(3) of the General Equality Act stipulates that the activities of an employer are deemed to be discriminatory if the employer establishes conditions for remuneration or conditions for the provision and receipt of benefits related to the employment relationship that are less favourable regarding an employee or employees of one sex compared with an employee or employees of the other sex doing the same work or work of equal value. The Committee therefore concludes that the situation in this respect is in conformity with the Charter.

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. Moreover, 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 meaning 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 should be 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). Employees who try to enforce their right to equality must be legally protected against any form of reprisals from their employers, including not only dismissal, but also downgrading, changes to working conditions and so on.

The Committee notes that, according to the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Estonia 2019 that national courts are accessible for victims of discrimination, but there are problems of affordability. Civil proceedings are costly and time consuming. The cost of legal services is high and lawyers' fees do not have upper ceiling. There is also the fear of victimisation. Employees have less information and resources when compared with employers.

As regards the shift of the burden of proof, the Committee notes from the same Report cited above that, since 2009, a shared burden of proof is stipulated in Article 4 of the Gender Equality Act. An application of a person addressing a court, a labour dispute committee or the Gender Equality and Equal Treatment Commissioner must set out the facts on the basis of which it can be presumed that discrimination based on sex has occurred. In the course of proceedings, it is for the respondent to prove that there has been no breach of the principle of equal treatment. If the person refuses to provide proof, the refusal will be deemed to be equal to acknowledgement of discrimination by the person. In labour disputes concerning discrimination, the shared burden of proof prescribed in the ETA or in the GEA applies. In Estonia, the employer must keep data on the pool of candidates in the recruitment process to be able to provide explanations in the event of a claim.

As regards the ceilings applicable for compensation for victims of gender pay discrimination, the Committee has recalled in its previous conclusion that when the dismissal is the consequence of a worker's complaint concerning equal wages, the employee should be able to file claim for unfair dismissal and obtain adequate compensation to be fixed by courts. AAs stated in its previous conclusion, the Committee noted that disputes are resolved by a court or a labour dispute committee. Both Court and labour dispute committee have the right to reduce or increase the compensation as they see reasonable. There is no law that restricts this competence (Conclusions Estonia, Article 4.3, 2018).

The Committee further requests that the next report include information about existing national case law relating to breaches of the right to equal pay, as well as on sanctions imposed. It further asks how the principle of shifting of the burden of proof is applied in practice, for example, if it is systematically applied in the cases related to pay discrimination.

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, 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.

As regards *pay transparency* in the labour market and notably the possibility for workers to receive information on pay levels of other workers and available information on pay, there is no information in the report. According to the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Estonia 2019, Article 10 of the Civil Service Act stipulates that certain civil service regulations should be issued on the procedure for the establishment of employment positions for staff of the state authorities, as well as classification and grading of the employment positions. This report observes that the implementation is poor. Even though the adopted regulation has several annexes providing job classifications for the public sector, a job classification system in the public sector could provide more transparency in the labour market. Unfortunately, job applicants and employees are often underinformed.

The Committee asks that the next report provide further information on pay transparency and on comparable jobs and pay level accessible to employees. It reserves its position in this respect.

The Committee also recalls that it examines the right to equal pay under Article 20 and Article 4§3 of the Charter and does so therefore every two years (under thematic group 1 “Employment, training and equal opportunities”, and thematic group 3 “Labour rights”). Articles 20 and 4§3 of the Charter require the possibility to make job comparisons across companies (see in this respect 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).

As regards *comparison across companies*, in its previous conclusion, the Committee requested to provide relevant information on this issue, in particular, if the pay comparison is possible outside one company, for example, if such company is a part of a holding company and the remuneration is set centrally by such holding company. There is no information provided in the report. The Committee reiterates its question for the next cycle. Should the report not contain this information, the Committee will have no ground to consider the situation to be in conformity with the Charter in this respect. In the meantime, it reserves its position in this respect.

Enforcement

The report states that an analysis of the implementation of the Gender Equality Act by employers was carried out in 2015. The aim of the study was to get an overview of how the private, public and non-profit sector employers implement the Gender Equality Act in their human resources practices. In addition to an overview of the implementation of the Gender Equality Act among employers, indicators were proposed by the researchers for assessing the implementation of the Gender Equality Act in human resource practices which could be used for regular monitoring of the subject. The study used combined research methods, i.e. qualitative and quantitative methods.

The overall conclusion of the study was that the awareness of the Gender Equality Act among Estonian employers is low.

The report does not contain any information regarding the number of inspections nor the role of equality bodies. According to the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Estonia 2019, the *Welfare Development Plan 2016-2022* notes the need for a supervisory power to monitor whether women and men receive equal pay for the same work and work of equal value. The Labour Inspectorate’s mandate could be extended and the budget increased to carry out such monitoring and an Equal Pay Competence Centre should be established. Policy makers have planned to start with this in the public sector.

The Committee asks that the next report provide further information about how equal pay is ensured, notably, the work of monitoring developed by equality bodies and the Labour Inspectorate in this respect.

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 report refers to the "Welfare Development Plan for 2016-2023". The development plan has four sub-goals, one of which is gender equality, thereby creating the first ever governmental level wide-scale strategy for gender equality. The gender equality policies of the development plan are implemented through the four-year rolling Gender Equality Programme(s). Measures foreseen in the development plan and the programme(s) vary from awareness raising to legislative initiatives. To reduce gender inequality, prevent its resurgence, and achieve gender equality in different spheres of life, attention is paid to reducing gender stereotypes that cause gender inequality and their negative impact; reducing gender segregation in education and the labour market; supporting the economic independence of men and women, therein reducing the gender pay gap; achieving a gender balance on the decision-making levels of society; enhancing the protection of rights; and ensuring institutional capacity, including the analysis and management capabilities necessary for the promotion of gender equality. Implementation of the development plan and the programme(s) is monitored through indicators. Framework necessary to support the promotion of gender equality includes also other programmes under the same development plan (Labour Market Programme, Social Insurance Programme, Welfare Programme), but also other strategies, including the "Strategy for Preventing Violence in 2015-2020"⁶¹ and the Strategy of Children and Families 2012-2020⁶² (especially its strategic objective 5: "Men and women have equal opportunities for reconciliation of work, family and private life in order to promote a quality everyday life that meets the needs of each family member").

The report states that the Government has conducted research which shows that the gender pay gap in Estonia comprises mostly of unadjusted pay gap and only about 15% of the gap has been explained so far. In the beginning of 2019, a new analysis that aims to decrease the unexplained part of the gender pay gap, was launched. The first results of the analysis show that the new approach helps to explain 40% of the gender pay gap. Individual level characteristics, such as level of education, labour market status, age, and nationality, explain only marginal share of the pay gap, while the average salary paid, and the share of women employed by the employer play more substantial role. Occupation and sector of economic activity are moderately important in explaining the gap. Other arrays of measures and statistics are provided in the national report.

Concerning the gender pay gap, the Committee notes from Eurostat that gender pay gap stood at 27.7% in 2010, at 26.7% in 2015, at 24.8% in 2016, 24.9% in 2017 and 21.8% in 2018. The EU 28 average in 2018 was 15% (data published on 29th October 2020). The overall earnings gap in 2014 was 38.4%. The adjusted or "unexplained" gender pay gap was at 20.1% compared to an EU-28 average of 11.5% (2014 data, see the Eurostat study "A decomposition of the unadjusted gender pay gap using Structure of Earnings Survey data, 2018).

The Committee notes that, according to from the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Estonia 2019, Estonia has the highest gender pay gap recorded in the EU. Measures to tackle the gender wage gap are detailed in the *Welfare Development Plan 2016-2023* and highlighted in the National Action Plan for 2015-2020.

The Committee notes that the Government has made efforts to reduce the gender pay gap and has taken measures to raise awareness through gender mainstreaming. Nevertheless, the Committee also observes that the gender pay gap, as an indicator of the effectiveness of these measures, has not changed in a sufficient manner in the years covered by the current cycle. Gender segregation persists on occupational level. While women are mostly professionals, service workers and shop and market sales assistants and technicians and associate professionals, men are mostly craft and related trades workers, plant and machine operators and assemblers and legislators, senior officials and managers. Although the gender pay gap has decreased during the present cycle, it still remains very high. The measures adopted by the Government have not achieved measurable progress in this respect. Therefore, the situation in this respect is not in conformity with Article 20(c) of the Charter.

Conclusion

The Committee concludes that the situation in Estonia is not in conformity with Article 20(c) of the Charter on the ground that sufficient measurable progress in respect of the obligation to promote the right to equal pay has not been achieved.

Article 24 - Right to protection in case of dismissal

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

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 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.

Prohibited dismissals

In its previous conclusion (Conclusions 2016) the Committee asked what the procedure was to terminate the contract in case of a short-term illness or injury.

According to the report, § 92 of the Employment Contract Act stipulates clear prohibitions concerning dismissal, including that an employer may not cancel an employment contract on the ground that the employee is not able, in a short term, to perform duties due to his/her state of health.

In order to terminate the contract extraordinarily because the employee is unable to perform duties due to his/her state of health, there is a rule that deterioration of the state of health has to be long-term. According to § 88 of the ECA the deterioration of the state of health could only be considered long-term, if it has continued for at least four months.

According to § 88 subsection 1 of the ECA the main rule is that an employer may extraordinarily cancel an employment contract with good reason arising from the employee as a result of which, upon respecting mutual interests, the continuance of the employment relationship cannot be expected. Therefore, it could be possible to terminate the contract in case of illness or injury regardless of its term. But the termination must fulfil the ground that the continuance of the relationship cannot be expected, taking into account the interests of both sides, including those of the employee. In case of an illness or injury, regardless of its term, it must be assessed whether the employee is able to continue to perform his/her or her duties in the future. In situations when it is clear that the employee will recover from his or her short-term illness or injury and will be able to continue his/her work, the ECA does not permit termination of the contract.

Before the employer terminates the contract extraordinarily, according to ECA § 88 subsection 2, the employer shall offer other work to the employee, where possible. The employer shall offer other work to the employee, including organise, if necessary, the employee’s in-service training, adapt the workplace or change the employee’s working conditions if the changes do not cause disproportionately high costs for the employer and the offering of other work may, considering the circumstances, be reasonably expected.

The Committee understands that the employer may not terminate the employment contract in case of a short-term illness or injury of the worker (i.e. illness that does not exceed four months). As regards long-term illness, termination of employment is only possible upon mutual agreement of the parties (i.e. when the continuation of employment cannot be expected) and only in cases where it is assessed that the employee cannot continue his/her work. The

Committee asks how the level of compensation is determined in case of dismissal due to long-term disability.

Remedies and sanctions

The Committee notes that there have been no changes to the situation which it has previously considered to be in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Estonia is in conformity with Article 24 of the Charter.

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

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.

