



European
Social
Charter

Charte
sociale
européenne



March 2021

EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-1 (2020)

CROATIA

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 Croatia, which ratified the 1961 European Social Charter on 26 February 2003. The deadline for submitting the 11th report was 31 December 2019 and Croatia submitted it on 26 May 2020.

The Committee recalls that Croatia 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 XX-1 (2012)).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions XX-1 (2012)) found the situation to be in conformity, there was no examination of the situation in 2020.

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

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (Article 15);
- the right to engage in a gainful occupation in the territory of other Contracting Parties (Article 18);
- the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (Article 1 of the Additional Protocol).

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

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

The conclusions relating to Croatia concern 5 situations and are as follows:

- 1 conclusion of conformity: Article 1§1.
- 4 conclusions of non-conformity: Articles 1§2, 1§4, 9 and Article 1 of the Additional Protocol.

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

- the right to safe and healthy working conditions (Article 3);
- the right to protection of health (Article 11);
- the right to social security (Article 12);
- the right to social and medical assistance (Article 13);
- the right to benefit from social welfare services (Article 14);
- the right of elderly persons to social protection (Article 4 of the Additional Protocol).

The deadline for submitting that report was 31 December 2020.

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

Article 1 - Right to work

Paragraph 1 - Policy of full employment

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

The Committee recalls that in 2012, it concluded that the situation in Croatia was not in conformity with Article 1§1 of the 1961 Charter on the ground that employment policy efforts had not been adequate in combatting unemployment and promoting job creation (Conclusions XX-1 (2012)).

Employment situation

According to Eurostat, the GDP growth rate increased from 2.4% in 2015 to 3.5% in 2016, before dropping to 3.4% in 2017 and 2.8% in 2018. However, this rate was still higher than the average for the 28 European Union (EU) member States (2% in 2018).

The overall employment rate (persons aged 15 to 64 years) increased from 56% in 2015 to 60.6% in 2018, which was below the EU 28 average (68.6% in 2018).

The employment rate for men increased from 60.3% in 2015 to 65.4% in 2018, which was below the EU 28 average (73.8% in 2018). The employment rate for women rose from 51.6% in 2015 to 55.9% in 2018, which was below the EU 28 average (63.3% in 2018). The employment rate for older workers (55 to 64-year-olds) increased from 39.2% in 2015 to 42.8% in 2018, which was well below the EU 28 average (58.7% in 2018). Youth employment (15 to 24-year-olds) increased sharply, from 19.1% in 2015 to 25.6% in 2018, but also remained well below the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) decreased considerably, from 16.4% in 2015 to 8.5% in 2018, nearing but remaining higher than the EU 28 average (7% in 2018). The same was true of the majority of categories below.

The unemployment rate for men declined from 15.8% in 2015 to 7.8% in 2018 (EU 28 average in 2018: 6.7%). The unemployment rate for women fell from 17.1% in 2015 to 9.5% in 2018 (EU 28 average in 2018: 7.2%). Youth unemployment (15 to 24-year-olds) decreased from 42.3% in 2015 to 23.7% in 2018 (EU 28 average in 2018: 15.2%). Long-term unemployment (12 months or more as a percentage of overall unemployment for persons aged 15 to 64 years) fell from 63.1% in 2015 to 40.2% in 2018, which was below the EU 28 average (43.4% in 2018).

The proportion of 15 to 24-year-olds "outside the system" (not in employment, education or training, i.e. NEET) fell from 18.1% in 2015 to 13.6% in 2018 (as a percentage of the 15 to 24-year-old age group), which was higher than the EU 28 average (10.5% in 2018).

The Committee takes note of the favourable developments in the labour market (an increase in the employment rate and a sharp drop in unemployment). However, in general, employment rates were still below the EU 28 average in 2018 and unemployment rates remained above it.

Employment policy

In its report, the Government lists the active labour market policy measures implemented during the reference period. These include recruitment subsidies, self-employment support, training, the Public Works Programme, job retention subsidies and assistance for seasonal workers. In 2018, the emphasis was on providing training.

The Government states that these measures particularly target the unemployed and people who are employed but at risk in the following categories: those aged up to 29 or over 50 years of age; the long-term unemployed; unemployed persons who are especially vulnerable (e.g. single parents, parents of four or more minors, parents of special needs children, unemployed persons at risk of social exclusion, asylum seekers); persons with disabilities; and Roma. In 2018, measures were targeted mainly at young people and the long-term unemployed.

The Committee takes note of the scope and the results of the programmes implemented. For example, during the reference period, 34,816 people (of whom approximately 53.1% were women) belonging to vulnerable groups (e.g. long-term unemployed, unskilled workers, older workers and minimum income recipients) were employed under the Public Works Programme, enabling them to acquire basic vocational skills. Under the Self-Employment Programme, 15,177 unemployed persons (of whom approximately 42.6% were women) started their own business after receiving various kinds of support (e.g. advice, workshops, etc.) and financial assistance. The Training Programme for the Unemployed enabled 14,544 jobseekers (of whom approximately 51.4% were women) to acquire skills required on the labour market. In addition, approximately 6,000 women received training as home helpers for the elderly and disadvantaged and were employed as part of a programme launched in June 2017 specifically for women registered with the Employment Service who did not receive schooling beyond secondary education.

Besides the active labour market measures offered by the Employment Service to all registered jobseekers, young people also had access to specific measures (e.g. education, internships, subsidised jobs, etc.) under the Youth Guarantee. The Government states that out of a total of 154,144 persons who benefited from active employment measures during the reference period, 55% (84,875) were young people; the proportion of young people who found a job within four months of becoming unemployed was 51.8% in 2015 and 55.2% in 2016.

The Committee asks whether any active labour market measures are specifically implemented to support workers aged over 55 years.

The Committee notes that according to European Commission data, public expenditure on labour market policies (as a percentage of GDP) decreased from 0.75% in 2015 to 0.62% in 2017 (of which 0.32% was for active measures and 0.24% for passive measures in 2017). On the other hand, the activation rate increased from 6.6% in 2015 to 10.4% in 2018.

Lastly, with regard to the monitoring of active labour market policy measures, the Government states that an external evaluation covering the period 2010-2013, published in 2016, has found that these measures had been “rather effective” but needed, among other things, to be simplified and better targeted. On the basis of these findings, the authorities presented a new package of active measures in March 2017, and a working group was set up in August 2017 to monitor the implementation of these measures, analyse their effectiveness and make proposals for their improvement. The Committee requests that the next report provide information on the activities and submissions of this working group.

Conclusion

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

Article 1 - Right to work

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

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

1. Prohibition of discrimination in employment

Article 1§2 of the Charter prohibits all forms of discrimination in employment. The Committee asked States Parties to submit up-to-date information for this reporting cycle on the legislation prohibiting such discrimination, particularly on grounds of gender (had Article 1 of the Additional Protocol not been accepted) and race, ethnic background, sexual orientation, religion, age, political opinions or disability (had Article 15 of the 1961 Charter not been accepted), together with information on the available remedies. It also asked for information on any specific measures taken to combat discrimination in employment against migrants and refugees.

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

Croatia has accepted Article 1 of the Additional Protocol and, therefore, it was under no obligation to report on prohibition of discrimination on ground of gender, which will be examined under the said provision.

As regards the legislation prohibiting discrimination in general terms, the Committee comprehensively examined the relevant legal framework in its previous conclusion (Conclusions XX-1). There were no substantial legislative changes in the reference period. The report recalls that the main legal acts ensuring equality and non-discrimination at work are the 2008 Anti-discrimination Act, the 2009 Labour Act and the 2008 Gender Equality Act. In its previous conclusion, the Committee asked about judicial interpretation of the relevant provisions. The report provides that there is no extensive case law on the matter of discrimination and solely refers to one trial in 2003. The Committee asks that the next report provide extensive information on any developments in this respect. In the event that the case law developments continue to be rare, the Committee requests that the authorities explain the reasons behind such a phenomenon and their reaction to it. It also asks for comprehensive information on the implementation of the legal framework in practice.

The Committee has previously concluded that the situation in Croatia was not in conformity with Article 1§2 of the 1961 Charter on the ground that the list of jobs which were barred to foreign nationals was too broad, which amounted to discrimination on grounds of nationality. Among the prohibited occupations were e.g., lawyer, notary and legal expert. The report states in reply that the 2013 accession of Croatia to the EU enabled easier movement of workers and that, as a result, the annual allowance quota for the employment of foreigners has risen. The professions of notary, attorney and court-appointed expert became open to the EU citizens. The Committee notes that the situation has changed solely for the citizens of the EU but not for the citizens of other State Parties. It also asks whether positions in the civil service are open exclusively to persons having the Croatian or EU nationality. The Committee recalls that States Parties may make foreign nationals' access to employment on their territory subject to the possession of a work permit but they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article G of the Charter. The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of public interest or national security and involve the exercise of public authority. Accordingly, it considers that the situation is still not in conformity with Article 1§2 of the Charter on this point.

With regard to prohibition of discrimination on grounds of disability, the report provides that the Ombudsperson for Persons with Disabilities is responsible for combating all forms of discrimination on this ground, for examining cases of alleged violation of the rights of persons

with disability and for preventive actions. The Ombudsperson's Office also performs awareness-raising activities aimed at combating discrimination and improving employment opportunities for the persons with disabilities (e.g., organisation of vocational workshops with employers and their associations). Further, the report states that persons with disabilities rarely decide to seek protection against discrimination in court proceedings and for reasons such as the cost and the length of court proceedings or unattainable legal aid among others. Therefore, the Ombudsperson for Persons with Disabilities rarely receives invitations to intervene in court proceedings in order to provide assistance and strengthen the position of the alleged victim of discrimination. The Committee asks what measures have been adopted or envisaged to address the mentioned obstacles incurred by persons willing to pursue court proceedings in cases of allegation of discrimination on grounds of disability. It also asks what actions and support are available to persons with disabilities, enabling them, for instance, to benefit from retraining, additional training, vocational training, sustainable employment and career advancement, as well as activities that promote employment equality. Meanwhile, it reserves its position on this point.

Apart from questions on the legal framework, during this examination cycle, the Committee assesses specific, targeted legislation and practical measures specifically focused on discrimination on grounds of ethnic origin, race, age, sexual orientation, political opinion or religion. The report does not reply to the Committee's request. The Committee notes that it has already requested the relevant information in its previous conclusion, asking, *inter alia*, how discrimination on grounds of age was interpreted by the courts. It also asked for a description of the practical measures adopted to counteract discrimination of Roma (Conclusions XX-1). It further notes, in this regard, that the European Equality Law Network in its abovementioned report, stressed that although Croatia has a well-developed legislative framework for the protection of the rights of national minorities, the adequate implementation is still lacking. Further, the ILO in its observation (CEACR) adopted in 2019, published at the 109th ILC session (2021) on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) points to discrimination in employment on the grounds of ethnicity, with the Roma national minority being particularly affected, as employers are still reluctant to employ persons belonging to the Roma community, mainly due to widespread stereotypes about their way of life and work habits. The Committee asks that the next report comment on these observations and renews its request for comprehensive descriptions of how discrimination on the grounds listed above is prevented and combated. Should the next report not provide exhaustive information in this respect, nothing will allow to show that the situation is in conformity with the Charter on these points.

Apart from questions on the legal framework, during this examination cycle the Committee assesses specific measures taken to counteract discrimination in the employment of migrants and refugees. The report provides that, pursuant to the Aliens Act, a foreigner may work in Croatia based on a stay and work permit or a work registration certificate. The Government sets an annual quota for the employment of foreigners, listing activities and occupations in which employment is permitted, and the number of work permits for each of the activities and occupations, as well as the quota for seasonal employment. In accordance with the Act on International and Temporary Protection, asylum seekers and seekers of subsidiary protection have the right to work in Croatia without a residence permit or certificate of registration of work, and may exercise the right to training related to employment, vocational training and acquiring practical work experience, under the same conditions as Croatian citizens. Recognised asylum seekers, aliens under the subsidiary or temporary protection and members of their families are also target groups of active labour market policy measures, such as the on-the-job training measure. Furthermore, advisors responsible for work with persons under the international protection have been appointed to provide placement services, counselling and consultations, translation services, to recognise skills and detect obstacles that prevent employment and integration of persons from the above-mentioned target group into the labour market. The National Plan for Combating Discrimination 2017 – 2021 focuses on increasing the number of the employed persons who are in a disadvantaged position by putting a special

emphasis on their social inclusion. Additionally, awareness-raising measures have been implemented aiming at the promotion of equal opportunities in the sector of labour and employment, primarily by educating the employers and workers' representatives on the Anti-Discrimination Act, Act on Gender Equality and on groups of persons at risk of discrimination. The Committee notes from the abovementioned report of the European Equality Law Network, that the discrimination of migrants is persisting. It asks that the next report comment on this observation. It also requests more details on the annual employment quota for foreigners and how it is ensured that this quota does not result in discrimination of migrants on the labour market.

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 and able to provide reinstatement and compensation, as well as adequate penalties effectively enforced by labour inspection; an appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment.

In reply to the Committee's query on how the amount of compensation is decided in the course of proceedings concerning discrimination claims and whether there is any upper limit on the amount that may be paid (see Conclusions XX-1), the report provides that the Anti-Discrimination Act does not set any rules on compensation of damage incurred by victims of discrimination but refers to the regulations on obligatory relations, in particular the Civil Obligations Act. Pursuant to its provisions, the damage shall imply a loss of a person's assets (pure economic loss), a halt to assets increase (loss of profit) and violation of privacy rights (non-proprietary damage). Taking into consideration the forms of damage and the circumstances of each individual case, the courts enjoy wide discretion over the assessment of the amount of compensation. The report states, however, as referred to above, that the remedies are not widely used. The Committee notes, in this respect, that the European Equality Law Network (EELN) in its 2020 country report on Croatia concludes on the basis of the Ombudsperson's reports and analyses of cases before the courts that anti-discrimination protection does not work in practice. Similarly, the ILO in its 2019 observation, referred to above, points to the under-reporting of cases of discrimination and to the lack of awareness of the available avenues of redress. The ILO also points out that the currently available data on the number of court proceedings and their completion, the rate of success of complaints and sanctions against the perpetrators of discrimination may discourage victims, with protracted procedures, few claims upheld, low levels of compensation and sentences often below the legally required minimum. Finally, the Committee notes from the ILO report that a lack of human and material resources has an impact on the capacity of the national human rights bodies to perform their tasks and exercise their powers effectively.

The Committee asks that the next report comment on these observations. It considers that, in the light of the information in its possession, it cannot make a comprehensive assessment of all the relevant aspects regarding the existence and functioning of effective remedies in cases of alleged discrimination. It repeats its requests that all relevant data be included in the next report, in particular on cases of discrimination in employment dealt with by courts and by the Ombudsperson, with specific indications regarding their nature and outcome, the sanctions imposed on the employers and the level of compensation granted to the employees. It further asks whether awareness-raising and capacity-building activities have been undertaken for the wider public, as well as for judges and prosecutors in order to address the limited use of existing remedies and on the results achieved, as well as information on measures taken to assist victims in bringing discrimination cases to court. The next report should also address the issue of the capacity of the national human rights bodies to perform their tasks. The Committee 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.

2. Forced labour and labour exploitation

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

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

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

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

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

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

The Committee notes that the present report does not reply 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”).

Criminalisation and effective prosecution

The Committee notes that with regard to exploitation of vulnerability and forced labour, Article 106 of the Criminal Code criminalises labour trafficking and prescribes penalties of one to 15 years’ imprisonment. This Article provides that “whoever, by the use of force or threat, deception, fraud, abduction, abuse of authority or a situation of hardship or dependence, or giving or receiving payments or other benefits to obtain the consent of a person having control over another person, or whoever by any other means recruits, transports, transfers, harbours or receives a person, or exchanges or transfers control over a person for the purpose of exploiting his or her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation for prostitution of the person or of other forms of sexual exploitation, including pornography, or contracting an illicit or forced marriage, or removing parts of the person’s body or using the person in armed conflicts or for the purpose of committing an unlawful act, shall be punished by imprisonment from one to ten years”.

If the criminal offence was committed against a child or by a public official in the performance of his or her duties, or the said offence was committed against a large number of persons, the perpetrator shall be punished by three to fifteen years’ imprisonment.

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.

In this regard, the Committee observes from the 2016 GRETA Report that it urged the Croatian authorities to take additional legislative and practical measures to ensure that trafficking cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia, Second Evaluation Round, GRETA (2016)33, 4 February 2016).

According to the 2018 US Department of State report, the government did not meet the minimum standards in several key areas related to human trafficking. Judges continued to issue light sentences and often dismissed victims’ testimonies as unreliable due to a lack of understanding of trafficking. Observers reported the need to increase proactive identification efforts, including towards asylum-seekers and seasonal workers, and that a national action plan remained in development.

Moreover, the Committee refers to the Grand Chamber judgment of 25 June 2020 in the case of *S.M. v. Croatia* (application no. 60561/14), where the European Court of Human Rights unanimously held that there had been a violation of Article 4 of the Convention due to shortcomings in the Croatian authorities’ investigation into an allegation of forced prostitution.

The Court also clarified that the notion of “forced or compulsory labour” under Article 4 of the Convention aimed to protect against instances of serious exploitation, such as forced prostitution, irrespective of whether, in the particular circumstances of a case, they were related to the specific human trafficking context. It found that Article 4 could be applied in the applicant’s case as certain characteristics of trafficking and/or forced prostitution had arguably been present, such as abuse of power over a vulnerable individual, coercion, deception and harbouring.

While taking note of this judgment, the Committee asks that the next report provide information on the enforcement of the criminal law related to forced labour. The report should provide

information (including statistics and examples of case law) on the prosecution and conviction of exploiters for slavery, forced labour and servitude during the next reference period, in order to assess how the legislation is interpreted and applied to combat labour exploitation.

Prevention

The Committee recalls that States Parties should take preventive measures such as research and data collection 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 report indicates that in order to make the anti-trafficking system more efficient, strategic and operational documents have been adopted regulating the identification and protection of victims of trafficking in human beings, as well as a comprehensive system of assistance and support: the National Plan for Combating Trafficking in Human Beings for the period 2017 – 2020, the Protocol on the Integration/Reintegration of Victims of Trafficking in Human Beings, the Protocol on the Identification, Assistance and Protection of Victims of Trafficking, the Protocol on the Process of a Voluntary and Safe Return of the Victims of Trafficking in Human Beings.

The Committee notes from the abovementioned GRETA Report that the National Anti-Trafficking Co-ordinator, who is the Director of the Government Office for Human Rights and Rights of National Minorities, is responsible for leading and co-ordinating activities relating to action against human trafficking. The National Committee for Combatting THB, established in 2002 with the task of defining anti-trafficking policies and strategies in Croatia, saw its terms of reference renewed in 2012. It continues to be chaired by the Deputy Prime Minister.

It refers to the same report and notes that the Croatian authorities should involve the Ministry of Labour and in particular the Labour Inspectorate in the National Committee for Combatting THB and its Operational Team, given its important role for the detection of victims of human trafficking for the purpose of labour exploitation.

With regard to the forced labour issue, the national report indicates that the labour inspectors have participated in Joint Action Days against human trafficking for labour exploitation since 2016 organised with the support of EUROPOL, during which the labour inspectors carried out inspections in collaboration with the police officers of the Ministry of the Interior. The labour inspectors and police officers of other EU members who carried out inspections in their relevant areas also participated in the Joint Action Days. EUROPOL was informed of the results of the joint inspections of the labour inspectors and police officers.

In that respect, the Committee asks that the next report provide information on other measures taken to strengthen the capacities of labour inspectors in the prevention of forced labour and in particular, information related to resources made available to them and to the training of all bodies concerned with the fight against forced labour, including judges and prosecutors.

Moreover, pursuant to the positive obligations deriving from Article 1§2 of the Charter, the Committee asks that the next report provide information on the measures implemented that regulate businesses and other economic activity so as to ensure that they do not use forced labour. Information is also requested on whether the domestic legislation includes measures designed to force companies to report on action taken to investigate forced labour and exploitation of workers among their supply chains and requires that every precaution is taken in public procurement processes to guarantee that funds are not used unintentionally to support various forms of modern slavery.

Protection of victims and access to remedies, including compensation

The report does not provide any detailed information related to the protection of victims of forced labour and their access to remedies.

The Committee considers that protection measures in this context should include the identification of victims by qualified persons and assistance to victims in their physical, psychological and social recovery and rehabilitation.

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

As regards access to remedies and compensation, the Committee asks whether the existing legislative framework provides victims of forced labour and labour exploitation, including irregular migrants, with accessible and effective remedies (before criminal, civil, employment courts or other venues) to obtain compensation for all the damages related (including unpaid wages and contributions for social security benefits). It requests statistical information on the number of victims who obtained compensation and examples of the amounts awarded.

Domestic work

The report does not provide information on domestic work.

The Committee recalls 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 that the next report provide information on this point in the next report.

“Gig economy” or “platform economy” workers

The report does not provide information on “gig economy workers”.

The Committee notes that since the global crises of 2008, the “gig economy” is growing and developing throughout the country, affecting mostly young workers. Therefore, the Committee requests that the next report contain information on the concrete measures taken or envisaged to protect workers in the “gig economy” or “platform economy” against all forms of exploitation and abuse. It asks to be informed on the status and rights of these workers (employees or self-employed, or an intermediary category, and their rights in terms of working hours, paid holiday and minimum wage), on whether labour inspection services have any mandate to prevent exploitation and abuse in this particular sector and on any existing remedies they have access to, in particular to challenge their employment status.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 1§2 of the Charter on the grounds that:

- the list of jobs which are barred to foreign nationals, in particular those from other States Parties than the members of the EU, is too broad;
- it has not been established that the national authorities have fulfilled their obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

Article 1 - Right to work

Paragraph 3 - Free placement services

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

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.

As Croatia has not accepted Articles 10§3 and 15§1 of the Charter, the Committee assesses under Article 1§4 the conformity of the situation relating to the right of adult workers to vocational training and the right of persons with disabilities to vocational guidance and training in case the previous conclusion was one of non-conformity or a deferral.

Equal treatment

In its previous conclusions (Conclusions XIX-1 (2008), XX-1 (2012)), the Committee asked whether nationals of other States Parties lawfully resident or working regularly in Croatia enjoyed equal treatment regarding all the aspects considered under Article 1§4.

In response to the Committee's request, the current report indicates that vocational guidance services are provided by the Croatian Employment Service (CES) regional and branch offices to registered unemployed persons. The report further indicates that unemployed persons not registered with the CES and other jobseekers can access vocational guidance services in the Lifelong Career Guidance Centres (CISOK).

The Committee notes from the report that according to the Labour Market Act (Official Gazette, No. 118/185), citizens of the EU member States, European Economic Area and Swiss Confederation and their family members can register with the CES and benefit from its services.

The Committee refers to its assessment under Article 9 (Conclusions XXII-1 (2020)), in which it asked the next report to clarify whether the right to vocational guidance is guaranteed equally to nationals of other States Parties that are neither EU member States nor part of the European Economic Area. It considered that the situation was not in conformity with Article 9 of the 1961 Charter on the ground it had not been established that the right to vocational guidance was guaranteed equally to all nationals of other States Parties. Accordingly, the Committee considers that the situation is not in conformity with Article 1§4 of the 1961 Charter on the same ground.

As the report does not provide information on equal treatment of nationals of other States Parties lawfully resident or working regularly in Croatia as regards vocational training, the Committee holds that if such information is not provided in the next report there will be nothing to establish the conformity of the situation with the Charter on this issue.

Vocational guidance

As regards measures related to vocational guidance, the Committee refers to its assessment under Article 9 (Conclusions XXII-1 (2020)), in which it considered that the situation was not in conformity with Article 9 of the 1961 Charter on the ground that it had not been established that the right to vocational guidance was guaranteed equally to all nationals of other States

Parties. Accordingly, the Committee considers that it has not been established that the situation is in conformity with Article 1§4 on the same ground.

Vocational guidance and training for persons with disabilities

The Committee previously concluded that it had not been established that the right to specialised guidance and training for persons with disabilities was guaranteed (Conclusions XX-1 (2012)).

As regards measures related to vocational guidance of persons with disabilities, the Committee refers to its assessment under Article 9 (Conclusions XXII-1 (2020)), in which it reserved its position. Accordingly, the Committee reserves its position on this issue.

With regard to vocational training for persons with disabilities, the current report indicates that in 2017 the Croatian government adopted the National Strategy for the Equalisation of Opportunities for Persons with Disabilities for 2017-2020. The new Strategy (which follows the Strategy for 2007-2015) aims to promote and strengthen the rights of persons with disabilities by defining vocational rehabilitation measures and activities implemented by the Croatian Employment Service (CES) in collaboration with other stakeholders.

The report points out that according to the Standards of the Vocational Rehabilitation Services persons with disabilities can access training based on labour market requirements, vocational rehabilitation services and on-the-job training programmes.

The report also provides information on the inauguration of four vocational rehabilitation centres in Zagreb, Rijeka, Osijek and Split in 2015, and on the number of persons with disabilities registered with the CES who found an employment during the reference period, which increased from 2 613 in 2015 to 3 231 in 2018.

The Committee notes that the number of persons with disabilities unemployed during the reference period decreased from 7 303 in 2015 to 5 843 in 2018. The report also indicates that according to the register of the Croatian Pension Insurance Institute the overall number of persons with disabilities employed during the reference period decreased as well (from 11 822 in 2015 to 10 836 in 2018).

The report itself acknowledges that despite legislative changes further developments and coordination among stakeholders are needed. Therefore, the Committee asks the next report to provide updated information on further developments in this respect.

The Committee asks the next report to provide detailed information on the type of training available to persons with disabilities, updated data on the number of persons with disabilities participating in such activities, staffing and funding of vocational training services. Pending receipt of these information, the Committee reserves its position on this point.

As regards the legal framework, the report indicates that the Anti-Discrimination Act (Official Gazette, No. 85/08 and 112/12) prohibits direct and indirect discrimination on the ground of, *inter alia*, disability. According to Article 8 of the Act, its provisions apply to the conduct of all state bodies, bodies of local and regional self-government units, legal persons vested with public authority, and to the conduct of all legal and natural persons. Discrimination is prohibited, *inter alia*, in the areas of work and working conditions, access to all types of vocational guidance, vocational training, professional improvement and retraining.

The report refers to the Labour Act (Official Gazette, No. 93/127 and 98/19) which prohibits direct and indirect discrimination in the segment of labour and labour conditions, including selection criteria and recruitment conditions, promotion, vocational training, professional guidance and retraining.

The Committee takes note that since 2015, in the framework of the Act on Vocational Rehabilitation and Employment of Disabled Persons, a quota system for the employment of persons with disabilities has been put in place both in the public and the private sectors (see

report for details). The report specifies that the quota obligation may be complied with in alternative ways, for example engaging persons with disabilities as apprentices, providing rehabilitation, vocational training or providing scholarships as support to the regular education of persons with disabilities. The report indicates that employers who neither meet the quota directly nor in alternative ways, are subject to a pecuniary compensation which is used for the payment of incentives for the employment of persons with disabilities and for the development of the vocational rehabilitation system.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 1§4 of the 1961 Charter on the ground that it has not been established that the right to vocational guidance is guaranteed equally to all nationals of other States Parties.

Article 9 - Right to vocational guidance

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

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

As Croatia has not accepted Article 15 of the 1961 Charter, measures relating to vocational guidance for persons with disabilities will be dealt with under Article 9.

In its previous conclusion (Conclusions 2012), the Committee concluded that the situation in Croatia was not in conformity with Article 9 of the Charter on the ground that it had not been established that the right to vocational guidance is guaranteed equally to nationals of other States Parties.

In this respect, the current report indicates that in accordance with the Labour Market Act (Official Gazette, no. 118/185) citizens of the EU member countries, European Economic Area and Swiss Confederation, asylum seekers and beneficiaries of subsidiary protection, as well as their family members, are equal to the Croatian citizens for the purposes of such Act and can therefore register with the Croatian Employment Service (CES).

The Committee recalls that equal treatment with respect to vocational guidance must be guaranteed to everyone, including nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. The Committee therefore asks the next report to indicate whether the right to vocational guidance is guaranteed equally to nationals of other States Parties that are not EU member countries nor part of the European Economic Area. In the meantime it reiterates its previous finding of non-conformity on this point.

Vocational guidance within the education system

The Committee notes from the report submitted by Croatia that there have been no changes to the situation which it has previously been assessed by the Committee (Conclusions 2012).

Vocational guidance in the labour market

In its previous conclusion (Conclusions 2012), the Committee noted that the report did not contain the information requested on the total number of beneficiaries of guidance in the labour market. It also noted that no information was provided on the measures to provide vocational guidance for persons with disabilities in the labour market as well as on the number of these persons that benefited of such services. The Committee therefore reiterated its questions.

The current report indicates that vocational guidance services are provided in the regional and branch offices of the Croatian Employment Service (CES). Such services are offered primarily to the unemployed persons who are registered in the relevant records and pupils of the elementary and secondary schools, especially those with difficulties in accessing the labour market due to development disabilities or health problems. Moreover, the report indicates that the unemployed persons who are not registered in the CES records, other jobseekers and indecisive pupils who require additional information in order to decide on their future education or employment can benefit from the services offered by Lifelong Career Guidance Centres (CISOK).

According to the report, in 2015, the Republic of Croatia adopted the Strategy for the Lifelong Career Guidance and Development, for the period from 2016 to 2020. This strategy is considered as a first step in a systematic solving of the issues related to the lifelong vocational guidance and career management, and the implementation of the lifelong vocational guidance in the educational, employment and social inclusion systems.

As regards the number of beneficiaries of the guidance services offered by the CES, the report provides figures concerning the number of persons that benefited from individual information sessions, individual counselling, group information sessions and group counselling during the

reference period. The Committee notes in particular that in the year 2018, a total of 45,651 persons benefited from such services.

In addition to the services offered by the CES, the report refers to the Lifelong Career Guidance Centres (CISOKs), which provide lifelong vocational guidance to pupils of the elementary and secondary schools, students, unemployed persons and employed persons who are considering change of job career, employers parents, school staff, vocational guidance counsellors and any other person interested in career development. The centres currently have 13 locations in 12 Croatian cities. According to the report, the fact that CISOKs are not on the same locations as the CES offices contributes to make vocational guidance service available to a wider population.

The report provides figures on the beneficiaries of the services provided by the CISOKs centres over the reference period. According to the report, the services at CISOKs consist in personal visits or visits on the CISOK website. The Committee notes in particular that in the year 2018, a total of 47,325 persons benefited from personal visits, out of which 27,506 were elementary and secondary school pupils, 1,238 were students and 18,581 were unemployed persons, jobseekers and others. In the same year, a total of 261,958 persons visited the CISOK website.

As regards vocational guidance for persons with disabilities, the current report indicates that persons with disabilities make a significant part of the population of the unemployed persons registered with the CES. The report indicates that in 2017, the Croatian government adopted the National Strategy for the Equalisation of Opportunities for Persons with Disabilities for the period from 2017 to 2020, with the aim to promote and strengthen the rights of persons with disabilities.

The report points out that a positive trend has been observed in the past ten years with regard to the employment of persons with disabilities. According to the report, this was contributed by the adopted legal changes in the field of vocational rehabilitation and employment of persons with disabilities, as well as by the regular activities implemented within the CES, such as individual counselling, individual consultations, vocational guidance services, introducing people to the vocational rehabilitation services and raising of the awareness of the employers and informing them about the opportunities for the disabled persons.

The report provides figures concerning the number persons with disabilities that benefited from vocational guidance services provided by the CES during the reference period. The Committee notes that the number of beneficiaries of such services progressively increased (681 in 2015, 749 in 2016, 1,022 in 2017).

The Committee notes in particular that in 2018, 1,089 persons with disabilities were included in the vocational guidance services (individual information and counselling sessions and group information session) by the employment counsellors specialised in vocational rehabilitation and career development. Moreover, the medical and psychological assessment of working and general capacities was completed for 93 disabled persons, while 443 disabled persons were included in the group vocational counselling – workshops for the improvement of job seeking competencies. In the same year, 3,231 disabled persons from the CES register were employed.

The report further indicates that active labour market policy measures are implemented to co-finance the employers' cost of work of the employed persons up to the 50% of the annual cost of the gross salary. According to the report, this subsidy for the employment of persons with disabilities amounts to 75%. The Committee notes that in 2018, the active labour market policy measures covered 1,648 persons with disabilities – that is the 15% more than in 2017.

As regards to the staff involved in vocational guidance services for persons with disabilities, the report indicates that every regional and branch office of the Croatian Employment Service employs specialised counsellors who are trained for work in this area. According to the report, the competences of such counsellors are continuously improved through vocational training

programmes, so that they can appropriately identify a person with disability and meet the needs of both such person and the employer.

The Committee recalls that vocational guidance must be provided free of charge, by qualified and sufficient staff, to a significant number of persons and by aiming at reaching as many people as possible and with an adequate budget. It accordingly asks the next report to provide information on the staff involved in vocational guidance services in the labour market, both in the CES and in the CISOKs centres. It wishes in particular to receive information on the number of the staff involved compared to the number of beneficiaries, as well as on their qualification. The Committee also asks the next report to provide information on the ratio between the number of staff involved in vocational guidance services for disabled persons within the labour market and the number of beneficiaries of such services. In the meantime, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 9 of the 1961 Charter on the ground that it has not been established that the right to vocational guidance is guaranteed equally to all nationals of other States Parties.

Article 1 of the 1988 Additional Protocol - 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 Croatia.

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

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

Legal framework

The report states that under Article 91§1 of the Labour Act, an employer must pay equal remuneration to women and men for equal work and work of equal value. Article 13§1(4) of the Gender Equality Act prohibits discrimination in the field of employment and occupation in the public or private sector, including public bodies, in relation to employment and working conditions, all occupational benefits and benefits resulting from occupation, including equal pay for equal work and work of equal value.

The Committee considers that the obligation to recognise the right to equal pay has been respected.

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 provides no information on this issue. Consequently, the Committee refers to its decision on the merits of 5 December 2019 (University Women of Europe (UWE) v. Croatia, Complaint No. 126/2016, §§134-145) in which it noted that in the light of the lack of information on the number of relevant cases on gender pay discrimination, the complexities in accessing the contents of case-law, the current obstacles to accessing judicial proceedings, as well as

the lack of a shift of the burden of proof in practice in pay discrimination cases, the obligation to ensure access to effective remedies in case of pay discrimination was not satisfied.

The Committee asks for the next report to provide information on:

- the number of gender pay discrimination cases brought before the courts with specific information on their outcome and the sanctions imposed on employers;
- whether there is an upper limit on the amount of compensation which can be granted in the case of gender pay discrimination;
- whether sanctions are imposed on employers in the event of pay discrimination;
- what rules apply in cases of retaliatory dismissal involving equal pay litigation;
- examples of compensation awarded by the courts in cases of gender pay discrimination.

In the meantime, it considers that the situation is not in conformity with the Charter on the ground that the obligation to ensure access to effective remedies in cases of pay discrimination has not been fulfilled.

The report states that the legislation amending the Gender Equality Act (which came into force in July 2017) introduced wider protection for anyone who reports discrimination, witnesses discrimination or refuses to obey an order to engage in discriminatory conduct or who testifies in any way in proceedings against discrimination or otherwise participates in any proceedings instituted for discrimination on the grounds of gender 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 report contains no information about *pay transparency* in the labour market or in *job classification systems*. The Committee therefore refers to its decision on the merits of 5 December 2019 (University Women of Europe (UWE) v. Croatia, Complaint No. 126/2016, §§151-157) noting that because it has not been demonstrated that a potential victim of pay discrimination may have access to all the necessary information with a view to effectively bringing a case to court; that job classification systems are applied and used in practice to prevent gender pay discrimination; and that job comparisons across companies are possible, the obligation to ensure pay transparency and to enable job comparisons is not satisfied.

Regarding the *notion of “work of equal value”* and the *criteria for assessing work of equal value* defined by law, the report states that under Article 91§2 of the Labour Act, “two persons of different sex perform the same work or work to which equal value is attributed if: 1) they perform the same work under the same or similar conditions or if they could substitute one another at the workplace; 2) the work one of them performs is of a similar nature to that performed by another, and the differences between the work performed by them and conditions

under which it is performed have no significance in relation to the overall nature of the work or they appear so rarely that they have no significance in relation to the overall nature of the work; 3) the work one of them performs is of equal value as that performed by another, taking into account criteria such as qualifications, skills, responsibilities and conditions under which the work is performed and whether the work is of manual nature or not.”

The Committee asks again for information in the next report on the job classification and promotion systems in place as well as on the measures adopted to ensure pay transparency in the labour market (in particular the possibility for workers to receive information on the pay levels of other workers), including the setting of timelines and measurable criteria for progress. It also wishes to know whether it is possible in practice to make job comparisons between different companies. In the meantime, it notes that the situation is not in conformity with the Charter on the ground that the obligation to ensure pay transparency has not been satisfied.

Enforcement

The Committee noted previously that employees who believed that they had been subject to gender discrimination may lodge a complaint with the Labour Inspectorate.

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 report states that the unadjusted gender pay gap was 11.3% in 2015, compared with 13.2% in 2016 and 12.7% in 2017.

The Committee notes from Eurostat data that the gender pay gap was 11.1% in 2016, 11.6% in 2017 and 10.5% in 2018 (compared with 5.7% in 2010 and 8.7% in 2014).

In the light of the above, the Committee considers that although this gap is below the average for the 28 European Union countries (i.e. 15% in 2018, as of 29 October 2020), it has almost doubled in the last decade. The Committee accordingly notes that the situation is not in conformity with Article 1 of the Additional Protocol to the 1961 Charter on the ground that the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

The Committee reiterates its request that the next report provide updated information on the specific measures and actions implemented to reduce the gender pay gap.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 1 of the Additional Protocol to the 1961 Charter on the grounds that:

- the obligation to ensure access to effective remedies in cases of gender pay discrimination has not been fulfilled;
- the obligation to ensure pay transparency has not been satisfied; and
- the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

