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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-1 (2020)

THE UNITED KINGDOM

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 the United Kingdom, which ratified the 1961 European Social Charter on 11 July 1962. The deadline for submitting the 39th report was 31 December 2019 and the United Kingdom submitted it on 14 February 2020.

The Committee recalls that the United Kingdom 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 XXI-1 (2016)).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions XXI-1 (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 physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (Article 15);
- the right to engage in a gainful occupation in the territory of other Contracting 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 1 of the Additional Protocol).

The United Kingdom has accepted all provisions from the above-mentioned group except Article 1 of the Additional Protocol.

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

The conclusions relating to the United Kingdom concern 9 situations and are as follows:

– 2 conclusions of conformity: Articles 1§1 and 15§2.

– 1 conclusion of non-conformity: Article 18§2.

In respect of the other 6 situations related to Articles 1§2, 10§1, 10§3, 10§4, 15§1 and 18§3, the Committee needs further information in order to examine the situation.

The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by the United Kingdom under the 1961 Charter.

The next report from the United Kingdom 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 4 of the Additional Protocol).

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 the United Kingdom.

Employment situation

According to Eurostat, the GDP growth rate decreased from 2.4% in 2015 to 1.3% in 2018, a rate which is below 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 72.7% in 2015 to 74.7% in 2018, a rate that is above the EU 28 average (68.6% in 2018).

The employment rate for men increased from 77.6% in 2015 to 79.1% in 2018, which is above the EU 28 average (73.8% in 2018). The employment rate for women increased from 67.9% in 2015 to 70.3% in 2018, which is above the EU 28 average (63.3% in 2018). The employment rate of older workers (55 to 64-year-olds) rose from 62.2% in 2015 to 65.3% in 2018, which is above the EU 28 average (58.7% in 2018). The employment rate for young people (15 to 24-year-olds) increased slightly, from 50% in 2015 to 50.6% in 2018, considerably exceeding the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) decreased from 5.4% in 2015 to 4.1% in 2018, a rate that is below the EU 28 average (7% in 2018).

The unemployment rate for men fell from 5.6% in 2015 to 4.2% in 2018, which is below the EU 28 average (6.7% in 2018). The unemployment rate for women fell from 5.2% in 2015 to 4% in 2018, which is below the EU 28 average (7.2% in 2018). Youth unemployment (15 to 24-year-olds) decreased from 14.6% in 2015 to 11.3% in 2018, which is below the EU 28 average (15.2% in 2018). Long-term unemployment (12 months or more, as a percentage of total unemployment) fell from 30.6% in 2015 to 26.3% in 2018, which is well 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) decreased slightly, from 11.1% in 2015 to 10.4% in 2018 (as a percentage of the 15 to 24-year-old age group), a rate almost equal to the EU 28 average (10.5% in 2018).

The Committee notes the very good performance of the labour market indicators in the United Kingdom, despite a sharply declining GDP growth rate during the reference period.

Employment policy

The Committee takes note of the information provided in reply to its question in previous conclusion on programmes aimed at tackling youth unemployment. The report states that the Government is committed to providing targeted support for young people so that everyone, no matter what their start in life, is given the very best chance of getting into work. Information is provided notably on the Youth Obligation Support Programme which helps young people aged 18-21 identify any training they need, understand what the labour market in their areas can offer and support them to improve their job search, job application and interview skills. Information is also provided on measures being rolled out in Scotland, Wales and the Isle of Man.

The Committee notes the requested employment statistics contained in the report, including on the number of benefit claimants that have labour market support (while observing that for certain local level programmes it is not possible to cross-reference this information with benefit recipient data to produce a population total figure) as well as on participation in educational programmes. It further notes that labour market programmes are monitored through a combination of administrative data, as well as other processes in place (e.g. performance management, controls and validation) to ensure that high quality support is provided.

However, as regards the activation rate the Committee found no information, neither in the report nor in the United Kingdom report on ILO Convention No. 122. It is also not indicated in statistics published by Eurostat. Consequently, the Committee reiterates its request that this indicator be included in the next report, preferably calculated as the overall stock of participants in regular activation measures divided by the number of persons wanting to work.

The Committee also found no information on public expenditure on labour market policies as a share of GDP, and broken down by active and passive measures. It therefore reiterates the request.

Having noted the comments of the Trade Union Congress on the United Kingdom report on ILO Convention No. 122 according to which despite record levels of employment many of the jobs created are insecure and low-paid, as well as the Government's reply to these comments, the Committee asks to receive updated information on the measures taken to ensure that employment created is decent respecting basic Charter requirements, for example as regards working hours, health and safety and remuneration.

Meanwhile, in view of the information provided and the fact that the main unemployment figures developed in a positive direction during the reference period despite a difficult economic context, the Committee considers that the situation remains compatible with Article 1§1.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the United Kingdom is in conformity with Article 1§1 of the 1961 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 the United Kingdom.

1. Prohibition of discrimination in employment

Article 1§2 of the Charter prohibits all forms of discrimination in employment. The Committee asked States Parties to submit up-to-date information for this reporting cycle on the legislation prohibiting all forms of discrimination in employment, in particular on grounds of gender (had Article 1 of the Additional Protocol not been accepted), race, ethnic background, sexual orientation, religion, age, political opinions or disability (had Article 15§2 not been accepted), together with information on the available remedies. It also asked for information on any specific measures taken to combat discrimination in employment against migrants and refugees.

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

The United Kingdom has accepted Article 15§2. Therefore, it was under no obligation to report on the prevention of discrimination on grounds of disability, which will be examined by the Committee under the said provision.

As regards the legislation prohibiting discrimination in general terms, the Committee noted in its previous conclusion (Conclusions XXI-1 (2016)) that the Equality Act 2010 harmonised the legislation on equality, including with respect to the definition of indirect discrimination. Overall, the Committee found the new legal framework to be in conformity with the 1961 Charter.

The report points out that in 2015, two legislative amendments were made to improve the operation of the Equality Act 2010 in practice. Section 138 (on a statutory questionnaire) was repealed with a view to streamline the procedure in discrimination cases. Furthermore, Section 124 (on "wider recommendations" imposed by tribunals) was amended, following indications of its ineffectiveness or even counter-productivity. In this regard, the Committee wishes to refer to concerns raised by the International Labour Organisation ILO (Observation (CEACR)-adopted 2019, published at the 109th ILC session (2020)) that the repealed sections were of significance to tackle and deal with discrimination in the workplace. Section 138, in particular, allowed a potential victim of discrimination to overcome the difficulties in identifying whether discrimination has occurred, as much of the information needed in cases related to equality and non-discrimination was in the hands of the employer. The Committee further notes the criticism in the 2018 country report of the European Equality Law Network (Network of Legal Experts in Gender Equality and Non-discrimination) that the repeal of Section 124 on the power to make recommendations extending beyond the respondent's treatment of the claimant further weakened the effectiveness of available sanctions. The Committee asks that the next report comment on these observations and provide statistical information on trends in the number of discrimination claims before employment tribunals and their rate of success. It further asks for more comprehensive information on the impact of the removal of the employment tribunals' power to make wider recommendations. Meanwhile, it reserves its position on this aspect.

The Committee further observes that the Equality Act 2010 is not applicable in Northern Ireland and requests that the next report provide updated information on the pertinent legislative framework.

As for the Isle of Man, the report indicates that the new Equality Act was adopted in 2017, became gradually operational during the reference period and has been in full force since January 2020. It provides comprehensive protection against any discrimination in employment

on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The report does not provide information on the legislation prohibiting discrimination in Scotland and the Committee asks that it be provided in the next report.

As regards discrimination on grounds of gender, the report provides information on measures taken in the field of unlawful pay discrimination and discrimination against women in the workplace. These measures include increased visibility, provision of legal assistance and formal enquiries. Furthermore, a free helpline is available to all those who feel that they have suffered discrimination (Equality Advisory Support Service). Potential cases are then referred to the EHRC that will then consider taking enforcement action.

The Committee wishes to refer, in this regard, to concerns of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), endorsed by the ILO (Observation (CEACR) mentioned above) about: the inadequacy of measures adopted to accelerate the representation of women in all areas of political and public life throughout the United Kingdom's territory; the continued underrepresentation of women in higher education and careers in STEM fields; their underrepresentation on corporate boards and in executive positions, and their concentration in lower paying positions in all occupational sectors such as health, education and retail; the high prevalence of informal, temporary or precarious forms of employment (including employment with zero-hour contracts), as well as sexual harassment; and the difficulty of women belonging to marginalized groups in gaining access to employment (CEDAW/C/GBR/CO/8, 14 March 2019). The Committee asks that the next report comment on these observations, while reserving its position on this point.

As regards discrimination on grounds of race, the Committee pointed to a problematic issue related to a definition of caste in its previous conclusion. It requested information on any development concerning the inclusion of caste-based discrimination as an aspect of race in Section 9 of the Equality Act 2010 (see Conclusions XXI-1 (2016)).

In reply, the report states that, following public consultations in 2016 on whether the Government should commence its legal duty with regard to caste, it has decided to repeal the duty and rely on the case law on the matter in England, Wales and Northern Ireland, while issuing guidance on Caste and the Equality Act for employers, service providers and individuals. Work is reported to be ongoing to fulfil these commitments. The report adds that the Scottish Government considered that the enactment of Equality Act may be the most effective way to guard against this type of discrimination. The Committee recalls that legal provisions should effectively guarantee the protection granted by the Charter and, therefore, provide clear and exhaustive definitions of grounds of discrimination set out in Article 1§2. It asks that the next report provide information on any developments in prohibiting caste as a form of discrimination.

As for Northern Ireland, the Committee noted in its previous conclusion that consultations on the need to revise its race legislation were underway. It requested information on developments in this respect, as well as on the specific legislative measures adopted to address discrimination and the promotion of equality of opportunity and treatment in employment. The report states, in reply, that as a result of the consultation in 2014, a racial equality strategy 2015 – 2025 was endorsed by the Executive and that the legislation will be reviewed in line with the commitments made in the strategy. The Committee asks that the next report provide comprehensive explanations on the content of the equality strategy and the measures already adopted or envisaged.

As regards the prohibition of discrimination on grounds of ethnic origin, the Committee acknowledged previously that it was enshrined in the legal framework. It requested, however, information on the practical measures taken to promote equality of opportunity and treatment of ethnic minority groups and to combat stereotypes and their impact on the employment of workers from ethnic minorities (see Conclusions XXI-1 (2016)). The Committee notes the

information provided by the report on ethnic minority employment showing an increase in the employment rate. The report presents the mapping of ethnic minority employment, which indicates regions with a high ethnic minority population and a significant gap between the employment rates of ethnic groups and non-ethnic ones, thus helping to provide targeted support and develop local solutions to improve employment prospects. The report also provides information on Ethnicity Pay Reporting and a Race at Work Charter which commits employers to action on collecting ethnicity data, pursuing a policy of zero tolerance for bullying and harassment, and on sponsoring employees from ethnic minorities.

As for Scotland, the report states that in 2016, the Scottish Government published a 15-year Race Equality Framework and has outlined, in its Race Equality Action, actions it will take by 2021 to secure better prospects for ethnic minorities. The Committee requests that the information on the implementation of the Action, as well as on its impact, observed or expected, be included in the next report.

The report does not reply to the Committee's request for information on the legislation and practical measures targeted at combating discrimination on grounds of sexual orientation, age, political opinion or religion. While renewing its request, the Committee underlines that, should the next report not provide the relevant information, nothing will allow to show that the situation is in conformity with the 1961 Charter in this respect.

Apart from questions on the legal framework, during this examination cycle the Committee assesses the specific measures taken to counteract discrimination in the employment of migrants and refugees. The report does not provide any information on this issue. At the same time, the Committee notes from the ILO (see Observation (CEACR) mentioned above) that unequal treatment of migrant workers in the labour market is encouraged by immigration legislation: the Immigration Act of 2016 made working without permits a criminal offence, thus prohibiting undocumented workers from claiming rights at work for fear of being arrested and deported. The Committee renews its request for comprehensive and pertinent information. Furthermore, it wishes to know more in the next report about the 2016 Immigration Act and its impact on discrimination of migrants in employment. It considers that, should the requested information not be provided, nothing will allow to establish that the situation is in conformity with Article 1§2 of the 1961 Charter on this point.

The Committee recalls that appropriate and effective remedies must be ensured in the event of an allegation of discrimination. The notion of effective remedies encompasses judicial or administrative procedures available in cases of an allegation of discrimination, an appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment. The Committee explicitly requested that information on these aspects be provided for this examination cycle.

As to the procedures available, the Committee noted in its previous conclusion that a requirement to pay fees to initiate proceedings before Employment Tribunals and Employment Appeal Tribunal (Fees Order 2013) had been introduced. It had examined what impact the fees had on the appropriateness and effectiveness of the proceedings in the event of an allegation of discrimination (see Conclusions XXI-1 (2016)). Recalling that for the right to appeal to be fully effective, there should be no obstacles to accessing the courts, the Committee noted that, according to the statistics compiled by the Ministry of Justice, applications to the employment tribunals fell by 79% in the first six months after fees were imposed. In order to assess whether the effectiveness of the right to file a complaint on alleged cases of discrimination or to appeal before the employment tribunals was affected by the requirement to pay court fees in employment disputes, the Committee asked for information on the nature of the discrimination claims and the amount of fees paid by the claimants (with examples of actual cases), and statistical information on trends in the number of discrimination claims before the employment tribunals. It also asked whether those who could not afford to pay the court fees were exempted from these expenses, and in what proportion.

In reply, the report states that in 2017, the said fees were declared unlawful by the Supreme Court, which agreed that charging fees was justified in principle, but that the Government had failed to strike the right balance in this respect. Following the review of the fees in 2017, the Government concluded that their introduction broadly met its objectives and was justified. However, there was a general lack of awareness of the fee exemption scheme, and those who did apply found the guidance and procedures difficult to follow. Therefore, the Ministry of Justice took steps to address these concerns by relaunching the scheme with improved guidance and a simplified application procedure. The proportion of claims for which a fee remission was granted in the Employment Tribunals is reported to have increased (from 15% in 2013/14 to 29% in 2015/16). The report does not provide updated statistics which could indicate whether the introduction of the reviewed fee remission scheme resulted in an increase in the number of discrimination claims and how effective access to this remedy became. The Committee asks that the next report provide this information and, meanwhile, reserves its position on this point.

As regards the burden of proof, the Committee notes from the legislation.gov.uk that Section 136 of the Equality Act 2010 provides for the shift of the burden of proof in any claim where a person alleges discrimination, harassment or victimisation. It further notes that changes may be made in this respect and asks for information on any developments.

The legal framework as regards equality bodies has been assessed by the Committee in its previous conclusion, when it noted a new single equalities and human rights body for Great Britain – the Equality and Human Rights Commission (EHRC), as well as the Scottish Human Rights Commission and the Equality Commission for Northern Ireland, with mandates to raise awareness, promote good practice, conduct investigations, intervene in cases, support and enforce public sector duty (see Conclusions XXI-1 (2016)). The Committee then asked for information on the activities and measures taken by these bodies with a view to eliminating discrimination in employment and to promoting equal opportunities and equal treatment.

In reply, the report provides information on actions taken by the EHRC, in particular as regards unlawful pay discrimination and discrimination against women in the workplace. Furthermore, a formal enquiry into legal aid in discrimination cases was launched in 2018 with a view to ensuring better access to court in such cases. The report also adds that in the implementation of the Equality Act, an Equality Adviser was appointed on the Isle of Man to assist employers, workers and service providers.

The Committee notes that the European Network of Legal Experts in Gender Equality and Non-discrimination (European Equality Law Network) in its 2018 country report on the United Kingdom concluded that the equality bodies lacked active management of the different mandates in order to address their particular requirements. According to the European Equality Law Network, this lack of active management can limit the effectiveness and impact of the equality mandate for lack of focus. It also states that government commitment to equality is not reflected in terms of financial support for the Equality and Human Rights Commission which suffered significant budget cuts. Although these can be seen in the context of cuts in many public services, they are disproportionate to other public bodies.

In order to assess the overall effectiveness of the existing remedies, the Committee had also previously requested information on any claims related to discrimination in employment, including the grounds of discrimination addressed, as well as any remedies provided or sanctions imposed. The report does not reply to this request. The Committee notes, in this respect, that the 2018 country report of the European Equality Law Network, mentioned above, found that the equality commissions have over the last few years assisted relatively few applicants; public funding generally involves strict means testing and is not available for legal representation in tribunals. The lack of available, expert advice, assistance and representation in discrimination cases is a matter of growing concern for the EELN. Furthermore, it raised concerns that the existing remedies do not meet the standard of “effective, proportionate and

dissuasive", in particular, as the repeal of Section 124 of the Equality Act weakened the effectiveness of available sanctions.

The Committee asks that the next report comment on these observations and again recalls its questions with respect to all aspects of the existence and functioning of the effective remedies addressed here. It considers that, should the requested information not be provided, nothing will allow to establish that the situation is in conformity with Article 1§2 of the 1961 Charter on this point.

The report does not address other issues relevant to the assessment of effectiveness of available remedies, namely reinstatement and compensation in case of discrimination. The Committee requests that comprehensive information in this respect be included in the next report.

The Committee also asks how violations of the legal provisions prohibiting discrimination in the workplace are scrutinised, whether adequate penalties exist and if so, whether they are effectively enforced by labour inspectors.

In addition to all the issues under the present examination by the Committee, in its previous conclusion it also requested information on restrictions applicable to foreign nationals' employment rights (see Conclusions XXI-1 (2016)). There were no findings of non-conformity, however, the Committee reserved its position on this point. The question of discrimination on grounds of nationality was, namely, the key issue examined in the previous reporting cycle.

The report states that employment rights apply equally to all, regardless of nationality. A very small minority of public sector positions are open to British nationals only due to national security reasons. The Committee considers that it is in conformity with the requirements of the 1961 Charter.

Finally, in the light of the Government's decision to leave the European Union, the Committee asks that the next report provide information on the impact it may have on the rights afforded under Article 1§2 of the 1961 Charter against discrimination in employment, as well as on the measures adopted or envisaged in order to ensure that these rights are preserved.

Overall, pending request of the information requested, the Committee reserves its position on 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 Mussele v. Belgium*, 23 November 1983, § 32, Series A no. 70; *Siliadin v. France*, no. 73316/01, §§ 115-116, ECHR 2005-VII; *S.M. v. Croatia* [GC]*,* no. 60561/14, §§ 281-285, 25 June 2020). The Committee also refers to the interpretation by the Court of the concept of « servitude », also prohibited under Article 4§2 of the Convention (*Siliadin,* § 123; *C.N. and V. v. France,* § 91, 11 October 2012).

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

The European Court of Human Rights has established that States have positive obligations under Article 4 of the European Convention to adopt criminal law provisions which penalise the practices referred to in Article 4 (slavery, servitude and forced or compulsory labour) and

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

The Committee draws on the case law of the European Court of Human Rights and the above-mentioned international legal instruments for its interpretation of Article 1.2 of the Charter, which imposes on States Parties the obligation to protect effectively the right of workers to earn their 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 any of the specific, targeted questions for this provision on the exploitation of vulnerability, forced labour and modern slavery (questions included in the appendix to the letter of 27 May 2019whereby 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 XXI-I (2016), in which it took note of the legislative and practical measures taken in the field of modern slavery and domestic work (notably the Modern Slavery Act 2015 in England and Wales and the Human Trafficking and Exploitation Act 2015 in Northern Ireland, which both criminalise human trafficking, slavery, servitude and forced or compulsory labour). It also notes from the present report that in respect of Scotland, the Human Trafficking and Exploitation (Scotland) Act 2015 entered into force on 31 May 2016. It created a new offence of slavery, servitude and forced or compulsory labour. It also created two new types of court orders aimed at disrupting perpetrators' behaviour and protecting persons: Trafficking and Exploitation Prevention and Risk orders. According to the 2017 UK Annual Report on Modern Slavery (referred to in the national report), in 2016 80 defendants were prosecuted under the Modern Slavery Act 2015 in England and Wales, and there was one conviction. In Scotland and Northern Ireland, no prosecutions were initiated in 2016 for the offence of slavery, servitude and forced labour.

The Committee recalls that States Parties must not only adopt criminal law provisions to combat forced labour and other forms of severe labour exploitation but also take measures to enforce them. It considers, as the Court did (*Chowdury and Others*, § 116), that the authorities must act of their own motion once the matter has come to their attention; the obligation to investigate will not depend on a formal complaint by the victim or a close relative. This obligation is binding on the law-enforcement and judicial authorities. The Committee therefore asks that the next report provide information on the enforcement of the abovementioned criminal law legislation. The report should provide information (including statistics and examples of case law) on the prosecution and conviction of exploiters for slavery, forced labour and servitude during the next reference period, in order to assess in particular how the legislation 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 Committee notes that the Independent Anti-Slavery Commissioner, whose mandate covers the whole of the United Kingdom and was established under the Modern Slavery Act 2015, adopted a Strategic Plan for 2019-21 (outside the reference period), which focuses on four priorities: improving victim care and support; supporting law enforcement and prosecution; pursuing preventive action; and capitalizing on research and innovation. The Committee requests that the next report provide information on the implementation of this Strategic Plan as well as on its impact on reducing forced labour and exploitation.

The Committee highlights the importance of regular workplace inspections, including in compliance with labour standards, in deterring instances of forced labour and identifying possible victims (see, with respect to human trafficking for the purpose of labour exploitation, GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, Second Evaluation Round, GRETA (2016)21, 7 October 2016, par. 96 and its recommendation in paragraph 167). It therefore asks information in the next report on the manner in which competent labour inspection services enforce labour legislation and regulations (on issues such as wages, hours of work, working conditions, health and safety) with a view to preventing forced labour and exploitation, particularly in sectors at risk such as agriculture, construction, hospitality and manufacturing.

The Committee further notes from the 2017 UK Annual Report on Modern Slavery that the Modern Slavery Act 2015 contains a provision on transparency in supply chains which applies across the whole of the United Kingdom. Section 54 of the Modern Slavery Act 2015 places a duty on any commercial organisation that supplies goods and services and carries on a business or part of a business in the UK and has an annual turnover of at least 36 million pounds to produce a slavery and human trafficking statement every financial year. The statement must set out what steps the organisation has taken over the previous 12 months to ensure that slavery and human trafficking are not taking place in its business and global supply chains. A failure to produce a slavery and human trafficking statement can result in the Secretary of State bringing civil proceedings in the High Court for an injunction against the companies concerned. The Committee also notes that in order to help prevent modern slavery in Government supply chains, the UK Government has issued a supplier self-assessment tool to Government Departments. The assessment tool helps departments to collect more information about their supply chains and helps contract managers to identify and address any

modern slavery risks. The Committee takes due note of these measures aimed at preventing forced labour and **exploitation of workers** in the supply chains, including in the public sector (public procurement). It asks, however, that the next report provide examples of how these requirements are being implemented and monitored in practice (rate of compliance) and information on their overall impact on preventing forced labour and exploitation in global supply chains.

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 Committee notes from the 2017 UK Annual Report on Modern Slavery that in 2016 1,578 potential victims of labour exploitation were referred to the National Referral Mechanism (NRM), which is the UK framework for identifying and supporting victims. Not all victims referred to the NRM consent to support, which explains why the number of victims who enter support is lower (601 victims of labour exploitation in 2016-2017 in England and Wales).

The Committee asks for updated information in the next report on the number of potential victims of labour exploitation referred to the National Referral Mechanism during the next reference period and the number of such persons benefiting from protection measures and support. It also asks that the next report provide general information on the type of assistance (protection from retaliation, safe accommodation, health care, material assistance, social and economic assistance, legal advice, translation and interpretation, voluntary repatriation, provision of residence permits for migrants), and to specify the period during which that support and assistance is provided across the United Kingdom.

As regards access to remedies and compensation, the Committee asks whether the existing legislative framework provides victims of forced labour and labour exploitation, including irregular migrants, with accessible and effective remedies (before criminal, civil, employment courts or other venues) to obtain compensation for all the damage incurred (including lost wages and unpaid social security contributions). It requests statistical information on the number of victims who obtained compensation and examples of the amounts awarded. In this context, the Committee refers to the 2014 Protocol to the 1930 ILO Forced Labour Convention (ratified by the United Kingdom on 22 January 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. It also notes that GRETA exhorted the United Kingdom authorities to ensure that victims of trafficking who are irregular migrants are not prevented from seeking unpaid salaries before employment tribunals by reason of their immigration status (GRETA Report, par. 245).

Domestic work

In its previous conclusions (Conclusions XXI-I (2016), the Committee took note of the legislative and practical measures taken in the field of modern slavery and domestic work (notably the Modern Slavery Act 2015 in England and Wales and the Human Trafficking and Exploitation Act 2015 in Northern Ireland). Since these measures had been adopted outside the reference period, the Committee asked for information in the next report on their results, particularly with reference to the General Questions about the existence of forced labour within the family (Conclusions XX-1 (2012).

In reply to this request, the current report states that the existing United Kingdom legal framework largely meets or exceeds the requirements of the ILO Convention 2011 No. 189 concerning decent work for domestic workers ("Domestic Workers Convention") as it already provides comprehensive employment and social protection to domestic workers. The Immigration Rules require all employers of migrant workers to comply with the UK legislation; they require overseas domestic workers and private servants to declare their terms of employment in the United Kingdom and require employers to confirm their agreement,

allowing social workersto assess whether the terms of employment meet UK requirements. The Immigration Rules also require employers to sign a declaration which confirms they will pay the national minimum wage. UK Visa and Immigration staff hand out leaflets with information on rights to overseas domestic workers (see also in this respect Conclusions XXI-1 (2016)). Visa applications for migrant domestic workers must be accompanied by written terms and conditions of employment in the United Kingdom, including provision for payment in accordance with the National Minimum Wage Act, hours of work, and accommodation arrangements (new template contract introduced in 2015). The report also refers to the Modern Slavery Act 2015, which criminalises holding a person in slavery or servitude and requiring another person to perform forced or compulsory labour.

In 2016, following a review carried out to assess how the existing arrangements for migrant domestic workers were effective, the Government adopted several measures:

- It removed the condition which tied workers to specific employers by allowing them to switch to a different employer within the 6-month validity of their visa;
- It increased the period of leave which can be granted to an Overseas Domestic Worker found to be a victim of slavery or trafficking from six months to two years;
- the National Referral Mechanism provides for a mechanism allowing any overseas domestic workers who are victims of modern slavery to be identified and to qualify for support as appropriate. This support may include accommodation, financial support and access to health care treatment.

The Committee also notes from the report that the United Kingdom abstained in the vote on the adoption of the ILO Domestic Workers Convention as it did not consider it proportionate or practical to extend criminal health and safety legislation including inspections, to the employment of domestic workers in private households, having particular regard to issues of privacy. According to the report, there has been at least one case where an investigation on the labour provided in a domestic situation was carried out. However, according to the 2017 UK Annual Report on Modern Slavery, in 2016, 429 potential victims of domestic servitude were recorded.

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 XX-I (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 considers that the fact that domestic workers are excluded from any type of labour inspection is a matter of concern as they are considered as a vulnerable category of workers (see Conclusions XXI-2 (2017), conclusion of non-conformity with Article 3§1, safety and health regulations). It also recalls that, for the purposes of Article 3§2 of the 1961 Charter, inspectors must be authorised to check all workplaces, including residential premises, in all sectors of activity (Conclusions XVI-2 (2003), Czech Republic; Conclusions 2013, Statement of Interpretation of Article 3§3 (i.e., on Article 3§2 of the 1961 Charter). The Committee considers that such inspections must be clearly provided for by law, and sufficient safeguards must be put in place to prevent risks of unlawful interferences with the right to respect for private life.

The Committee therefore asks that the next report indicate the measures taken or envisaged to ensure that national authorities are able to identify victims of domestic servitude or forced labour in the domestic context. It notes in this regard that GRETA asked the United Kingdom to ensure that inspections take place in private households with a view to preventing abuse of domestic workers (GRETA Report, par. 106; see also the United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the 6th periodic report of the United Kingdom, 24 June 2016, par. 35, urging the authorities to ensure effective inspection mechanisms for monitoring the working conditions of migrant domestic workers).

The Committee further asks that the next report include relevant and updated information on the number of potential victims of domestic servitude referred to the National Referral Mechanism for the next reference period and the number of such persons benefiting from protection measures and support. The report should also contain information on prosecutions and convictions under the abovementioned criminal legislation (Modern Slavery Act 2015, Scottish and Northern Ireland legislation) in the context of domestic work, including relevant statistical data and examples of case law in order to assess in particular how the legislation is interpreted and applied. Finally, the Committee requests information on how victims of domestic servitude have access to compensation for damages.

"Gig economy" or "platform economy" workers

The Committee notes that according to a survey carried out in 2017 for the UK Department for Business, Energy and Industrial Strategy, 4.4 per cent of the population in Great Britain had worked in the gig economy in the previous 12 months (BEIS, "The characteristics of those in the gig economy", February 2018). In this connection, the Committee requests that the next report contain information on any concrete measures taken or envisaged to protect workers in the "gig economy" or "platform economy" against all forms of exploitation and abuse. It asks to be informed on the status and rights of these workers (employees or self-employed, or an intermediary category, and their rights in terms of working hours, pay holiday and minimum wage), on whether labour inspection services have any mandate to prevent exploitation and abuse in this particular sector and on any existing remedies they have access to, particularly to challenge their employment status.

Pending receipt of all the information requested in respect of all the points mentioned above (criminalisation, prevention, protection, domestic work, gig economy), the Committee reserves its position as regards 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 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 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 - Promotion of technical and vocational training ; access to higher technical and university education

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

The Committee refers to its previous conclusions for a description of the situation which it deemed to be in conformity with the 1961 Charter (see Conclusions XXI-I (2016)). It takes note of the information provided by the authorities in response to the requests made in this connection.

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

The Committee notes that responsibility for apprenticeships, skills, higher and further education was transferred to the Department for Education in 2016 and the Institute for Apprenticeships and Technical Education was established. Since January 2019, the Institute has been responsible, among other things, for the content and approval of technical qualifications.

According to the information submitted regarding Article 10§2, the length of apprenticeships (12-month minimum, with at least 20% off-the-job training) is adjusted to account for the apprentice's previous experience, education or qualifications where relevant, so as to meet the demands of the labour market. The data provided by the authorities indicate that the average length of an apprenticeship has increased (from 511 days in 2016/2017 to 581 days in 2017/2018).

The Committee takes note of the information submitted on the Institutes of Technology (which opened in 2019-2020) [outside the reference period] and on the National Colleges. These bodies aim to deliver higher technical education, with a route to high skilled employment, and are organised in a network of higher technical institutions. The Committee notes with interest these programmes and asks that the authorities indicate the results obtained in terms of the total capacity (ratio of training places to candidates), the completion rate of young people enrolled, the employment rate of graduates and how long it takes them to find their first skilled job.

The Committee notes that the Skills Advisory Panels, set up as part of the Government's Industrial Strategy, aim to bring together local employers and skills providers to work together to understand and address key local challenges, including helping to tackle local skills shortages.

Measures taken to integrate migrants and refugees

The Committee notes that no information has been provided by the 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 the United Kingdom.

In its previous conclusion (Conclusions XXI-1, 2016), the Committee deferred its conclusion.

The Committee notes that the United Kingdom 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").

In its previous conclusion (Conclusions XXI-1, 2016), the Committee requested information on labour market training and re-training measures specifically for unemployed persons, as well as the number participating and the activation rate. The Committee takes note from the report of the labour market programmes for benefits claimants, of the pre-employment training, of the sector-based work academy scheme, work experience placements, of the three-month work experience scheme available within the Youth Obligation Support Programme and of the Skills Conditionality Policy. According to the report, the overall proportion of benefit spells with training was 7.7% in 2014/15, 6.3% in 2015/16, 6.3% in 2016/2017 and 6.2%in 2017/2018 (A benefit spell is defined as a continuous period of time that a person is claiming the same benefit. Benefit spells with training refer to benefit claims which occurred in the academic year of reference where the benefit claimant started training). The Committee asks the next report to provide more precise information on the activation rate.

In its previous conclusion (Conclusions XXI-1, 2016), the Committee asked the next report to provide information on the legislation on individual leave and its remuneration. It also asked how the burden of the cost of vocational training is shared among public bodies, unemployment insurance systems, enterprises and households as regards continuing training. The Committee notes from the report that during the reference period, in 2017, the 'apprenticeships levy' came into force. Following the latter measure, employers with an annual pay bill equal to £3 million or higher, are obliged to invest 0.5% of their pay bill in apprenticeship, which according to the report covers to some extent continuing training. For employers for which the apprenticeship levy is not applied, the employer (5%) and the government (95%) cover the expenses of apprenticeship training. The report provides information on other types of funding available, in particular the 'Advanced Learner Loans', available to adult that wish to undertake training and retraining in higher level skills, and the Adult Education Budget, introduced during the reference period. The Adult Education Budget funds, on whole or in part, a list of training activities for adults older than 19. The Committee notes that the report does not provide information on the legislation on individual leave for training and its remuneration. It, therefore, reiterates its previous conclusion and requests the next report to provide the requested information.

In relation to the targeted question addressed to the United Kingdom with the letter of 27 May 2019, the Committee notes from the information provided in the report that as of 2020 an entitlement to fully funded digital qualifications will be implemented, targeting adults without or low digital skills, in the context of the Essential Digital Skills Framework. It also notes that, as of July 2019, the National Retraining Scheme will prepare adults for the changes in economy, including automatization. The Committee takes note of these initiatives, which are, however, implemented outside the reference period and asks the next report to provide updated information on their implementation.

Conclusion

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

Article 10 - Right to vocational training

Paragraph 4 - Encouragement for the full utilisation of available facilities

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

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

In its previous conclusion (Conclusions XXI-1, 2016), the Committee deferred its conclusion.

In its previous conclusion (Conclusions XXI-1, 2016), the Committee asked the next report to confirm that to be eligible for student loans and tuition fee support, both UK nationals and non-EEA nationals, who are legally entitled to enter and reside in the UK, must be ordinarily resident in the UK throughout a three-year period, on an equal footing. According to the report, a three-year period of ordinary residence in EEA and Switzerland or the UK and Islands is required of all students, with the exception of those holding a refugee status, to be eligible for tuition support. A five-years residency requirement was introduced in 2016 for EEA and Swiss nationals to access maintenance support. The Committee asks whether the same requirements apply to non-EEA nationals to be eligible for tuition fee support and whether the five-year residency in the EEA or Switzerland requirement in order to access maintenance support, applies to non-EEA and UK nationals. In the meantime, it reserves its position on this point.

In its previous conclusion (Conclusions XXI-1, 2016), the Committee asked what measures are taken to evaluate vocational training programmes for young workers, including the apprenticeships. In particular, it wished to be informed of the participation of employers' and workers' organisations in the supervision process. The Committee notes from the report that an independent panel was established in 2015 with the aim to review technical education and propose reforms. Its report was published in 2016 and its recommendations were accepted. The Committee also takes note of the function of the Institute for Apprenticeships and Technical Education and its competences listed in the report with regard to monitoring the quality of apprenticeships and advising the UK Government on issues related to apprenticeships' funding. It also takes note of the End Point Assessment, referring to apprentices' assessment plans developed by employer groups. The Committee takes note of the Wales Apprenticeship Advisory Board and its function. It notes, however, that apart from the case of the Wales Apprenticeship Advisory Board, in which a representative of the Wales Trade Union Congress participates, it has not clear that worker's organisations participate in the supervision process. The Committee asks the next report to provide more precise information on this point.

Conclusion

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

Article 15 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Paragraph 1 - Education and training for persons with disabilities

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

The previous conclusion was deferred (Conclusions XX-2, 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

England, Wales and Northern Ireland

The Committee recalls from previous conclusions and other sources (Academic Network of European Disability Experts (ANED), UK Report to the UN Committee on the Rights of Persons with disabilities (CRPD/C/GBR/CO/1, 3 October 2017) that discrimination against children with disabilities in education is prohibited in Great Britain by the Equality Act 2010 and in Northern Ireland by the Special Educational Needs and Disability (Northern Ireland) Order 2005. The Equality Act makes it unlawful for schools to treat pupils with disabilities less favourably, without justification, than their peers without disabilities. Local authorities and schools must take reasonable steps to ensure equal access to all areas of school life. The Act sets out provisions that require local authorities to develop accessibility strategies and schools to develop accessibility plans for pupils with disabilities. Local authorities in relation to education functions and schools have to have written plans that demonstrate how they are improving access to the curriculum and improving the physical environment of the school. In drawing up plans, schools have to take account of the needs of pupils with disabilities and any preferences expressed.

The Committee recalls from its previous Conclusion (XXI-1, 2016) that the Children and Families Act 2014 introduced changes to the special educational needs system. A major change was the creation of new and more coordinated Education, Health and Care (EHC) assessments for children with more complex needs.

Under the Education Act 1996, a child is described as having SEN if he or she has a learning difficulty which calls for special educational provision to be made for them. Under this Act children are considered to have learning difficulties if they have greater difficulty in learning than the majority of children of the same age and/or have a disability which prevents or hinders them from making use of the educational facilities generally provided for children of the same age in schools within the local education authority. Under the Equality Act 2010 a child is considered to have a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. While there is considerable overlap in the children falling within the scope of the two pieces of legislation, not all children considered to have a disability in terms of the Equality Act 2010 have SEN, and not all children with SEN would be considered as having a disability for the purposes of the legislation.

According to the report the 2014 Act supports the presumption for mainstream education with provisions ensuring that importance is placed on the preferences of the parent or young person where the individual has complex SEN. In such circumstances local authorities are under a qualified duty to ensure that preferences over educational setting are met wherever possible. Mainstream education cannot be refused by a local authority on the grounds that it is not suitable or too costly. A local authority can rely on the exception of incompatibility with the efficient education of others in relation to maintained nursery schools, mainstream schools or mainstream post-16 institutions taken as a whole only if it can show that there are no reasonable steps it could take to prevent that incompatibility.

Under the 2014 Act mainstream schools have the duty to secure that a pupil with SEN can engage in the activities of the school together with pupils who do not have SEN.

Regulations for SEN in Northern Ireland are governed by the Special Educational Needs and Disability Act (Northern Ireland) 2016 and the Special Educational Needs and Disability (Northern Ireland) Oder 2005.

Scotland

The Committee notes from other sources (UK report to the UN Committee on the Rights of Persons with Disabilities, (CRPD/C/GBR/CO/1, 3 October 2017) that the Standards in Scotland's Schools Act 2000 created a presumption of mainstream education and established the right of all children and young people to be educated alongside their peers in mainstream schools, unless there are good reasons for not doing so. The Education (Additional) Support for Learning (Scotland) Act 2004 (as amended) also requires education authorities to identify, meet and keep under review the additional support needs of all pupils for whose education they are responsible and to tailor provision according to the pupil's individual circumstances. The term additional support applies to children or young people who, for whatever reason, require additional support, long or short term, to help them to make the most of their learning. The Act also provides parents, carers and pupils with the right to be involved in decision making and sets out routes of redress to resolve a dispute with an education authority.

Isle of Man

The Committee previously asked that the next report provide information on equality legislation in the Isle of Man. The report states that the Disability Act 2006 was brought into force in the Isle of Man in 2018. However, in 2019 this was partially replaced by the Equality Act and in 2020 the remaining provisions of the Equality Act entered into force. As a result, the Disability Act was to be repealed. The Committee asks the next report to provide updated information on the situation.

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

England, Wales and Northern Ireland

The Committee previously asked (Conclusions XXI-1, 2016) for information on the practical impact of the legislation on the inclusion of children with disabilities into mainstream education. According to the report in January 2018 some 253,680 (or 2.9%) of pupils across all schools in England had statements of SEN/EHC plans.

The percentage of pupils with statements of SEN or EHC plans placed in mainstream schools (maintained nursery, state-funded primary, state-funded secondary) was 47.3%. The corresponding figure for the proportion of pupils with statements of SEN or EHC plans placed in special schools (state-funded special and non-maintained special) was 45.6%.

In 2017, there were some 1,022,535 pupils with SEN without statements or EHC plans representing 11.7% per cent of pupils across all schools. The Committee asks why such children are without SEN or EHC plans and what measures are in place to ensure that such children receive timely assessments.

The Committee notes that according to other sources (National Education Union, citing Government statistics) that there were in 2017/2018 approximately 3,000 children with SEN without a school place. The Committee asks what measures are in place to ensure no child is left without a school place. It further asks what measures are in place to ensure that children with SEN being home schooled (often as a result of being off-rolled (see below) received an adequate education.

It further notes from the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities (CRPD/C/GBR/CO/1, 3 October 2017), that the UN Committee expressed concern, inter alia, about the persistence of a dual education system that segregates children with disabilities in special schools, including based on parental choice. In this respect the Committee notes from the figures provided in the national report that a high number of children with SEN or disabilities appear to be educated in special schools, despite the presumption that such children should be educated in mainstream settings. The Committee asks for the Government's 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 for England, Wales, Scotland, Northern Ireland and the Isle of Man 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 costs associated with education the Committee asks whether children with disabilities/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

England, Wales and Northern Ireland

The Committee notes with concern that there are reports that the funding for children with SEN is inadequate, councils are unable to carry out their statutory duties towards SEN children due to lack of funding from the central government. In 2019 the Education Select Committee of the House of Commons published a report (covering 2018) criticising a funding shortfall and called for greater accountability in the system.

The Committee also notes from other sources that children with SEN are much more likely to be formally excluded from school or off-rolled (Off-rolling is where a pupil is removed from a school's register). In this respect the Office for Standards in Education, Children's Services and Skills (Ofsted) has drawn attention to the higher likelihood of children with SEN to move schools: just over 5,500 pupils with SEN left their school between Years 10 and 11. Some of those moving may have been off-rolled. Pupils with SEN account for 15% of all pupils but 27% of those who leave their school (Ofsted, The Annual Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2018/19).

The Committee asks for the Government's comments on these findings and for information on measures taken to ensure that children with disabilities/SEN are not being unlawfully excluded from school or off rolled.

Scotland

According to the report the Scottish Government's policy is that all children and young people should learn in the environment which best suits their needs, whether that is in a mainstream or special school setting.

Under the Curriculum for Excellence practitioners are directed to design curriculum delivery with regard to a number of principles including personalisation and choice. This helps to ensure that learners, including those with a disability, have education tailored to their individual needs.

Furthermore, in the broad general education phase of the curriculum (ages 3-15) young people progress through curriculum levels that are stage rather than age appropriate. Therefore, a learner will progress through the levels at a pace suited to them.

The Committee notes from the report that in its 2019-2020 Programme for Government, the Scottish Government has committed an additional £15 million to build capacity within education authorities and schools to respond more effectively to the individual needs of children and young people with additional support needs, including those with a disability; and to enhance learning outcomes to ensure young people reach their potential. The Committee asks for information on the outcome of this programme.

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

England, Wales and Northern Ireland

The Committee notes from other sources (https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability) that the Tribunal for Special Educational Needs and Disability considers appeals by parents against local authority decisions regarding special educational needs, including a refusal to:

- assess a child's educational, health and care (EHC) needs
- make a statement of their special educational needs

- reassess their special educational needs
- create an EHC plan
- change what's in a child's special educational needs statement or EHC plan
- maintain the statement or EHC plan.

The Tribunal also deals with appeals against discrimination by schools or local authorities due to a child's disability. The Committee asks the next report to provide information on relevant case law.

Scotland

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 physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Paragraph 2 - Employment of persons with disabilities

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

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").

The Committee previously concluded that the situation was in conformity with the Charter (Conclusions XXI-1, 2016).

Legal framework

The Committee refers to previous conclusions for a description of the legal framework (Conclusions XX-1 (2012)). The Committee asks the next report to provide updated information on the legal framework.

In its previous conclusion (Conclusions XX-1 (2012)), the Committee asked that the next report provide information on any developments to prohibit discrimination on the grounds of disability in employment in the Isle of Man.

According to the report the Equality Act 2017 was adopted. The majority of this Act came into operation on 1 January 2019, with the remaining provisions such as those dealing with discrimination on the grounds of disability were due to come into operation on 1 January 2020.

Access of persons with disabilities to employment

No information or data is provided on the number of people with disabilities of working age, number of persons with disabilities in employment etc. (apart for Scotland). However the Committee notes from other sources (UK Parliament – House of Commons Briefing Paper, Disabled People in Employment, April 2020, GOV. UK – Official statistics) 7.7 million people of working age (16-64) reported that they were disabled in April-June 2020 (outside the reference period) which is 19% of the working age population. Of these, an estimated 4.1 million were in employment, 53.6%, up from 52.6% a year previously. The employment rate for people who did not have a disability was 81.7%, up slightly from 81.5%. 288,000 were unemployed. This was 30,000 fewer than the number who were unemployed a year previously.

The unemployment rate for people with disabilities was 8.8% in 2018 and 6.5% in April-June 2020. This compared to an unemployment rate of 3.3% in 2018 and 3.5% in 2020 for people who are not disabled. 3.3 million persons with disabilities of working age were economically inactive.

People with disabilities had an employment rate that is 28.1 percentage points lower than that of people who did not have a disability.

The Committee notes from the ANED report (Academic Network of European Disability Experts) on the European Semester (published in 2018,) that according to ANED the disability gap has continued to narrow marginally over time but still stood at more than 30 percentage points in 2018 .

According to the report in Scotland, the employment rate for people with disabilities is currently 45.6%, compared to 81.1% for people without disabilities, which represents a disability employment gap of 35.5 percentage points. In *A Fairer Scotland for Disabled People: Employment Action Plan* the Scottish Government has committed to at least halve the disability employment gap (based on 2016 baseline) by 2038. Disabled young people aged 16-24 have the second lowest employment rate (43.2%) of any age group and the highest

unemployment rate (20.8%), and they are more than twice as likely to be unemployed as non-disabled 16-24 year olds.

The Committee notes from the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities (CRPD/C/GBR/CO/1, 2017) that the UN Committee was concerned about the persistent employment gap and pay gap for work of equal value affecting persons with disabilities, especially women and persons with psychosocial and/or intellectual disabilities, as well as persons with visual impairments. The Committee asks for the Government's comments on this.

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 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

England, Wales and Northern Ireland

According to the report a new employment support programme, named the Work and Health Programme (WHP) was launched in 2017 in England and Wales. Although not a direct replacement, this new programme followed referrals ending to Work Choice and the Work Programme.

The Work and Health Programme helps people with a wide range of barriers, including people with disabilities. The majority of people of starting the programme (around 220,000) will be people with disabilities who can volunteer for the programme at any time.

The type of support will be personalised to the needs of each participant. Examples of the type of support available includes participants having a personal key worker with regular face to face contact, mentoring and peer support, integrated access to specialist support networks at a local level, including health and wellbeing professionals, and support from dedicated employer experts with knowledge of the local labour market and job opportunities.

In December 2018, a new Intensive Personalised Employment Support Programme (IPES) was announced. IPES is an intensive, highly personalised voluntary support package that is flexible to participants' needs. All participants receive up to 15 months of pre-employment support to find work. For participants who go into work, there will be a further 6 months intensive in-work-support to help them sustain employment. Even participants who do not find work can expect to receive 16 hours experience of work. The key features of the IPES service will include support to the participant from a consistent key worker, from the outset, providing in-depth help to overcome complex barriers to work including reviewing the participant's personal support network. More than 40 million was to be spent on this programme. Referrals to IPES started in December 2019.

The participation rate in the different programmes was as follows:

- From 1 January 2015 to 31 December 2017, the Lift programme in Wales programme achieved over 4,200 outcomes including supporting over 900 participants enter employment. Individuals with disabilities and those with work limiting health conditions, accounted for 20% of the total supported by the programme.
- Access to Work – During the period January 2015 and December 2018, a total of 2,891 people was supported on the Programme. The total spend for the period was £7,379k.
- The Access to Work (NI) Programme in 2018 provided long term support to 745 people with disabilities.
- Workable (NI) - Between January 2015 and December 2018 the numbers participating on the programme rose from 560 to 842 and the overall spend in that period was £13,449,020.

- Specialist Employment Support – Between January 2015 and December 2018 the numbers participating on the programme fell from 523 to 412 and the overall spend in that period was £14,981
- Condition Management Programme-During 2018**,** 899 clients participated on CMP.
- European Social Fund (ESF) – during 2018 Department For Communitie's Health and Work Support Branch provided match funding to 17 ESF projects and 3912 people with disabilities participated on these projects.

Scotland

In December 2018 the Scottish Government launched *A Fairer Scotland for Disabled People: Employment Action Plan*. The Plan focuses on three themes:

- supporting employers to recruit and retain persons with disabilities;
- supporting persons with disabilities to enter employment;
- young people and transition for school to work.

The report states that in the course of delivering the Disability Employment Action Plan, the Scottish Government will develop its sustainable procurement tools and guidance to help buyers across the public sector in Scotland identify and pursue equality outcomes in procurement; highlight the opportunity and need to use public procurement in Scotland to achieve employment of persons with disabilities and continue to promote awareness of disability employment as a ministerial priority to contractors across the procurement landscape.

Isle of Man

The Disability Employment Service is provided by the Treasury to assist individuals with disabilities to gain employment, which may be paid or unpaid. It also assists employers by providing guidance, assistance and equipment where appropriate. The Disability Employment Advisers work closely with the Job Centre, which is also operated by Treasury. The Treasury now runs the Employment (Persons with Disabilities etc.) Scheme 1999, the purpose of which continues to be to provide a wide range of financial and non-financial assistance in order for those persons affected by a disability to both find and retain gainful employment.

The Committee asks the next report to provide updated information on measures taken to encourage and promote the employment of persons with disabilities along with information on the number of participants and the outcomes of such measures in promoting increased employment of persons with disabilities on the open labour market for all parts of the UK, including Norther Ireland.

The Committee notes from the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities (CRPD/C/TU/CO/1, 2019) that the UN Committee expressed concern about the insufficient affirmative action measures and provision of reasonable accommodation to ensure that persons with disabilities can access employment on the open labour market. The Committee asks for the Governments comments on this.

Remedies

The Committee asks the next report to provide updated information on remedies as well 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 the United Kingdom is in conformity with Article 15§2 of the 1961 Charter.

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 takes note of the information contained in the report submitted by the United Kingdom.

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

Administrative formalities and time frames for obtaining the documents needed for engaging in a professional occupation

In its previous conclusion (Conclusions XXI-I (2016)), the Committee noted that an entry clearance issued to a Points based system (based for example on their abilities, experience and age) conferred permission both to work and reside.

In response to the Committee question regarding updated information on the processing time for applications, the report states that for straightforward overseas visa applications, non-settlement visas are processes in three weeks (15 working days), and settlement visas in 12 weeks (60 working days). In-country straightforward applications, are subject to an eight week service standard. In order to faster visa processing, there are a possibility for a 'priority service' or 'super priority service' (subject to additional costs).

The Committee notes from the report that under the future points-based immigration system, for introduction from January 2021 (outside the reference period), the majority of skilled work visas would be processed within two to three weeks.

Chancery dues and other charges

The Committee recalls that in its previous conclusion it noted that the fees for applications under the Points-Based System ranged from £208 (€266 at the rate of 31/12/2014) for Tier 5 (Temporary Work and Youth mobility) to a maximum of £1 093 (€1 397) for in-country applications under Tier 1 (Entrepreneur, Investor and Exceptional Talent); the fees under Tier 2 (majority of applications) ranged between £428 (€547) and £1 202 (€1 536) in certain cases. Accordingly, the Committee found that the fees charged for work permits were excessive (Conclusions XX-I (2012) and XXI-I (2016)) and asked whether this amount, which was based on the need to strike a balance between the resources required to control migration and to ensure that the United Kingdom continues to attract migrants, was calculated according to any other criteria laid down in the regulations.

In reply, the report explains that UK visa fees are set to ensure that those who benefit from the immigration system contribute towards meeting the wider costs of running that system and to reduce the burden on general taxation. The report indicates that the fees in the round are considered as part of the longer-term review of funding the immigration system. Paragraph 68 of the Immigration Act 2014 allows the Secretary of State to set fees and to consider the following, when setting fees in Regulations:

- (a) The costs of exercising the function;
- (b) benefits that the Secretary of State thinks are likely to accrue to any person in connection with the exercise of the function;
- (c) the costs of exercising any other function in connection with immigration or nationality;
- (d) the promotion of economic growth;
- (e) fees charged by or on behalf of governments of other countries in respect of comparable functions;
- (f) any international agreement.

Since 2015, a range of fee increases have been applied, but those increases applied to work visas have been kept to a minimum. The last increase to work visa fees was, according to the report, in April 2018. However, the report does not contain exact amounts. The Committee asks for up-to-date information in the next report on the cost of obtaining permits authorising persons to engage in gainful occupations. It also asks whether it is planned to introduce measures to reduce costs for workers or employers. In the meantime, the Committee reiterates its previous finding of non-conformity in this respect.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 18§2 of the 1961 Charter on the ground that the fees charged for work permits are excessive.

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

Paragraph 3 - Liberalising regulations

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

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

Access to the national labour market/Exercise of the right of employment

The Committee refers to its conclusion under Article 18§1 (Conclusions XX-1 (2012)) for a description of the Immigration Tier System, which applies to non-EEA migrants wishing to work in the UK. As it previously noted (Conclusions XIX-1 (2008) and XX-1 (2012)), different conditions apply to each Tier.

The Committee recalls that the information provided in previous national report (Conclusions XXI-1 (2016)) did not allow to assess whether "priority rules" (i.e. rules giving priority in the access to the national labour market to foreign workers from other European States members of the same economic area) excessively restricted access to the national labour market for nationals of non-EEA states which are parties to the Charter. Therefore, the Committee asked to provide evidence that nationals of Contracting Parties to the Charter which are not members of the EEA were not unduly restricted from access to the UK labour market (as employed or self-employed workers) and reserved its position on this point.

In reply, the report states that although imposed qualifying criteria on migrant workers, statistical data demonstrate that thresholds and restrictions in place are achievable. The Committee notes that, in 2019 (outside of the reference period) work visa grants Tier 1 (Entrepreneurs, Investors and Exceptional Talents) were up 14 % and those Tier 2 (vacant positions that cannot be filled by a EEA citizen) were up 12 %. The Committee notes from the report that Tier 2 accounts for 59 % of all work-related visas.

The report indicates that there is "Shortage Occupational List" ("SOL") identifying which occupations are in national shortage and which would be sensible to fill through immigration (in part). This list is not nationality specific. It is maintained and updated by the Migration Advisory Committee (panel of independent and expert labour market economist). The Committee notes from the report that as regards workers under Tier 2, first priority is given to those coming to work in an occupation which is deemed in shortage. The recruiting employer does not have to undertake a resident labour market test, if a migrant worker is coming to undertake a job on the "SOL". Migrants occupying for a shortage role are given priority under the monthly allocation of Tier 2 places within the annual cap. Those applying for an occupation included on the SOL also benefit from a reduced visa application fee and an exemption from the minimum salary threshold for settlement.

In addition, the report indicates that a number of other roles also receive priority including graduates recruited through jobs fairs within Universities and those working in PhD-level occupations. After that, priority is on the basis of salary, from the highest to the lowest (with the highest earners making the highest economic contribution to the economy). According to the report, all nationals, who are subject to requirements under the current immigration system, are treated equally under these priority rules.

As regards people seeking asylum, the report indicates that they are not allowed to work unless they have been waiting for an initial decision on their asylum application for over a year. In such a case, any employment taken must be in an occupation included in the SOL. People with refugee or another protection status have the right to work.

In its previous conclusion, the Committee asked for information on the criteria applying to the renewal of work permits. In response, the report indicates that most migrants admitted under Tiers 1 and 2 of the Points Based System have the possibility, after defined periods of time (normally five years), to apply for settlement in the UK, which gives them a permanent right to reside in the UK and access to the labour market and to benefits and services, including health care, on the same basis as British citizens. In certain circumstances, accelerated settlement may apply (three years instead of five). An individual should apply to extend their work visa before their existing immigration leave expires. Failure to do so within 14 days of their leave expiring will, in all but the most exceptional circumstances, result in the application being refused and the individual will fall to being considered an overstayer. If workers are extending their employment with the same employer in the same occupation, they must have been assigned a certificate of sponsorship (work permit) by their UK employer and must continue to be paid at least the appropriate rate for their occupation or the Tier 2 minimum salary threshold, whichever is the higher. An employee can be earning less than when they first applied for their work permit as long as that amount in still acceptable for the occupation they are fulfilling. The Committee notes that details on the appropriate salary threshold are set out in published Immigration Rules. An individual who is applying in relation to a job in a different occupation or with a different employer may also be subject to additional requirements such as a resident labour market test having been conducted in the relation to the role in question. The Committee asks the next report to provide some additional information on a resident labour market test.

The Committee furthermore asks the next report to clarify under what conditions a foreign national from a non-EEA State party to the Charter can get access to the national labour market as self-employed worker.

Consequences of loss of employment

There is no information on this point in the report. The Committee asks the next report to provide updated information on this issue.

Conclusion

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

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.