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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2020

GEORGIA

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 Georgia, which ratified the Revised European Social Charter on 22 August 2005. The deadline for submitting the 13th report was 31 December 2019 and Georgia submitted it on 6 January 2020.

The Committee recalls that Georgia was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to all findings of non-conformity or deferral in its previous conclusions (Conclusions 2016).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions 2016) found the situation to be in conformity, there was no examination of the situation in 2020.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerned the following provisions of the thematic group I "Employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18);
- the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (Article 20);
- the right to protection in cases of termination of employment (Article 24);
- the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

Georgia has accepted all provisions from the above-mentioned group except Articles 9, 10§1, 10§3, 10§5, 15§1, 15§2, 24 and 25.

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

The conclusions relating to Georgia concern 8 situations and are as follows:

– 6 conclusions of non-conformity: Articles 1§3, 1§4, 10§2, 10§4, 15§3 and 20.

In respect of the other 2 situations related to Articles 1§1 and 1§2, 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 Georgia under the Revised Charter.

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

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

The deadline for submitting that report was 31 December 2020.

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

Article 1 - Right to work

Paragraph 1 - Policy of full employment

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

The Committee recalls that in 2016, it concluded that the situation in Georgia was not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts had not been adequate in combatting unemployment and promoting job creation (Conclusions 2016).

Employment situation

According to Eurostat, the GDP growth rate rose from 2.9% in 2015 to 4.7% in 2018.

The overall employment rate (persons aged 15 to 64 years) fell from 63.9% in 2015 to 60.6% in 2018.

The employment rate for men dropped from 70.9% in 2015 to 66.9% in 2018 and the rate for women fell from 57.3% in 2015 to 54.7% in 2018. Data published by Georgia's National Statistics Office show that the employment rate for older workers dropped from 74.2% in 2015 to 70% in 2018 (55 to 59-year-olds) and from 67.8% in 2015 to 63.9% in 2018 (60 to 64-year-olds); in contrast, youth employment rose from 12.2% in 2015 to 13.5% in 2018 (15 to 19-year-olds) and from 39.7% in 2015 to 42.3% in 2018 (20 to 24-year-olds).

Again according to Georgia's National Statistics Office, the overall unemployment rate (persons over 15 years of age) fell slightly, from 14.1% in 2015 to 12.7% in 2018.

The unemployment rate for men dropped from 15.6% in 2015 to 13.9% in 2018 and the rate for women fell from 12.4% in 2015 to 11.2% in 2018. Youth unemployment dropped from 27.9% in 2015 to 26.6% in 2018 (15 to 19-year-olds) and from 35.3% in 2015 to 30.8% in 2018 (20 to 24-year-olds). Long-term unemployment (as a percentage of the overall unemployment rate) fell from 44.1% in 2015 to 40.2% in 2018.

According to the International Labour Organisation, the proportion of 15 to 24-year-olds "outside the system" (not in employment, education or training, i.e. NEET) fell from 27.4% in 2015 to 26.9% in 2018 (as a percentage of the 15 to 24-year-old age group).

The Committee observes that the economic situation in Georgia improved during the reference period and that unemployment fell slightly. Nevertheless, unemployment rates remained high and particularly so among young people. In addition, most employment rates worsened despite the economic recovery.

Employment policy

In its report, the Government mentions that one of the country's main economic policy goals has been to achieve fast, sustainable and inclusive economic growth based on the creation of new jobs and the promotion and enhancement of full and productive employment opportunities. To this end, the 2015-2018 State Strategy for the Formation of the Labour Market pursued four goals: i) improve the legal framework in the field of labour and employment; ii) promote effective employment; iii) ensure the protection of decent working conditions and human rights as defined by law; iv) develop workforce skills. The Government reports that three State programmes have been implemented annually since 2015 in order to achieve these objectives: i) the Programme for Development of Employment Support Services aimed at developing and implementing active labour market policies and employment promotion services (2015-2018 budget approximately GEL 2.4 million or €700,000); ii) the Programme for Vocational Training-Retraining and Capacity Building of Jobseekers (2015-2018 budget approximately GEL 8 million or €2.3 million); iii) the Programme for the Introduction and Development of the Labour Market Analysis and Information System (2015-2018 budget approximately GEL 2 million or €578,000). The Committee requests that the next report provide information on the main results of these programmes.

The Government highlights that in addition to the above programmes, it took initiatives to develop entrepreneurship and thus stimulate job creation. These include the Private Sector Development Advisory Council established in 2016, an SME Support and Development Strategy developed and implemented from 2016 to 2020 and the Law on Public-Private Partnership passed in 2018. During the reference period, for example, the “Produce in Georgia” Programme was able to support 326 projects and create 12,300 jobs, while the "Micro and Small Enterprise Support" Programme enabled 6,212 projects (with 9,384 entrepreneurs, of whom more than 40% were women) to receive matching grants.

The Government also reports that many programmes for farmers were implemented during the reference period. In particular, under the “Spring Work Promotion” Project for land-poor farmers, approximately 767,000 beneficiaries were allocated benefits totalling some GEL 48.4 million (€14 million) to cultivate around 225,000 ha of agricultural land in 2015, and nearly 773,000 beneficiaries received benefits totalling some GEL 50.8 million to cultivate nearly 223,000 ha of agricultural land in 2016. The Committee requests that the next report provide information on programmes implemented to support other groups with distinct levels of underemployment or unemployment such as young people, young NEETs, internally displaced persons, migrants and refugees.

Lastly, the Government reports that public expenditure on active labour market policies remained stable at 0.01% of GDP – a percentage which the Committee considers extremely low. In this regard, the Committee further notes that the Government’s report fails to provide information on: a) the number of people participating in the various active measures (in particular training and retraining), and b) the overall activation rate (i.e. the average number of participants in active measures as a percentage of the total number of unemployed). The Committee therefore reiterates its request for information on these points.

The Committee also reiterates its request that the next report indicate whether employment policies are monitored and how their effectiveness is assessed.

Conclusion

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

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 Georgia.

1. Prohibition of discrimination in employment

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

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

Georgia has accepted Article 20. Therefore, it was under no obligation to report on prohibition of discrimination on grounds of gender, which will be examined under the said provision. It has not accepted Article 15§2. Accordingly, the prevention of discrimination on grounds of disability will be examined below.

As regards the legislation prohibiting discrimination in general terms, the Committee previously asked a significant number of important and detailed questions in order to be able to fully assess the legal framework prohibiting discrimination in employment (see Conclusions 2012 and 2016).

The report states that several relevant acts were amended in 2019 (including the Law on the Elimination of All Forms of Discrimination, Criminal Code and Labour Code) establishing a general framework for equal treatment in employment and prohibiting any form of discrimination. The purpose was to ensure equal enjoyment of the rights set forth by the legislation for all natural and legal persons regardless of race, colour, language, sex, age, nationality, origin, place of birth, residence, property or title, religion or faith, national, ethnic or social belonging, profession, marital status, health condition, disability, sexual orientation, gender identity and expression, political or other beliefs. The report confirms, in reply to the Committee's questions, that the law prohibits both direct and indirect discrimination and that the principle of equal treatment under the Labour Code applies also to pre-contractual relations, including the selection criteria and the conditions of recruitment.

In its previous conclusion, the Committee asked whether the law granted equal access to employment in both the private and public sectors to foreign nationals and whether there were jobs in the Georgian civil service reserved for nationals. The report provides that the Law on Public Service sets out a basic rule that a citizen of Georgia may become an official. Any legally competent person having the status of a compatriot residing abroad, who has appropriate knowledge and experience and knows the official language may be recruited for public service only on the basis of an employment agreement. The Committee understands that the information provided in the report suggests that employment in the public or civil service is reserved for nationals and seeks clarification in this respect. It asks again what professions are reserved for Georgian citizens. It also repeats its question whether, in general, there are exceptions to the prohibition on discrimination for genuine occupational requirements. In the meantime, it reserves its position on this point.

As regards prohibition of discrimination on grounds of ethnic origin, the Committee noted previously the low representation of ethnic minorities in state institutions and the public administration, as well as their lack of sufficient knowledge of the Georgian language which affected their ability to enter the labour market. It asked whether measures/actions had been

taken to promote the employment of members of ethnic minorities in the public and private sectors (Conclusions 2016).

The report indicates that some steps are being taken to promote social integration and to improve the representation of ethnic minorities. For example, internships programs were made available in public agencies. Further, information leaflets on active labour market policies and government programs have been issued to raise awareness of ethnic minorities on labour and employment issues. The Committee notes, however, from the ILO Observation (CEACR) adopted 2017, published at the 107th ILC session (2018) that, according to the Office of the Public Defender, the measures adopted had not led to the improved representation of ethnic minorities in public institutions and that their representation in governance institutions remains a problem. The Committee asks that the next report provide statistical data on the employment of ethnic minorities in the public and private sectors, including their representation in public institutions. It reserves its position on the matter, pending receipt of this information.

The report does not reply to the Committee's request for information on the legislation and the practical, specifically targeted measures to combat discrimination on grounds of disability, race, sexual orientation, age, political opinion or religion, apart from the confirmation that they are prohibited by law. While renewing its request, the Committee underlines that, should the next report not provide the relevant and exhaustive information, nothing will allow to show that the situation is in conformity with the Charter on these aspects.

In particular with regard to the prohibition of discrimination on grounds of sexual orientation and religion, the Committee refers to the 2016 report of the European Commission against Racism and Intolerance (ECRI) which indicated that the situation of religious minorities and of the LGBT community had worsened over recent years and that the authorities had not done nearly as much as they should have had to solve the issue. The Committee therefore asks that the next report reply to these comments in particular.

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 provides that the 2016 Law on International Protection establishes the right of asylum seekers and refugees or humanitarian status holders to enjoy the right to work on an equal footing with Georgian citizens. Furthermore, local integration programs have been developed for internationally protected persons to facilitate their inclusion and to address the challenges associated with this process. The report provides statistics on the beneficiaries of such programs. Moreover, in 2018, a state agency was assigned to the integration of refugees and asylum seekers. Above that, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia provides services to the internally protected persons in Georgia, including employment promotion and short-term vocational training courses.

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, appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment. The Committee explicitly requested information on these aspects to be provided for this examination cycle. In its previous conclusion, it also asked detailed questions in this respect, considering that the information provided did not allow it to comprehensively assess the existence or the effectiveness of the relevant remedies (see Conclusions 2016).

As to the procedures available, the report states that under the Civil Procedure Code any person who considers himself/herself a victim of discrimination, may file a claim with a court against the person/institution that, in his/her opinion, has discriminated against him/her. A case review by the Public Defender of Georgia, or by another person or agency shall not be a mandatory pre-condition for filing a claim with the court. The Public Defender, when performing the function of monitoring the elimination of all forms of discrimination, may also appeal to

court as a plaintiff. When filing a claim, a person shall present to the court those facts and evidence that provide grounds to assume that a discriminating action has been committed. After this, the burden of proof that he/she has not committed the discriminative action shall be imposed on the defendant.

The Committee has previously noted that the legislation provided no upper limit to the amount of compensation determined by courts (Conclusions 2008). In reply to its request for examples of compensation awarded in cases dealing with discrimination in employment (Conclusions 2016), the report provides comprehensive information on courts practice in this respect, albeit without examples. It states that the determination of compensation and its amount is at the discretion of the court, which takes into account that the labour compensation simultaneously covers material and moral damage suffered by the party as a result of illegal dismissal. The age, competence, prospect of employment, marital status, social status of a person who has been illegally dismissed, as well as an employer's financial situation must be taken into consideration. The report further states that the Supreme Court ruled in its recent case law that compensation shall be paid for the impossibility for reemployment, which may be much more than the lost earnings. The report does not specify what sanctions may be imposed on employers in cases of discrimination in employment and the Committee repeats the question it asked in this respect in its previous conclusion (see Conclusions 2016), namely, 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.

The report does not provide updated statistics on the number of discrimination claims. The Committee asks that the next report provide this information, valuable for the assessment of the effectiveness of the remedy.

The legal framework as regards equality bodies has been assessed by the Committee in its previous conclusion, when it noted that the Public Defender's Office monitors the observance of the principle of non-discrimination. The Committee requested information on the manner in which the authorities ensure effective enforcement of the anti-discrimination legislation in employment, and whether the future labour supervisory body would be entrusted with ensuring the application of such legislation.

In order to restore violated human rights and freedoms, the Public Defender may, based on the results of an inspection, send proposals and recommendations. The report provides that legislative amendments in 2019 increased the Ombudsperson's mandate for discrimination-related cases, empowering him/her to request and receive written explanations on the issues to be investigated and to act as a plaintiff to file a lawsuit under the Civil Procedure Code or the Administrative Procedure Code if a legal entity or other entity of private law did not respond to his/her recommendation or did not accept the recommendation and there is sufficient evidence to confirm discrimination. The Committee notes that these changes took place outside the reference period and will be fully assessed in the next reporting cycle.

No information was provided on the developments as regards the labour supervisory body. The Committee notes in this respect from the ILO 2017 Observation (CEACR), mentioned above, that in 2015 the Department for Inspection of Labour Conditions was established. The Committee renews its request that information be provided in the next report on the role of this supervisory body in monitoring discrimination, in particular, on the way it ensures the effective enforcement of the anti-discrimination legislation in employment and occupation, including on the sanctions imposed and remedies provided. 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 Charter on this point.

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 the worker to earn his living in an occupation freely entered upon. Therefore, it considers that States Parties to the Charter are required to fulfil their positive obligations to put in place a legal and regulatory framework enabling the prevention of forced labour and other forms of labour exploitation, the protection of victims and the investigation of arguable allegations of these practices, together with the characterisation as a criminal offence and effective prosecution of any act aimed at maintaining a person in a situation of severe labour exploitation. The Committee will therefore examine under Article 1§2 of the Charter whether States Parties have fulfilled their positive obligations to:

- Criminalise and effectively investigate, prosecute and punish instances of forced labour and other forms of severe labour exploitation;
- Prevent forced labour and other forms of labour exploitation;
- Protect the victims of forced labour and other forms of labour exploitation and provide them with accessible remedies, including compensation.

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

The Committee notes that the present report replies to the specific, targeted questions for this provision on forced labour (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"). It also provides information concerning the prevention of trafficking of children working/living on the streets. On this point, the Committee refers to its Conclusions 2019 on Article 7§10 of the Charter, in which it found that the situation was not in conformity with the Charter on the ground that a significant number of children are involved in child labour and hazardous work, and reserved its position regarding children in street situations.

Criminalisation and effective prosecution

The Committee takes note of the information provided in the report on the existing criminal legislation relating to forced labour and human trafficking (Criminal Code and Law on Combatting Trafficking in Human Beings). In case of forced labour and labour exploitation of adults, the sanctions vary from 7 to 15 years' imprisonment. Article 143 of the Criminal Code also criminalises the use of services from victims of human trafficking. In 2014, the relevant provisions of the Criminal Code were refined in order to make their application easier for investigatory and judicial bodies. The Code has defined exploitation as one of the following acts aimed at gaining benefit: forced labour or service; forced sexual service; engaging a person in criminal activity, prostitution, pornography; removal of organs; and placing a person in a state similar to slavery or to modern conditions of slavery. In terms of investigation and prosecution, the Government focuses on proactive identification and investigation of labour exploitation cases. Since 2013, four inspection mobile groups composed of representatives of law-enforcement agencies regularly operate in high-risk areas (hotels, bars, casinos, etc.). In addition, a Task Force composed of investigators and prosecutors has been established in the Adjara region. Georgian authorities have concluded agreements with Europol (2017) and Eurojust (2019) in order to enhance cooperation in combating cross-border trafficking. The report states that anti-trafficking measures taken by the Georgian authorities have been positively assessed by the US State Department, GRETA and other international bodies (see also Conclusions 2019, Article 19§1 of the Charter).

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

The Committee therefore requires that the next report provide information on the application in practice 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 forced labour, slavery and modern conditions of slavery 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 from the report that every two years an Interagency Council, chaired by the Minister of Justice, elaborates and approves a National Plan with the active involvement

of all stakeholders. The current National Plan in place covers the period 2019-2020. The inspection mobile groups mentioned above (criminalisation and effective prosecution) monitor persons and organisations that offer employment in or outside the country, travel agencies, enterprises which employ foreigners, among others. They interview persons who have been employed outside the country through employment agencies operating in Georgia, with the aim of ensuring that their rights are respected (freedom of movement, full remuneration, voluntary work). These mobile groups systematically interview deported citizens from Turkey and other countries, particularly those who were deported due to illegal working. With the aim of proactively identifying victims among migrants and asylum-seekers, the Guidelines on Identification of Victims of Trafficking in Human Beings at the border were approved in 2017. These Guidelines were adopted for border police officers and customs officials and set forth indicators of labour exploitation, as well as standards for the interrogation of victims. In addition, labour inspection services (Labour Inspectorate Department) carry out scheduled and unscheduled visits to companies. Inspection visits include monitoring of labour conditions and legislation, as well as checking the employee's identity, citizenship and terms of employment contract. In this regard, the Committee takes note of the number of visits carried out during the reference period and the economic sectors concerned (the textile and mining industries, the manufactures of wood products, chemicals, plastic and metal, plantations). It notes that although four suspected cases were referred to the Ministry of Internal Affairs, forced labour and labour exploitation was not confirmed in any of them. The Committee requests that the next report provide information on the implementation of the 2019-2020 National Plan on Combating Trafficking in Persons and the results achieved in relation to forced labour and labour exploitation. It also requests that the Georgian authorities provide further information on the actions carried out by labour inspection services with a view to preventing and effectively detecting forced labour and labour exploitation, particularly in economic sectors such as agriculture, construction, hospitality and manufacturing.

The Committee notes from the report that according to the Law on Labour Migration of 2015, any legal person (including a branch of a foreign enterprise) or any individual entrepreneur acting in the field of providing or facilitating employment outside Georgia is under an obligation to register the relevant activity in the registry of economic activities. The Committee further notes from the last report of GRETA on Georgia (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, second evaluation round, GRETA (2016)8, 3 June 2016, pars. 13-14) that Georgia remains primarily a country of origin of victims of trafficking and that Turkey is the main country of destination of Georgian victims, including for the purpose of labour exploitation. In this connection, the Committee asks that the next report provide information on whether private employment agencies involved in facilitating employment abroad are held responsible for verifying the reliability of job offers abroad and on how these agencies are supervised, as well as on any other measures taken to prevent labour exploitation of Georgian nationals abroad.

The Committee notes that no answer to its question of whether Georgian legislation includes measures designed to force companies to report on action taken to investigate forced labour and exploitation of workers among their supply chains is provided in the current report. Consequently, the Committee requests that the next report provide the relevant information.

Finally, the Committee notes from the report that Georgian legislation does not provide for specific requirements to detect forced labour or modern slavery in public procurement. It therefore asks that the next report indicate which measures are envisaged to prevent forced labour in the area of public procurement.

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 report states that the Georgian National Referral Mechanism established in 2007 ensures two possible ways for a person to be identified as a victim. The status of victim of trafficking is granted to the person concerned by a Permanent Group of the Interagency Council consisting of 5 NGOs within 48 hours based on the questionnaires of the mobile groups of the State Fund, while the status of statutory victim of trafficking is granted by law enforcement authorities in accordance with the Code of Criminal Procedure (for those victims willing to take part in the investigation). Besides the difference in the procedure for granting each status, both the victims and statutory victims enjoy the same rights as regards protection and assistance.

The Committee asks for information in the next report on the number of identified victims of forced labour or labour exploitation (including victims of exploitation abroad) and the number of such victims benefiting from protection and assistance measures. It also asks for general information on the type of assistance provided (protection against retaliation, safe housing, healthcare, material support, social and economic assistance, legal aid, translation and interpretation, voluntary return, provision of residence permits for migrants).

The Committee also asks for confirmation that the existing legal framework affords the victims of forced labour and labour exploitation, including irregular migrants, access to effective remedies (before criminal, civil or labour courts or other mechanisms) designed to provide compensation for all damage incurred, including lost wages and unpaid social security contributions. The Committee also asks for statistics on the number of victims awarded compensation and examples of the sums granted.

Domestic work

In its previous conclusion (Conclusions 2016), the Committee noted that the report did not answer to the questions it had put on domestic work under Article 1§2 of the Charter (General Introduction to Conclusions 2012). The current report contains no information on domestic work.

The Committee reiterates that domestic work may give rise to forced labour and exploitation. Such work often involves abusive, degrading and inhuman living and working conditions for the domestic workers concerned (see Conclusions 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 asks for confirmation in the next report that the labour inspection services have specific permission to carry out inspections in private homes to prevent abusive working conditions in the domestic work sector (see also questions in the General Introduction to Conclusions 2012). If such is the case, it requires that up-to-date information be provided on the number of inspections carried out together with identified breaches of the legislation on working conditions.

"Gig economy" or "platform economy" workers

In reply to the request for information on any measures taken to protect workers from exploitation in the platform or gig economy, the report indicates that labour regulations and safeguards apply to all employees, including those employed in the gig economy or platform economy.

The Committee asks for clarification in the next report as to whether workers in the platform economy or gig economy are generally regarded as employees or self-employed workers. It also asks whether the powers of labour inspection services include the prevention of exploitation and unfair working conditions in this particular sector (if so, how many inspections have been carried out) and whether workers in this sector have access to remedies, particularly to dispute their status and/or unfair practices.

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

3. Work of prisoners and other aspects of the right to earn one's living in an occupation freely entered upon

The Committee refers to its previous conclusion (Conclusions 2016), in which it considered that the situation was not in conformity with Article 1.2 of the 1961 Charter in the absence of any relevant information on the various issues relating to work of prisoners and to other aspects of the right to earn one's living in an occupation freely entered upon (minimum periods of service in the Armed Forces and privacy at work). It concluded that it had not been established that the prohibition of forced labour (including in respect of prisoners) and the right of workers to earn their living in an occupation freely entered upon were properly guaranteed (see also Conclusions 2012 for a previous finding of non-conformity on the second ground).

With regard to the work of prisoners (accused and convicted), the Committee notes from the current report that this issue is governed by the Imprisonment Code of 9 March 2010. This law defines the general principles of prisoners' labour activities and protects their basic labour rights such as remuneration, safe working conditions, and the right to choose a job. Prisoners may be given work only at the workplace allocated by the administration of the penitentiary institution, if they so wish, in accordance with the rules and conditions of the labour legislation of Georgia. Prisoners cannot be forced to perform work that undermines their honour and dignity. Prisoners may be employed by a governmental or non-governmental organisation operating within the prison facility. They may also be employed by a private enterprise with organisational participation in the administration of the prison facility. In that case, a contract shall be concluded between the enterprise and the administration, under which the enterprise undertakes to adhere to the requirements established by the internal regulations of the prison facility. A labour contract shall be concluded with the enterprise; the working hours, labour protection, safety and sanitary rules shall be in accordance with the labour legislation of Georgia. Overtime work and work on public holidays is allowed only with the consent of the prisoner. In any event, working hours may not exceed eight hours a day. Work may also be carried outside prison, in which case the Minister determines the procedure for the employment of the prisoner.

The Committee takes note of the information provided in the report. Referring to its Statement of Interpretation of Article 1§2 (Conclusions 2012), it asks that the next report contain up-to-date information on the social protection of prisoners working during their detention (in relation to occupational accidents/hazard, unemployment, health care and old age pensions). It also wishes to be provided with further information on the type of work that prisoners may perform for private enterprises. In the meantime, it reserves its position on this issue.

With regard to minimum periods of service in the Armed Forces, the Committee takes note of the information provided in the report, notably the different types of fines that can be imposed in case of early termination of service by the different categories of military personnel (corporal-sergeant, military officers, corporals, sergeants and officers in the Military Police Department, military servants, military personnel admitted to the United States Military Academy, persons enrolled in the active reserve of the Military Reserve Service). These fines range from GEL 1,500 (437 EUR) to 28,000 (8,174 EUR), depending on the category and the grade of the officer. The highest amounts for early termination of service (GEL 28,000) apply to the military personnel admitted to the United States Military Academy (minimum term of service of 10 years after graduation) and to military servicemen during or after a duty travel mission for the purpose of upgrading or training (minimum term of service of 8 years). The Committee recalls that any minimum period of service in the armed forces has to be of a reasonable duration and in cases of longer minimum periods due to any education or training that an individual has attended, the length has to be proportionate to the duration of the education and training (see for instance a period of ten years, Conclusions XVIII-1 (2006)

Greece). Likewise, any fees/costs to be repaid on early termination of service have to be proportionate (Conclusions 2012, 2016).

As regards privacy at work, the Committee notes from the report that the Law on Personal Data Protection adopted in 2011 establishes a regulatory framework for data protection, including in relation to labour relations (Article 12 (3) and (5) which deals with the procedure for the installation of a video surveillance system in the workplace). An independent supervisory body (State Inspector Service) monitors the legality of data processing in Georgia, including the issues related to the protection of the privacy of employees and job seekers. For instance, the Inspector held that the control over the services provided by the employees, their timely arrival at work and compliance with the rules, should not be monitored through video surveillance, since the legislation establishes that the purpose of such a system at the workplace may only be to protect the safety and property of a person, as well as confidential information that may otherwise be unavailable. The State Inspector Service has also developed recommendations and training sessions on data protection issues in labour relations. In the event of a violation of the rights under the Law on Personal Data Protection, the person concerned is entitled to apply to both the Inspector and a court. The State Inspector is entitled to impose administrative responsibility (fine or warning) to the offender. The Committee takes note of this information and recalls that the right to undertake work freely includes the right to be protected against interferences with the right to privacy. It is essential that the fundamental right of workers to privacy should be asserted within the employment relationship so as to ensure that this right is properly protected (Statement of Interpretation of Article 1§2, Conclusions 2012; see also the European Court of Human Rights' case law in its judgments *Bărbulescu v. Romania* [GC], no. 61496/08, 5 September 2017 and *López Ribalda and Others v. Spain* [GC], Nos. 1874/13 et 8567/13, 17 October 2019).

The Committee considers the situation to be in conformity with regard to the other aspects of the right to earn one's living in an occupation freely entered upon (minimum periods of service in the Armed Forced and privacy at work).

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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

Article 1§3 provides for the right to free employment services. In its previous conclusion (Conclusions 2016), the Committee concluded that the situation was not in conformity with the requirements of this provision, on the ground that employment services did not operate in an efficient manner. In particular, the Committee considered that the report did not reply to its questions on quantitative indicators necessary to assess the effectiveness of employment service.

Following indicators have been requested to be provided for the different years of the reference period:

- total number of registered jobseekers and unemployed persons in the Public Employment Service (PES);
- number of vacancies notified to PES;
- number of persons placed via PES;
- placement rate (placements as a percentage of notified vacancies);
- placements by PES as a percentage of total employment in the labour market and the respective market shares of public and private services.

In reply, the report provides that the number of jobseekers rose considerably in the reference period, from 32,715 in 2015 to 197,607 in 2018. Meanwhile the number of notified vacancies ranged from 2,859 (2015) to 8,932 (2018) and there were 349 jobseekers employed in 2015, 670 in 2016, and in 2017 and 2018 – 1,775 and 1,888 respectively, making up for a placement rate of 12.2% in 2015, 16.8% in 2016, 31% in 2017 and 21.1% in 2018.

In addition, the Committee asked what was the number of persons working in the different public employment centres across the country, the proportion of the staff concerned with placement activities, the number of jobseekers per placement counsellor and the average time to fill a vacancy. The report states that in the reference period there were 96 employees of the Social Service Agency working in the area of employment, spread among the regions, out of which 25 employees tasked with implementation of the employment programs, including 7 career counsellors, 10 job couchers and 8 support consultants. The Committee notes that in 2018 this number corresponded to 7,904 jobseekers per placement counsellor and it asks the authorities to explain in the next report whether they consider this number adequate and what is the relevant budget allocated to the Agency for the placement services. No information was provided on the time needed to fill a vacancy. Neither does the report provide explanations of the submitted data. The Committee asks the next report to describe measures taken or envisaged to respond to growing number of jobseekers and the respective need for employment support. It also asks about the number of placements effected as a proportion of total hirings in the labour market and whether alternative placement mechanisms exist (public, semi-public or private). The Committee recalls, in this respect that quantitative indicators are necessary to assess the effectiveness in practice of free employment services. They include the placement rate (i.e. placements made by the employment services as a share of notified vacancies), the number of employment services staff in relation to the number of jobseekers, and the respective market shares of public and private services. Market share is measured as the number of placements effected as a proportion of total hirings in the labour market (Conclusions XIV-1 (1998), Greece).

The report does not reply to the Committee's request for information on the conditions under which private agencies operate and co-ordinate with public services, nor on participation of trade union and employers' organisations in the running of the employment services (see Conclusions 2016). It provides information on trainings and seminars on employment topics for print publishers, TV and radio broadcasting journalists and public stakeholders to raise awareness, organised by private agencies, employee and employer organisations.

In its previous conclusion (Conclusions 2016), the Committee noted that the Social Service Agency provided free employment services for jobseekers through an infrastructure with a central office located in Tbilisi and 69 municipal centres. It further noted that labour market management information system (worknet.gov.ge) for jobseekers had been launched and the registration of jobseekers in the system started in 2013. The electronic system kept record of 55,139 jobseekers, out of which only 667 were registered in the labour market management information system. The Committee asked what was the difference between the two systems keeping record of the jobseekers. The report states that in 2018 already 229,555 jobseekers were registered in the Labour Market Management Information System. The Committee renews its request for information on the difference between the systems and how are they employed for the effective placement services.

In the light of the information in its possession, the Committee considers that it cannot make a comprehensive assessment of all aspects pertinent for the functioning of free employment services, capable of ensuring a rapid and lasting balance between supply and demand on the labour market. It repeats its requests for all relevant information to be included in the next report. Meanwhile, it considers that it has still not been established that the situation is in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 1§3 of the Charter on the ground that it has not been established that employment services operate in an efficient manner.

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

The Committee recalls that in the appendix to the letter of 27 May 2019 (whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities") no information was requested under this provision unless the previous conclusion was one of non-conformity or a deferral.

Article 1§4 guarantees the right to vocational guidance, continuing vocational training for employed and unemployed persons and specialised guidance and training for persons with disabilities. It is complemented by Articles 9 (right to vocational guidance), 10§3 (right of adult workers to vocational training) and 15§1 (right of persons with disabilities to vocational guidance and training), which contain more specific rights to vocational guidance and training.

However, as Georgia has not accepted these provisions, the Committee assesses the conformity of the situation under Article 1§4 in case the previous conclusion was one of non-conformity or a deferral.

Vocational guidance

The Committee previously (Conclusions 2016) considered that it had not been established that the right to vocational guidance was guaranteed. The Committee took note of the adoption of a series of measures aimed at ensuring continuous professional counselling and career planning services for every Georgian citizen and asked for information on the implementation of these measures. It also noted that free group and individual counselling services were provided by the Social Service Agency and its 69 municipal centres available in each municipality and requested details of how these services were operated, whether they were addressed both at employed and unemployed people, what were their funding, their staffing and the number of beneficiaries.

In response to these questions, the report refers to the measures under way in the framework of the State Programme for the Development of Employment Support Services, launched in 2015. The report indicates that vocational guidance is provided to jobseekers registered in the Labour Market Information Management System (www.worknet.gov.ge). It also specifies the number of jobseekers involved in individual and group counselling services during the reference period as well as the number of career planning and professional counselling sessions provided by career planning and professional counselling specialists. The Committee takes note of the information provided in the report on the budget allocated to the State Programme for the Development of Employment Support Services and that the expenditure incurred doubled during the reference period (from GEL 350 000, € 113 683 at the exchange rate of 31/12/2018, in 2015 to GEL 700 000, € 227 367, in 2018).

As regards vocational guidance within the education system, the Committee notes that a Vocational Skills Development Programme was launched in 2017 for 8th and 9th graders, which was extended to 10th, 11th and 12th graders (15 to 17 years old students) in 2019, outside the reference period. The courses are guided by college/university teachers and implemented by both school teachers and college career consultants.

While taking note of the information above, the Committee asks the next report to provide detailed and updated information on the vocational guidance services provided within the education system and in the labour market, the number and qualifications of staff providing career guidance, its funding and number of beneficiaries. It also asks whether vocational guidance is addressed at employed people. In the meantime, it reserves its position on this issue.

Continuing vocational training

In its previous conclusion (Conclusions 2016), the Committee considered that the right to continuing vocational training for workers was not guaranteed. Following the Committee's requests (Conclusions 2016), the report recalls the measures planned since 2015 under the State Programme for Vocational Training-Retraining and Capacity Building of Job Seekers. The programme's aims are to offer vocational training and internships for jobseekers, to support them in developing their skills and to promote their employment. Short term training and retraining programmes (from two to four months) are tailored based on professions in demand in the labour market. According to the report, the budget allocated to the Programme during the reference period increased from GEL 1 900 000 (€ 617 139 at the exchange rate of 31/12/2018) in 2015, to GEL 2 090 000 (€ 678 852) in 2018. The Committee observes that during the reference period the number of education institutions involved in the Programme increased (from 25 in 2015 to 43 in 2018) as well as the number of jobseekers participating in trainings. In particular, the Committee notes the number of jobseekers who participated in vocational training programmes and the number of those among them who were employed at the end of the training (respectively 571 and 35 in 2015, 1 995 and 534 in 2016, 2 290 and 536 in 2017, 2 871 and 514 in 2018). The Committee also notes that the number of jobseekers involved in the internship programme increased during the reference period as well (from two in 2015 to 188 in 2018).

In its previous conclusion (Conclusions 2016), the Committee asked for information on what types of vocational training and education are available in the labour market, what percentage of companies provide in-house training or other types of vocational training to employees, and on what conditions. It furthermore asked to clarify whether continuing vocational training is available to employed adult workers. As the report does not provide details on these issues, the Committee reiterates these questions and considers that the right to continuing vocational training for workers is not guaranteed.

Vocational guidance and training for persons with disabilities

The Committee previously concluded that it had not been established that specialized guidance and training for persons with disabilities was effectively guaranteed (Conclusions 2016) and asked whether there was a domestic legal framework ensuring the right of persons with disabilities to education, guidance and vocational training, what type of training was available and the number of participants (Conclusions 2012, 2016).

As regards the legal framework, the report refers to the Law on the Elimination of All forms of discrimination of 2014, as amended in 2019 (outside the reference period), which prohibits *inter alia* all direct and indirect discrimination on ground of disability as regards access to all forms of vocational guidance, qualification, vocational training and retraining (including practical professional experience) at all levels of the professional hierarchy.

The Committee notes that, following the ratification by Georgia of the Convention on the Rights of Persons with Disabilities (CRPD) in 2014, the definition of "persons with disabilities" in the Law of Social Protection of Persons with disabilities and the Law on Medical and Social Expertise was amended. The Committee asks the next report to provide updated information on further adaptation of the legislation on this issue, particularly as regards vocational education and training of persons with disabilities.

As regards vocational guidance, the report indicates that the State Programme for Development of Employment Support Service, launched in 2015, involves supportive mechanisms for the employment of vulnerable and low competitive groups. In this framework, specialised guidance is provided to persons with disabilities (124 persons in 2016, 395 in 2017 and 274 in 2018). The Committee notes from the Report on the Implementation of State Programs by the Ministry of Labour, Health and Social Affairs in Georgia that in 2016 the Social Service Agency selected through competition 10 supported employment consultants (Tbilisi – 3, Batumi – 1, Kutaisi – 1, Telavi – 1, Gori – 2, Lanchkhuti – 1) and 1 coordinator.

The report indicates the number of persons with disabilities who accessed individual and group consultations under the State Programme for Development of Employment Support Service. The Committee observes that the number of persons with disabilities participating in individual consultations has increased during the reference period, from 145 persons in 2015 to 474 in 2018, while it decreased as regards group consultations.

The Committee takes note of the efforts undertaken by the authorities to provide vocational guidance to persons with disabilities, however it also notes from the Initial report submitted by Georgia under article 35 of the CRPD that, as of December 2015, there were 124 065 persons with disabilities registered as recipients of social package in Georgia. The Committee asks the next report to provide updated information on the total number of persons with disabilities, the number of persons with disabilities accessing vocational guidance in the education system and in the labour market, as well as detailed information on guidance targeted at persons with disabilities, its funding and staffing.

As regards vocational training, the report refers to the 2015 State Programme for Vocational Training and Retraining and Qualification Upgrading of Job Seekers which is, *inter alia*, oriented to increase access of persons with disabilities to short-term training and retraining programs through *ad hoc* additional funding. The Committee notes that within the vocational training and retraining component, only 14 persons with disabilities were employed at the end of the programme in 2016, and that the report does not include any information on the number of persons with disabilities participating in training and retraining programmes in the following years of the reference period.

The authorities indicate that since 2015 an internship programme ('implementing training') has been organized and implemented:

- in 2016, 8 organisations were registered as internship providers, 47 jobseekers were involved in the internship component of the program, including 22 people with disabilities; at the end of the internship, labour contracts were signed with 21 jobseekers, including 11 persons with disabilities.
- In 2017, 26 employers (Tbilisi – 10 employers, regions – 16 employers) and 129 jobseekers were involved in the internship component of the program; 41 beneficiaries were employed, including 5 persons with disabilities.
- In 2018, 44 employers (Tbilisi – 10 employers, regions – 34 employers) and 188 jobseekers were involved in the internship component of the program; 79 beneficiaries were employed, including 12 persons with disabilities.

The Committee asks the next report to provide updated information on the measures taken to ensure equal access of persons with disabilities to vocational training, the types of training available to such persons and the number of participants in vocational training programmes in relation to the total number of beneficiaries. It maintains in the meantime its conclusion that it has not been established that the right of persons with disabilities to vocational guidance and training is guaranteed.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 1§4 of the Charter on the grounds that:

- the right to continuing vocational training for workers is not guaranteed;
- it has not been established that the right of persons with disabilities to vocational guidance and training is guaranteed.

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

The Committee takes note of the information contained in the report of Georgia.

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

The Committee recalls that in its 2016 Conclusions, it concluded that the situation was not in compliance with Article 10.2 on the basis that it has not been established that there was a properly functioning apprenticeship system in place.

The authorities indicate that the implementation of the vocational education reform has taken place within the framework of the Strategy for the Development of the Vocational Education and Training System for the period 2013-2020. Modular and flexible educational programmes based on a dual system of education have been implemented, and the standards of vocational education have been reviewed in the framework of a new methodology. The report states that employers have been directly involved in the processes of developing vocational education standards and educational programmes.

With regard to access to vocational education, the authorities indicate that since 2013, the State has been fully funding courses in vocational education and training institutions.

A new Law on Vocational Education came into force in September 2018 and has created integrated programmes that provide greater access to general education in vocational education and build bridges between vocational education and higher education.

The Committee notes that the courses are sanctioned by certificates recognised by the State and the granting of credits which enable the students concerned to continue their studies if necessary.

The Committee points out that several elements are taken into account in assessing apprenticeship, namely: the duration of the apprenticeship, the distribution of time between theory and practice, the selection of apprentices, the selection and training of teachers and the termination of the apprenticeship contract. In addition, the main indicators for assessing compliance with this provision are the existence of the apprenticeship system and other training arrangements for young people, the quality of such training, i.e. the number of apprentices, the total amount of expenditure – both public and private – devoted to these types of training, and a sufficient supply of places to meet all demands.

The Committee notes that the report provides only fragmented information or no information at all on these points and requests that this information be made available to the Committee. In the meantime, the Committee considers that it has not been established that an effective apprenticeship system exists.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 10§2 of the Charter on the ground that it has not been established that an effective apprenticeship system exists.

Article 10 - Right to vocational training

Paragraph 4 - Long term unemployed persons

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

The Committee recalls that Georgia was asked to reply to the specific targeted questions for this provision; to indicate the nature and extent of special retraining and reintegration measures taken to combat long-term unemployment as well as figures demonstrating the impact of such measures (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities").

The Committee notes from the report that, according to the available data (Integrated Household Survey up to 2016 and, from 2017 onwards, the Workforce Survey), the total long-term unemployment rate decreased over the reference period from 6.2% in 2015 to 5.1% in 2018. In rural areas the rate increased from 1.3% in 2015 to 2.3% in 2018.

The Committee previously concluded that the situation in Georgia was not in conformity with Article 10§4 of the Charter on the ground that special measures for the retraining and reintegration of the long-term unemployed had not been effectively provided or promoted (Conclusions 2016) The Committee recalled that the main indicators of compliance with Article 10§4 were: the types of training and retraining measures available on the labour market for the long-term unemployed, the number of persons following these types of training, with special attention to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.

The Committee observes that the current report does not contain any information on these issues. It therefore reiterates its request that the next report provide information on:

- the types of training and retraining measures available on the labour market for the long-term unemployed;
- the number of persons undergoing such training;
- the number of young long-term unemployed persons undergoing such training;
- the impact of the measures implemented on the reduction of long-term unemployment.

In its previous conclusion (Conclusions 2016), the Committee also asked for information on the definition of long-term unemployed and young long-term unemployed in the domestic legislation. The Committee notes that such information was not provided in the report of Georgia. It therefore reiterates its request for this information.

In its previous conclusions (Conclusions 2012 and Conclusions 2016), the Committee asked whether equal treatment with respect to access to training and retraining for long-term unemployed persons was guaranteed to the nationals of other States Parties lawfully resident in Georgia.

The information provided in the report on current legislation does not address this issue. Therefore, the Committee reiterates its question and meanwhile it concludes that it has not been established that equal treatment is guaranteed.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 10§4 of the Charter on the grounds that:

- special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted;
- equal treatment regarding access to training and retraining for the long-term unemployed is not guaranteed to nationals of other States Parties lawfully resident in Georgia.

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

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

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities") as well as previous conclusions of non-conformity or deferrals. The Committee notes that the report provides virtually no information on this provision.

The Committee previously deferred its conclusion (Conclusions 2016).

Relevant legal framework and remedies

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

The Committee refers to its previous conclusions for a description of the legal framework. It recalls that Law on the Elimination of All Forms of Discrimination of 2014 prohibits discrimination on grounds of disability. The Committee previously asked for information to be included in the next report on the implementation of this law and on the relevant case law on housing, transport, communications and cultural and leisure activities for persons with disabilities (Conclusions 2016). No information is provided in the report.

The Committee asks the next report to provide updated information on the legal framework prohibiting discrimination on grounds of disability in access to housing, transport, communications and cultural and leisure activities as well as examples of relevant case law. It this information is not provided there will be nothing to establish that the situation is in conformity with the Charter on this point.

Consultation

The Committee recalls that Article 15§3 of the Charter requires inter alia that persons with disabilities should have a voice in the design, implementation and review of coordinated disability policies aimed at achieving the goals of social integration and full participation of persons with disabilities. It asks the next report to provide updated information on consultation with people with disabilities, as well as other measures to ensure their participation in the design, implementation and review of disability policies.

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

Financial and personal assistance

The Committee previously noted that under the Law on Social Assistance, households which have a member with a disability may receive social assistance. The Committee wished to receive further information about the types of social assistance that can be claimed by such families and the number of claimants (Conclusions 2016).

According to the report of January 2019 on the "Social package for persons with profound and significant disabilities and for children with disabilities" was raised to 200 GEL (€ 55).

Further the report states that persons with disabilities are allowed to work without any reduction in the social package. The annual tax-free allowance for people with disabilities was 6 000 GEL (€ 1500).

The Committee asks the next report to provide updated information on all benefits and allowances that persons with disabilities maybe entitled to in order to enable them to live independently in the community, along with the number of beneficiaries of the various allowances and benefits.

As regards personal assistance, the Committee previously asked whether support services such as personal assistance or home help are provided free of charge. The report provides no information on personal assistance.

The Committee asks the next report to provide information on personal assistance; the legal framework, the implementation of a programme, the number of beneficiaries, and the budget allocated. It also asks whether funding for personal assistance is granted on the basis of an individual needs' assessment and whether persons with disabilities have the right to choose services and service providers according to their individual requirements and personal preferences. Further the Committee asks what measures have been taken to ensure that there are sufficient numbers of qualified specialists available to provide personal assistance. The Committee considers that if this information is not provided there will be nothing to establish that the situation is in conformity with the Charter.

The prevalence of poverty amongst people with disabilities in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of people with disabilities to enjoy independence, social integration and participation in the life of the community.

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

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

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

Technical aids

The Committee previously asked for further information on the provision of technical aids in particular whether there is a quota for the provision of technical aids and how many people have received them (Conclusions 2016).

According to the report persons with disabilities may be provided with electric- or manual wheelchairs, prostheses, hearing aids, cochlear implants, smartphones and other mobility aids.

Wheelchairs and prostheses are completely free for persons living below the poverty line, war veterans, beneficiaries of state institutions and penitentiaries and children. The remaining beneficiaries pay 10% of the cost of the aid. All other aids are completely free of charge for all.

No further information is provided on whether there is a quota for the provision of technical aids, whether there is a limited budget, or on the number of beneficiaries.

The Committee repeats its request for this information, as well as information on the number of requests for technical aids. The Committee considers that if this information is not provided there will be nothing to establish that the situation is in conformity with the Charter.

Housing

In its previous conclusions (Conclusions 2012 and 2016), the Committee asked whether grants were available to people with disabilities for the adaptation of housing, lift construction and removal of obstacles to mobility, how many people had received such grants and what progress had been made in promoting accessible housing (Conclusions 2016). The report provides no information in this respect. Therefore the Committee concludes that has not been established that persons with disabilities have effective access to housing.

The Committee asks the next report to provide information on the legal framework governing housing for persons with disabilities.

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

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

Mobility and transport

In its previous conclusions (Conclusions 2012 and 2106), the Committee asked how access to public transport was guaranteed for people with disabilities. The report provides no information on this issue. The Committee reiterates its previous question.

The Committee concludes that it has not been established that persons with disabilities have effective access to public transport.

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

Communication

According to the report, under the social rehabilitation and childcare state programme, the "Deaf Communication Support Sub programme" is being implemented, which aims to provide at least 10 interpreter services to deaf people living in Georgia (with the exception of Tbilisi) to promote social integration. The Committee asks for further details of this programme including information on the number of beneficiaries and any other programme to ensure that people with hearing impairments have effective access to information.

The Committee previously asked what measures have been taken to ensure access to new information and communication technologies (Conclusions 2012, 2016). No information is provided in the report on this issue.

The Committee concludes that it has not been established that persons with disabilities have effective access to new information and communication technologies.

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

Culture and leisure

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

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 15§3 of the Charter on the grounds that it has not been established that:

- persons with disabilities have effective access to housing;
- persons with disabilities have effective access to transport;
- persons with disabilities have effective access to communication technologies.

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

Paragraph 1 - Applying existing regulations in a spirit of liberality

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

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

Paragraph 2 - Simplifying existing formalities and reducing dues and taxes

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

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

Paragraph 3 - Liberalising regulations

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

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

Paragraph 4 - Right of nationals to leave the country

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

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

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

The Committee notes that this report responds to the targeted questions on this provision, which relate specifically to equal pay (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities"). The Committee will therefore focus specifically on this aspect. It will also assess the replies to all findings of non-conformity or deferral in its previous conclusion.

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

Legal framework

In its previous conclusion (Conclusions 2016), the Committee observed that there was no express statutory guarantee in the legislation of the right of men and women to equal pay for work of equal value and concluded that the situation was not in conformity with Article 20 of the Charter on this point.

The Committee points out that it noted in its previous conclusion that the Labour Code included provisions on gender equality in employment. Section 4§2(i) of the 2010 Gender Equality Act provided for equal treatment of men and women in the evaluation of the quality of work. It also provided for gender equality in a whole range of areas, including employment. Section 6 expressly prohibited discrimination in employment and sexual harassment.

The Committee notes from the report that the Law on Elimination of All Forms of Discrimination adopted on 2 May 2014 includes a general ban on gender discrimination but does not mention the principle of equal pay for work of equal value.

The report indicates that the government has reformed the civil service with a view to amending the remuneration system for public service workers. The new Civil Service Law of 2015 came into force on 1 July 2017. Article 57 provides that the public service remuneration system must be based on the principles of transparency and fairness, which means equal pay for equal work.

The Committee notes from the report that Article 3 of the Law on Remuneration in the Public Service, which came into force on 1 January 2018, lays down the principle of equality and transparency in the remuneration system, which means "equal pay for the performance of equal work". Pursuant to the said law, determination of functions for specific positions is based on assessment of specific features such as level of responsibility, stress, relevant competencies, qualification and work experience.

The Committee points out that under Articles 4§3 and 20 of the Charter (and Article 1 (c) of the 1988 Additional Protocol), the right of women and men to equal pay for work of equal value must be expressly provided for in legislation. The equal pay principle applies both to equal work and to work of equal or comparable value. The concept of remuneration must cover all elements of pay, i.e. basic pay and all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment (University Women of Europe (UWE) v. France, Complaint No. 130/2016, decision on the merits adopted on 9 December 2019, §163). The Committee observes that the new Law on Remuneration in the Public Service provides for equal pay for women and men for "equal work", not for "work of equal or comparable value". It notes that this wording is narrower than the principle in the Charter and considers that the obligation to recognise the right to equal pay is not complied with in the public sector either.

The Committee observes that, in spite of the legislative changes adopted during the reference period, the situation has not changed concerning either the private or the public sector. In the

light of the above, it considers that the obligation to recognise the right to equal pay has still not been complied with and the Committee therefore reiterates its finding of non-conformity on the ground that there is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value.

Effective remedies

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

The report indicates that anyone who believes they have suffered wage discrimination may appeal to the courts. The Committee requests that the next report provide more information on this subject.

With regard to the burden of proof, the report states that anyone who believes they have been discriminated against must present the relevant courts with those facts and evidence from which such discrimination may be inferred. In the light thereof, the defendant has to prove that there has been no breach of the principle of equality. The Committee asks how the principle of shifting of the burden of proof is applied in practice, for example, if it is systematically applied in the cases related to pay discrimination.

The report indicates that there is no ceiling on the compensation to which victims of wage discrimination are entitled and that the amount is determined on a case-by-case basis by the courts. The Committee asks whether the obligation to compensate the difference of pay is limited in time or is awarded for entire period of unequal pay.

The Committee notes from the report that the courts have not reported any cases of wage discrimination on grounds of gender. Nevertheless, during the reference period, the Office of the Public Defender considered three cases, two of which were discontinued while the other gave rise to a recommendation issued by the Office of the Public Defender.

The Committee considers that the absence or low number of wage discrimination cases brought before the courts is likely to indicate the lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in the legal remedies available or the absence of such remedies, lack of practical access to procedures or fear of retaliation. It asks for information in the next report on the measures taken to raise awareness of the relevant legislation, to enhance the capacity of the competent authorities, including judges and other public officials, to identify and address cases of gender pay discrimination, and also to

examine whether the applicable substantive and procedural provisions enable claims to be brought successfully in practice.

The Committee requests that the next report indicate the rules applicable to the event of dismissal for a complaint about equal pay.

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

Pay transparency and job comparisons

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

The Committee recalls that it examines the right to equal pay under Article 20 and Article 4§3 of the Charter, and does so therefore every two years (under thematic group 1 “Employment, training and equal opportunities”, and thematic group 3 “Labour rights”). Articles 20 and 4§3 of the Charter require the possibility to make job comparisons across companies (see in this respect Complaints Nos. 124 to 138, UWE, op. cit.).

With regard to job comparisons in the public sector, the report indicates that, under the civil service reform, measures have been taken to develop comparison methods so that job classification and remuneration are free from gender bias. The Ministry of Finance has determined the coefficients and calculation procedures to be applied under the new public service remuneration system. Nevertheless, the Committee notes that the report does not explain the job classification method employed in the public service and requests that the next report provide that information.

With regard to job comparisons in the private sector, the report indicates that methodology is being developed in consultation with international organisations and management and labour.

The Committee reiterates its request that the next report provide information on the job classification and promotion systems in place as well as strategies adopted and the measures taken to ensure pay transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), including the setting of concrete timelines and measurable criteria for progress. The Committee points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Georgia is in conformity with Article 20 of the Charter in this respect. In the meantime, it reserves its position on this point.

Enforcement

The Committee requests that the next report provide information about how equal pay is ensured, notably, about the monitoring activities conducted in this respect by the Labour Inspectorate and other competent bodies.

Obligations to promote the right to equal pay

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

The Committee takes note of the data by gender and sector of activity concerning workers' average monthly earnings for the period from 2016 to 2018. It observes that the pay gap remains high in almost all sectors. In particular, in 2018, in the areas of finance and insurance, health and social work, manufacturing, and professional, scientific and technical activities, men's average earnings were much higher than women's (in finance and insurance, men's average monthly earnings were 3,461.20 lari, as against 1,498.70 lari for women; while in manufacturing, men's monthly average earnings were 1,127.90 lari, as against 692.80 lari for women).

The Committee notes from the report that the gender pay gap was 37.7% (based on calculation of the monthly wages of both sexes and including social benefits and bonuses, etc.). The report states that the 2017 labour force survey showed a reduction in the pay gap from 35% to 18% using different methodology, in particular calculations based on hourly wages.

According to the report, the gender pay gap is not primarily conditioned by the legal or regulatory environment but by traditional norms and attitudes towards women, which oblige them to combine their household roles with career development.

The Committee considers that the measures to promote equal opportunities for women in the labour market have been inadequate and have not produced measurable progress; the pay gap is still very wide. In the light of the foregoing, the Committee therefore considers that the situation is not in conformity with Article 20 (c) of the Charter on the ground that the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 20 (c) of the Charter on the grounds that:

- there is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value;
- the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.