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European Committee of Social Rights

Conclusions 2020

LITHUANIA

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 Lithuania, which ratified the Revised European Social Charter on 29 June 2001. The deadline for submitting the 17th report was 31 December 2019 and Lithuania submitted it on 20 December 2019.

The Committee recalls that Lithuania 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).

Lithuania has accepted all provisions from the above-mentioned group except Articles 18§2 and 18§3.

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

The conclusions relating to Lithuania concern 14 situations and are as follows:

– 5 conclusions of conformity: Articles 1§1, 10§2, 10§4, 10§5 and 24.

– 3 conclusions of non-conformity: Articles 1§4, 9 and 20.

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

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

The next report from Lithuania 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 Lithuania.

Employment situation

According to Eurostat, the GDP growth rate rose from 2% in 2015 to 4.3% in 2017 before falling back to 3.9% in 2018. However, this rate remains 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 67.2% in 2015 to 72.4% in 2018, a rate which is above the EU 28 average (68.6% in 2018).

The employment rate for men increased from 68% in 2015 to 73.3% in 2018. This increase brought it closer to the EU 28 average (73.8% in 2018), although it remains slightly lower. The employment rate for women increased from 66.5% in 2015 to 71.6% in 2018, a rate that is well above the EU 28 average (63.3% in 2018). The employment rate for older workers (55 to 64-year-olds) increased from 60.4% in 2015 to 68.5% in 2018, a rate that is well above the EU 28 average (58.7% in 2018). The youth employment rate (15 to 24-year-olds) increased from 28.3% in 2015 to 32.4% in 2018, a rate that is below the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) fell from 9.3% in 2015 to 6.3% in 2018, a rate that is below the EU 28 average (7% in 2018).

The unemployment rate for men dropped from 10.3% in 2015 to 7.1% in 2018, a rate which is slightly above the EU 28 average (6.7% in 2018). The unemployment rate for women dropped from 8.4% in 2015 to 5.6% in 2018, a rate which is below the EU 28 average (7.2% in 2018). Youth unemployment (15 to 24-year-olds) dropped from 16.3% in 2015 to 11.1% in 2018, a rate which is below the EU 28 average (15.2% in 2018). Long-term unemployment (12 months or more, as a percentage of overall unemployment for persons aged 15 to 64 years) decreased from 42.8% in 2015 to 32.2% in 2018, a rate which is well below the EU 28 average (43.4% in 2018).

The proportion of 15 to 24-year-olds "outside the system" (not in employment, education or training, i.e. NEET) fell from 9.2% in 2015 to 8% in 2018 (as a percentage of the 15 to 24-year-old age group), a rate which is below the EU 28 average (10.5% in 2018).

The Committee notes the good performance in terms of employment (increasing) and unemployment (decreasing) during the reference period.

Employment policy

In its report, the Government indicates that the employment policy pays special attention to groups considered to be the most vulnerable. The Law on employment lists these target groups, which are entitled to additional support measures. They include unemployed persons who are over 50 years of age or under 29 years of age, long-term unemployed persons, persons with disabilities, unskilled jobless persons, first-time jobseekers and persons who have been granted temporary protection or refugee status. The Law on employment also lists the services (registering vacancies and jobseekers, information, advice, etc.) and employment support measures which should be put in place.

The Government specifies that during the reference period, priority was given to the long-term unemployed, persons without qualifications and persons with disabilities. It mentions several projects implemented thanks to the European structural funds to help these target groups find a job or a new job by, *inter alia*, acquiring and upgrading qualifications and skills. In particular, over the period 2014-2018, the projects entitled "Support for the long-term unemployed" (15,000 participants) and "Improvement of the competencies of persons with no qualifications" (20,500 participants) enabled respectively 67.7% and 76.3% of the participants to find a job. In addition to these projects, there were others for unemployed persons who are over 54 years

of age: "Support for older unemployed people" (2015-2018) which enabled more than half (53.5%) of the 14,400 participants to return to the job market, and "Seize the opportunity!" (2017-2020; 7,200 participants expected). Implementation of the Youth Guarantee scheme continued and in 2018, out of the 80,000 or so young persons concerned (aged 15 to 29 years), 55.1% received an offer (a job offer in the vast majority of cases, and an offer of a traineeship, apprenticeship, etc., for the rest).

The Committee notes that in its Fourth Opinion on Lithuania, adopted on 30 May 2018 (ACFC/OP/IV(2018)004), the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe stressed that Roma remained a vulnerable group and continued to face difficulties in several areas, in particular in access to employment (in 2015, the percentage of Roma who had an official employment contract was 15%). The Committee requests that the next report provide information on the labour market policy measures taken to support minorities with distinct levels of under-employment or unemployment (especially Roma) and of migrants and refugees.

The Committee further notes that in 2015 in Lithuania (the only EU member State where the majority of the population (56.2%) lived in rural areas), the unemployment rate for persons aged 15 to 64 years was 12.6% in rural areas as compared with 6.1% in the cities (the EU 28 average rates in 2015 being 9.3% and 10.1% respectively; cf. Eurostat, Statistics explained, Statistics on rural areas in the EU, 27 June 2018). The Committee requests that the next report provide information on the labour market policy measures taken to support unemployed persons living in rural areas.

According to European Commission data, public expenditure on labour market policies (as a percentage of GDP) has remained relatively stable: 0.53% in 2015, 0.51% in 2016 and 0.54% in 2017 (of which 0.24% was for active measures and 0.24% for passive measures in 2017). On the other hand, the Government reports that the activation rate decreased from 11.3% in 2015 to 6.5% in 2018. In this regard, the Committee notes that according to the European Commission, Lithuania is considering, on the basis of the Law on employment adopted in 2017, significantly improving its active labour market measures (Commission staff working document, Lithuania Country Report 2018, SWD(2018) 213 final, 7 March 2018). The Committee requests that the next report provide updated information on the public expenditure on active and passive labour market measures (as a percentage of GDP), as well as on the number of persons participating in active measures (training) and on the activation rate.

Conclusion

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

Article 1 - Right to work

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

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

1. Prohibition of discrimination in employment

Article 1§2 of the Charter prohibits all forms of discrimination in employment. The Committee asked States Parties to submit up-to-date information for this reporting cycle on the legislation prohibiting all forms of discrimination in employment, in particular on grounds of gender (had Article 20 not been accepted), race, ethnic background, sexual orientation, religion, age, political opinions or disability (had Article 15§2 not been accepted), together with information on the available remedies. It also asked for information on any specific measures taken to combat discrimination in employment against migrants and refugees.

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

Lithuania has accepted Articles 15§2 and 20. Accordingly, it was under no obligation to report on the prevention of discrimination on grounds of gender and disability, which will be examined by the Committee under the said provisions.

As regards the legislation prohibiting discrimination in general terms, the Committee examined the relevant legal framework in its conclusions 2012 and 2016 and found it to be in conformity with the Charter. The main legal acts ensuring equality and non-discrimination at work in Lithuania are the Law on Equal Treatment (LET) and the Law on Equal Opportunities for Women and Men (LEOWM). The Law on Equal Treatment enshrines the equality of persons and prohibits any restrictions on human rights or extensions of privileges on grounds of gender, race, nationality, language, origin, social status, belief, convictions or opinions.

The report points out that as of 2017 the new Labour Code came into force. Most of the provisions on employment that were previously outlined in the Law on Equal Treatment were reaffirmed in the new Labour Code. However, the Code also introduced an obligation on public and private entities that employ more than 50 employees to adopt measures aimed at promoting and executing equality policies in the workplace, and it set out a broader list of non-discrimination grounds.

The Committee notes from the 2019 country report of the European Equality Law Network (Network of Legal Experts in Gender Equality and Non-discrimination) that currently, the Law on Equal Treatment repeats the wording of the relevant EU directives in most instances but without going into the details of particular provisions, hence most concepts still require judicial interpretation. It further notes that amendments to the Law were made outside the reference period and asks that the next report provide comprehensive up-to-date information on relevant developments of the legal framework and the case law in this respect.

The report does not reply to the Committee's request for information on legislation targeted at combating discrimination on grounds of race, ethnic background, sexual orientation, age, political opinion or religion. The Committee again asks that the next report provide comprehensive descriptions of how discrimination on these grounds is prevented and combated by the legislation. While renewing its request, the Committee underlines that, should the next report not provide the relevant information, nothing will allow to show that the situation is in conformity with the Charter in this respect.

In particular with regard to prohibition of discrimination on grounds of ethnic origin, the Committee refers to the 2016 report of the European Commission against Racism and Intolerance (ECRI) which indicated that, despite some progress in a number of fields, the social marginalization of Roma people in employment is still evident. The same concerns were raised in July 2018 by the United Nations Human Rights Committee. More generally, the

Committee further notes that, in its concluding observations in 2016, the United Nations Committee on the Elimination of Racial Discrimination (CERD) also expressed concern that many persons belonging to national and ethnic minorities reportedly experienced racial stereotyping and discrimination that negatively affected their access to the labour market. The Committee therefore asks in particular that the next report include information replying to these comments.

Apart from questions on the legal framework, during this examination cycle the Committee assesses the specific measures taken to counteract discrimination in the employment of migrants and refugees. The report does not provide any information on this issue and the Committee recalls its request in this respect.

The Committee further recalls that appropriate and effective remedies must be ensured in the event of an allegation of discrimination. The notion of effective remedies encompasses judicial or administrative procedures available in cases of an allegation of discrimination, able to provide reinstatement and compensation, as well as adequate penalties effectively enforced by labour inspection; it also covers an appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment. The Committee explicitly requested information on these aspects to be provided for this examination cycle.

The Committee has previously noted (see Conclusions 2016) that victims of discrimination have two options to address discriminatory behaviour: either through a judicial procedure for claiming compensation or through the Equal Opportunities Ombudsperson (an equality body which can impose sanctions but cannot compensate the victim). Under the Civil Code, victims of discrimination are entitled to compensation for pecuniary and non-pecuniary damage and there is no upper limit on the amount that they may be awarded. The Committee noted, however, that there have been only a handful of successful discrimination cases and that judicial compensation for victims of discrimination was very low. At the same time, decisions of the Equal Opportunities Ombudsperson did not include compensation for damage and were limited to non-binding recommendation to stop discriminatory actions. The Committee asked for detailed information on the cases of discrimination in employment brought before the courts and the Equal Opportunities Ombudsperson, in particular on sanctions enforced on the employers and on the amount of compensation granted to the victims of discrimination in employment.

The Committee notes in this regard that in its 2019 Report on Lithuania, the European Equality Law Network raised similar concerns about the limited number of cases concerning discrimination being brought to courts each year, combined with restricted access to state-supported legal aid. While there is no special judicial, administrative or conciliation procedure specifically applying to cases of discrimination, victims of discrimination must rely on general civil procedures, and therefore a qualified and experienced legal consultant is necessary. The EELN also considers that the system of sanctions for discriminatory acts in Lithuania cannot be considered effective, proportionate or dissuasive as they are limited in their nature and very rarely applied.

In reply to the Committee's query, the report provides statistics on the number of investigations of discrimination in employment carried by the Office of the Equal Opportunities Ombudsperson (180 in total in the reference period 2015-2018). The report does not specify, however, whether any sanctions (apart from warnings or recommendations) were imposed by the Ombudsperson in his/her investigations into discrimination. The Committee wishes to refer in this regard to the 2019 EELN report, mentioned above, which points out that the Ombudsperson imposed a fine on only one or two occasions over the past 10 years of his/her operation, and that this equality body is considered at the domestic level to lack the powers to ensure the enforcement of his/her decisions. Finally, the report does not provide information on cases of discrimination brought before the courts.

In the light of the information in its possession, the Committee considers it cannot make a comprehensive assessment of all the aspects pertinent to the existence and functioning of effective remedies in cases of alleged discrimination. It repeats its requests for all relevant data to be included in the next report, together with comments on the observations quoted above. 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.

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

In its Conclusions 2016, the Committee noted, specifically, that occupations in the security and public order sectors, such as the police, were reserved for Lithuanian nationals, and it asked whether there were other occupations or posts in the public service which were reserved for nationals. It also noted that there was a restriction based on the level of knowledge of the Lithuanian language.

In reply, the report states that employment is not accessible to foreign nationals in statutory internal service professions (police officers, state border guards, firefighters, Financial Crime Investigation Service officers, VIP Security Department officers, Public Security Service officers, Lithuanian Customs officers, the Prison Department and subordinate penal institutions officers). The language restriction is applied to civil servants and state officials: these persons should hold Lithuanian citizenship and be proficient in the Lithuanian language, according to the Law on Civil Service of the Republic of Lithuania. The requirement of citizenship is not applicable to employees who work in the state or municipal institutions under a labour contract. The Committee considers that these exceptions comply with the requirements of Article 1§2, which stipulates that the only jobs from which foreigners may be banned are those inherently connected with the protection of public interest or national security and involve the exercise of public authority.

Overall, pending receipt 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 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 and 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 except the “gig economy” workers (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 observes that Articles 147 and 157 of the Criminal Code as amended on 12 May 2016 provide for criminalisation of forced labour and more broadly trafficking in human beings (THB).

In particular, Article 147 stipulates that a person who sells, purchases or otherwise transfers or acquires a person, or recruits, transports or holds in captivity a person by using physical violence or threats, or otherwise by depriving him/her of any possible resistance, or by taking advantage of the victim's dependence or vulnerability, or by using deceit, or by taking or paying money, or by receiving or providing other benefits to a person who actually has control over the victim, provided that the offender was aware or sought to exploit the victim, whether he/she agreed or not, for the purpose of slavery or under conditions similar to slavery, prostitution, pornography or other forms of sexual exploitation, forced marriage or marriage of convenience, forced labour or services, including begging, commission of criminal acts, or for any other exploitative purposes, that person shall be punished by two to ten years' imprisonment.

It provides that victims of THB may not be prosecuted for any criminal offence that they may have been forced to commit.

A legal entity shall also be held liable for the acts provided for in this Article.

The Committee also takes note of a recommendation issued on 17 December 2015 to ensure unanimous criteria for determining the cases that fall under the definition of human trafficking, to improve the quality of the means of pre-trial investigations, to ensure that pre-trial investigations would be accomplished in the shortest possible terms as well as, to coordinate interinstitutional co-operation in providing assistance to the victims of human trafficking.

Moreover, the report indicates that in 2018, during weekly police raids, officials inspected 137 entities operating on construction sites and in the catering and services sectors, which mostly employ third-country nationals. During the inspections, officials communicated with workers from the third countries: Ukraine, China, Belarus, Uzbekistan and India. Officials informed these persons of the most common forms of exploitation, informed them of their rights and how to access assistance. These inspections led to the identification of unauthorized and illegally employed persons, as well as to the discovery of irregularities in the posting of persons and possible tax evasion as a result of illegal employment relationships.

In 2019, during a 5-day police raid, more than 200 operators in construction, agriculture and other sectors suspected of being involved in the trafficking in human beings were inspected. Following this, a pre-trial investigation was initiated on grounds of fraudulent accounting, under Article 222 (1) of the Criminal Code of Lithuania. In addition, 48 administrative misconducts, mainly related to commercial or economic offenses (25 cases) and illegal employment (18 cases) were identified.

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 asks that the next report provide information on the enforcement of the abovementioned criminal law legislation. The report should provide information (including statistics and examples of case law) on the prosecution and conviction of exploiters for slavery, forced labour and servitude during the next reference period, in order to assess in particular how the legislation is interpreted and applied.

Prevention

The Committee considers that States Parties should take preventive measures such as 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 Committee notes other positive legal developments such as the adoption on 7 May 2015 by the Parliament of the Public Security Development Programme for 2015-2025 and the interinstitutional action plan approved by the Government on 13 April 2016 to implement the aforementioned programme. One of the essential aims of this Action plan is to develop effective measures to prevent and fight human trafficking. Therefore, this Action plan foresees: 1) to implement preventive actions against human trafficking, led by the police and criminal police, as well as to take part in the initiatives of EU and international law enforcement agencies to combat human trafficking; 2) to organise training in human trafficking for law enforcement officers; 3) to organise social support for victims of human trafficking; 4) to

strengthen the existing tools for the prevention of human trafficking, prosecution, victim protection and support.

In addition, according to the report, on 29 August 2016 the Minister of the Interior approved a National Action Plan against Trafficking in Human Beings for 2017-2019. Its main objectives are strengthening the coordination of action against trafficking in human beings; improving prevention; strengthening support to victims and persons at risk of becoming victims of trafficking; and strengthening the capacity-building of front-line staff. The National Action Plan includes activities to be implemented both at national and local levels and defines the responsible bodies, the timeframe and financial resources for each objective. The activities are to be implemented in partnership between the State authorities, municipal bodies and specialised NGOs. The Ministry of the Interior envisages annual evaluations of the implementation of the activities under the National Action Plan.

The Committee requests that the next report provide information on the implementation of the Action Plans as well as on their impact on reducing forced labour and exploitation.

To ensure the implementation of the national legislation, inspections are organized to deal with the problem of exploitation of vulnerability, forced labour and modern slavery.

Lithuania annually organizes and conducts international operations aimed at identifying victims of human trafficking who are exploited for the purposes of forced labour, slavery or slavery-like conditions. These measures are carried out by police officers together with the responsible agents of the State Labour Inspectorate working under the authority of the Ministry of Social Security and Labour.

According to the report, in 2016, preventive measures were organized, with the aim of evaluating the activities of companies which operate in Lithuania and which provide Public Employment Service in foreign countries. The purpose was to determine whether the persons were being employed legally in foreign countries and under what conditions. A thorough inspection was undertaken in established bodies and companies which fell into the category of those suspected of activities linked to human trafficking (in forms of illegal employment, forced work or slavery). 301 persons, 66 vehicles and 163 established bodies / companies were inspected.

In 2017, 314 persons, 118 personal documents and 59 economic entities were inspected in Lithuania again, during the implementation of the aforementioned measures. During the four-day inspections, 27 administrative offenses were recorded in the areas of illegal work, as well as breaches of safety rules at work, breaches of Lithuanian Law on Guarantees for Posted Workers, breaches of commercial or economic practices, cases of prostitution and drunkenness or the use of psychotropic / psychoactive substances at work.

While taking note of the above information on inspection and investigations, the Committee refers to GRETA's most recent 2019 recommendation to the Government for increased human resources and a strengthened mandate of labour inspectors in order to detect possible victims of human trafficking and refer them for identification and assistance (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania, Second Evaluation Round, GRETA (2019)08, 21 June 2019, par. 64).

Measures have been taken so far to assess the prevalence of the problem of exploitation of vulnerability, forced labour, modern slavery in particular through data collection. In this regard, the National Rapporteur institution was established on 31 March 2017 to collect statistical data and other relevant information on human trafficking. For this purpose, an electronic data collection system has been set up, capable of receiving and processing information from relevant state and non-state actors and allowing disaggregation by sex, age, form of exploitation, country of origin and/or destination. On the basis of the data collected, the National Rapporteur regularly reports to the Lithuanian Government, as well as to the EU Anti-Trafficking coordinator, on the situation of human trafficking in Lithuania. The Committee asks

that the next report provide information on the data collected, i.e., the number of victims, criminal investigations etc.

Protection of victims and access to remedies, including compensation

The report does not provide any detailed information in this respect.

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 updated 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

There are no special provisions for domestic or homeworkers in the Labour Code. Homeworkers are subject to the common rules on employment. The State Labour Inspectorate carries out inspections of employers in order to check compliance with labour laws and other legal acts, it orders rectification of violations, and imposes sanctions on employers. 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 domestic environment and protect domestic workers as well as take measures to implement them (Conclusions 2008, General Introduction, General Question). The Committee recalls that, for the purposes of Article 3§3 of the Charter, inspectors must be authorised to check all workplaces, including residential premises, in all sectors of activity (Conclusions XVI-2 (2003), Czech Republic; Conclusions 2013, Statement of Interpretation of Article 3§3 (i.e., on Article 3§2 of the 1961 Charter). The Committee considers that such inspections must be clearly provided for by law, and sufficient safeguards must be put in place to prevent risks of unlawful interferences with the right to respect for private life.

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

“Gig economy” or “platform economy” workers

The report provides information on the current legal framework with regard to remote work and temporary agency employment contracts. In particular, Article 52 of the Labour Code regulates remote work. It provides that remote work is a form of work organisation or a method of job performance when an employee regularly performs, during all or part of the working time, the assigned job functions or part thereof remotely, i.e., in an agreed place other than the workplace itself, acceptable to both parties involved in the employment contract, while also using information technology (teleworking).

Article 72 of the Labour Code provides that a temporary agency employment contract is an agreement between an employee (hereinafter ‘temporary worker’) and an employer

(hereinafter 'temporary agency') under which the temporary worker undertakes to perform work for a certain period of time, for the benefit and under the subordination of the person (hereinafter 'user enterprise') specified by the temporary agency; the latter will pay the temporary worker. Only a temporary agency that meets the criteria and procedure established by the Government of the Republic of Lithuania or an authorised institution may be party to a temporary agency employment contract as the employer. Article 75 of the Labour Code provides that during the period of work for a user enterprise, this one must ensure that the temporary worker is subject to the same legal provisions, collective agreements and other labour law provisions that are applied at the workplace and are valid for the employees of the user enterprise.

The Committee takes note of the current legal framework to protect workers in specific situations such as remote work or under a temporary agency employment contract. However, it asks the authorities to provide information on whether these provisions are applicable to persons working in the "platform economy". Moreover, the Committee requests that the next report contain information on the concrete measures taken or envisaged to protect workers against all forms of exploitation and abuse in the "gig economy" or "platform economy". 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.

Pending receipt of the information requested in respect of all the points mentioned above, the Committee concludes that the situation in Lithuania is in conformity with Article 1§2 of the Charter with regard to forced labour and labour exploitation.

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

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

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

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

The Committee however deferred its conclusion on continuing vocational training (Article 10§3) (Conclusions 2020).

It considered that the situation in Lithuania was not in conformity with the Charter as regards measures relating to vocational guidance (Article 9) on the grounds that vocational guidance within the education system was not provided by sufficient staff, nor was it provided to a sufficient number of persons (Conclusions 2020). Accordingly, the Committee considers that the situation is not in conformity with Article 1§4 of the Charter on the same grounds.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 1§4 of the Charter on the ground that vocational guidance within the education system is not guaranteed.

Article 9 - Right to vocational guidance

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

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.

Vocational guidance within the education system

In its previous conclusion (Conclusions 2016) the Committee noted that no information was included in the report concerning human and financial resources allocated to vocational guidance within the education system and the number of beneficiaries during the reference period. It recalled that vocational guidance must be provided free of charge, by a sufficient number of qualified staff, to a significant number of persons and with an adequate budget, both within the school system and within the labour market. It asked the next report to provide such information and deferred its conclusion.

As regards financing, the report indicates that vocational guidance is funded from the state budget (with contributions from different projects and the social partners).

In this respect, vocational guidance in general education and VET schools is funded by the state budget via pupil's basket – the amount of money dedicated to one student's education. The report indicates that the student basket per pupil amounted to € 980 in 2015, € 1,014 in 2016 and € 1.059 in 2017. Part of the overall pupil's basket – approximately three euros per student – is dedicated to vocational guidance and study visits/activities. Additionally, schools may receive funding from other sources, such as 2% of income tax transferred from a taxpayer, tuition fees in private schools and voluntarily contributions. Vocational guidance activities are also funded by the state budget, the school's own resources and the European Social Fund (ESF). The Committee asks the next report to indicate how the expenditure has developed over the reference period.

The Committee notes from the current report that over the years 2012-2018 with the support of EU funds several new tools have been created, including a model of career guidance for schools and vocational training institutions, a program of career guidance and some methodological tools for career guidance.

The current report further provides information on the number of institutions offering professional orientation services, as well as the number of full time posts offered in such schools to career specialists for professional orientation services over the reference period. In particular, the Committee takes note that in the school year 2017-2018 vocational guidance services were organized in 586 educational institutions (27 vocational training institutions and 559 general education schools). As regards the staff, the report indicates that among the 586 institutions, only about 40 institutions had full-time career specialists job positions.

According to the report, the highest number of career specialist can be found in gymnasiums, while the lowest in secondary schools. The report indicates that a low ratio of pupils to career specialist in 2017-2018 school year was noticeable in vocational training institutions (over 6,600 pupils per one full-time career specialist); in 2016-2017. it was also low in secondary education schools (about 6,800 pupils per one full-time career specialist).

As regards the qualifications of the staff, the report indicates that all professional orientation and career guidance specialists who work at schools have higher education, but only 14% of them have a Masters degree in career management.

The report indicates that career guidance in Lithuania is still fragmented. In particular, it indicates that consistent vocational guidance services are provided at only about 50% of schools. In the rest of schools such services are mostly limited to providing professional information and counselling. Moreover, the report indicates that in Lithuania there is a lack of collaboration between labour market and the educational system, which is considered key to

assure career guidance and possibility to know different professions in a real work environment.

In the light of the data provided for in the national report and assessed above, the Committee considers that vocational guidance within the education system in Lithuania is not provided by a sufficient number of staff, nor it is provided to sufficient number of persons .

Vocational guidance in the labour market

In its previous conclusion (Conclusions 2016), the Committee noted that the report did not contain any information on financial resources, the number of qualified staff and the number of beneficiaries providing vocational guidance in the labour market and asked the next report to provide such information. It also asked the next report to provide up-to-date information on the functions, organisation and operation of public and private services providing vocational guidance within the education system. In the meantime, it reserved its position.

The current report indicates that in the employment sector, career guidance services for job-seekers are provided by territorial labour exchanges and their structural divisions, the youth job centres.

As regards the expenditure on vocational guidance, the report indicates that funding for career guidance services comes from diverse sources, including the state budget, the European Social Fund (ESF) and funds from Active Labour Market Resources and the Youth Guarantee Initiative. The Committee asks the next report to indicate what is the amount of financial resources dedicated to vocational guidance services in the labour market and how it developed during the reference period.

As for the staff involved in professional guidance services, the Committee notes from the report that the requirements for counsellors of territorial labour exchanges and their youth job centres include a degree of higher or equivalent education, at least one year of work experience in the field of employment policy, knowledge of relevant legislation, as well as information management and analytical skills.

According to the report, the Lithuanian Employment Service under the Ministry of Social Security and Labour of the Republic of Lithuania employs case managers who have specific knowledge and are available to provide professional help. The key objective of case management is to assist the client in overcoming the barriers around him, increase his capacities and successfully apply them to the labour market. Case management includes services such as individual counselling, social skills sessions, participation in an interview with the employer.

As regards the number of beneficiaries of vocational guidance measures in the labour market, the report indicates that during the first half of the year 2018, a total of 109,001 persons benefited from information and consultations services, individual consultations, information by phone, email and internet, as well as from lessons.

The Committee notes that the current report does not provide information on the number of staff involved in vocational guidance services in the labour market, nor on the amount of financial resources allocated to these services. In the absence of such elements, the Committee cannot assess the effectiveness of vocational guidance services in Lithuania within the labour market. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation is in conformity with Article 25 of the Charter on this point

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 9 of the Charter on the grounds that vocational guidance within the education system is not provided by sufficient staff, nor is it provided to a sufficient number of persons.

Article 10 - Right to vocational training

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

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

The Committee refers to its previous conclusions for a description of the situation which it found to be in conformity with the Charter (see Conclusions 2016). The Committee notes that in 2017 a revised Law on Vocational Education and Training was adopted, its aim being to increase responsiveness to economic change and modernise the management and funding of the vocational education and training system.

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

According to the report, Lithuania has continued to devise a framework for sectoral qualification standards, now comprising 24 standards, which are updated every five years. The process of approving and updating standards is still carried out by the Qualifications and Vocational Education Development Centre.

The Committee notes the authorities' desire to promote modular vocational education and training programmes. It notes that, as a result, in 2019, 80% of learners were enrolled in such programmes (compared to 57% in 2018). 20% of students were still studying on traditional two-year programmes.

In a context in which spending by the state and the municipalities on vocational education and training was 0.3% of GDP in 2016, the Committee notes that the state has embarked on a reform of the network of training institutions to make them more specialised and gear them more to market demands. In this connection, their numbers will be significantly reduced (from 70 in 2018 to a planned 58 in 2020) on the basis of a model in which these establishments have become public institutions.

Measures taken to integrate migrants and refugees

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

Conclusion

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

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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

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 2012 conclusions, it had deferred its conclusion, noting that the report did not provide any information on apprenticeship.

The report shows that apprenticeship is mainly offered in continuing vocational training and non-formal education (2587 apprentices registered in 2017 and 1886 in 2018), although programmes exist in initial training and the number of apprentices in this framework is increasing (757 apprentices were registered in 2017 and 1314 in 2018).

The Ministry of Education, Science and Sport is currently developing a procedure to implement the revised Law on Vocational Education and Training of 2017 (see conclusion Article 10§1). In addition, from 2017, apprenticeship contracts are subject to specific provisions in the new Labour Code (Articles 81-84).

The Committee notes that under current Lithuanian legislation there are two types of apprenticeship contracts:

- an apprenticeship work contract without concluding a training contract;
- an apprenticeship work contract concluded with a training contract that is also regulated on formal or non-formal training.

The Committee notes that the first type of apprenticeship contract does not meet the requirements of Article 10§2 as there are no close contacts between training institutions and the work life (see, for example, Conclusions 2012 – Serbia, Article 10§2). However, the Committee notes the existence of several safeguards which ensure the existence of a training programme for the entire period of validity of the contract (presence in the contract of clauses on the skills to be acquired by the apprentice, methods of acquisition, training subjects, training period, results and other essential provisions). During the period of validity of the apprenticeship contract, the training programme can only be changed by mutual agreement.

The Committee notes that the duration of the second type of apprenticeship contract may exceed 6 months (which is not the case for the first type of contract). The employer must ensure the achievement of the results set out in the formal or non-formal training programme or create all the conditions to achieve them. At the end of the formal or non-formal training programme, a certificate is issued to the apprentice.

The Labour Code also sets out the terms and conditions for the reimbursement of training costs incurred by the employer, the apprentice's rate of pay, the maximum duration of working and training time per week and the conditions for terminating the apprenticeship contract.

The Committee notes that the division of time between theoretical and practical training is 30/70%. Internal and external evaluation procedures can be used to monitor the quality of learning.

The Committee notes that the authorities have not provided information in response to previous comments on the need for learning planning based on a labour market analysis and taking into account the expectations of stakeholders and on the promotion of learning and its perception by stakeholders (see Conclusions 2016). The Committee reiterates its request that this information be included in the next report.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation of Lithuania is in conformity with Article 10§2 of the Charter.

Article 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

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

The Committee notes that Lithuania was asked to reply to the specific targeted questions for this provision (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”).

In its previous conclusion (Conclusions 2016), the Committee requested information on the preventive measures against deskilling of still active workers at risk of unemployment as a consequence of technological and/or economic development. It asked in particular to be informed of the types of continuing vocational training, the percentage of employees participating in vocational training and the total expenditure.

According to the report, amendments to the Law on Employment, into force as of 1 February 2018, provide for the training to employed persons who are registered with the Public Employment Service and are in search of other work, in order to improve their qualifications and competencies. The training is implemented through bilateral or tripartite agreements. In the context of bilateral agreements, the Public Employment Service funds the vocational training and the participant undertakes to find employment, either by themselves or with the assistance of the Public Employment Service, for at least 6 months after the training. In the context of tripartite agreements, the Public Employment Service funds the training and the employer that is part of the agreement undertakes to employ the participant for at least 6 months. The report states that vocational training is available only to employed persons planning to change employer or become self-employed within six months after the training. The Committee asks what are the measures in place to ensure the right to vocational training and re-training for employees that are not in search of another post or occupation.

In addition, the report refers to internal service vocational training institutions, such as Police School and Firefighters’ School and the training that they offer to officers.

With respect to the rate of participation of workers in vocational training, according to the report, the number of employed individuals in vocational training dropped from 4.281 in 2015 to 78 in 2018, as did the participation rate, which decreased from 0.695% to 0.021%. This trend is also observed in the data provided in the report as regards the total expenditure for vocational training programmes, which fell from €256.050.000 in 2015 to €886.000 in 2018.

The Committee considers that the attendance of employed persons in programmes of vocational training and retraining was low. It asks what measures the Government plans to undertake in order to increase the participation of employed persons in training and retraining programmes.

However the report also provides information on training financed by the European Union Structural Funds, under the competence of the Ministry of Economy and Innovation. According to the report, such funding for the years 2014 – 2020 amounts to approximately €80.000.000, while by the end of 2018, 23.153 workers have received trained in the context of these instruments. The Committee reiterates its previous question and asks the next report to provide information on the overall participation of all employed persons in vocational training programmes and the total expenditure for such programmes.

In response to the Committee’s targeted question, the report states that training courses are updated and improved on a regular basis. It also states that IT training tools for vocational training programmes are also updated to match requirements for emerging competences, such as new equipment and technologies and innovation. The Committee notes from the report that measures financed from the European Union Structural Funds aim to enhance qualifications and competencies of the employed. The increase of employees’ skills related to

new technologies is included in these measures. The Committee also notes from the report, that the government plans to reform and update such measures targeting employees' skills related to Industry 4.0. and digitalisation. The Committee asks the next report to provide information on such updates and reforms, in particular with regard to measures and strategies aiming to enhance employees' skills related to digital literacy, new technologies, human-machine interaction and new working environments, use and operation of new tools and machines, needed by workers to be competitive in emerging labour markets.

In its previous conclusion (Conclusions 2016), the Committee requested information on continuing training of unemployed persons, such as the number of persons trained and the activation rate, i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

The Committee notes that, as regards the number of persons in vocational training programmes and the activation rate, the data provided by the report is contradictory. It, therefore, reiterates its question.

Conclusion

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

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 Lithuania.

The Committee recalls that it previously concluded that the situation was in conformity with the Charter.

The Committee notes that Lithuania was asked to reply to the specific targeted questions for this provision (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities").

The Committee notes from the report that the number of long-term unemployed persons in Lithuania during the reference period was as follows: 57,000 (43.2% of unemployment) in 2015, 44,000 (38.8% of unemployment) in 2016, 39,000 (38.2% of unemployment) in 2017 and 29,000 (32.8% of unemployment) in 2018. The Committee notes that in 2018 it was lower than the EU average.

The Committee notes that according to the Employment Act, active labour market policy measures (vocational training, apprenticeship contract, internship, recognition of competences acquired through non-formal and informal learning and combination of active labour market measures) are in place to combat unemployment. It also notes that, the measures can be tailored to the individual needs of long term unemployed persons and they may avail of several measures.

The Committee requests that the next report provide specific information on the impact of these measures on reducing long-term unemployment, with special attention to young long-term unemployed persons.

Further in order to reduce long-term unemployment (LTU), the Government is benefiting from the support of European Social Fund. From 1 August 2014 to 30 April 2018, 14,954 persons participated in the LTU project "LTU Employment Support" (in vocational training: 7391, in subsidised employment: 5370, in vocational skills support: 1912, in labour mobility: 318). 67.7% of the participants were employed, including the self-employed, after completing their participation in the project. The budget of the project was EUR 24,000,000.

The Committee notes that it is planned to involve 16,800 LTU (71% of all participants) in a new project TAPK (Creating Your Future Prospects), to be implemented from 14 December 2017 to 1 March 2020, with a budget of EUR 38,500,000, of which EUR 27,300,000 is earmarked for LTU. It asks that the next report provide information on the results of this project.

According to the report Council Recommendation on the integration of the long term unemployed into the labour market of 15 February 2016 (2016/C 67/01) has been partially implemented. All unemployed are provided with an Individual Action Plan (IAP) based on an individual assessment, which is regularly updated. The collaboration and integrated assistance (CIA) model was discussed and pilot project in 6 municipalities started in 2019. According to the CIA model, the PES or the municipality develops and individual integration plan which includes active labour market policy measures and/ or social services for a person in need. Afterwards, a case manager is assigned along with a case team – a group of specialists who decide that specific measures are needed. Then the person completes the activities listed in his/ her integration plan.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 10§4 of the Charter.

Article 10 - Right to vocational training

Paragraph 5 - Full use of facilities available

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

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 previous conclusion was deferred pending receipt of information as to whether state loans, state supported loans and social scholarships are available to nationals of other States Parties lawfully resident in Lithuania, without any prior length of residence required (Conclusions 2016).

It notes from the report that according to the Law on Employment, labour market services and employment support measures also apply to foreigners holding a residence permit in the Republic of Lithuania who are exempted from the obligation to obtain a work permit. Therefore, state support is also available to foreign nationals holding a temporary residence permit. Furthermore, the Law on Education gives every citizen of the Republic of Lithuania and every foreigner who is a permanent or temporary resident of the Republic of Lithuania the right to education. Access to education for persons at risk of social exclusion is ensured by social services and educational support, by implementing targeted social and educational programmes directly or through schools. Article 30 of the Law on Education guarantees education in the Lithuanian language and of the Lithuanian (state) language.

In its previous conclusion (Conclusions 2016) the Committee asked what measures were taken to evaluate vocational training programmes for young workers, including the apprenticeships. In particular, it required information on the participation of employers' and workers' organisations in the supervision process.

The report states that a procedure for regular external evaluation of vocational education and training (VET) providers is being introduced, as well as requirements for regular self-evaluation and maintenance of internal quality management systems. According to the 2017 Law on VET, the evaluation of VET institutions must be carried out every five years. If the programme receives a negative evaluation for the second time, its licence maybe withdrawn

In addition, the Centre for Monitoring and Analysis of Research and Higher Education (MOSTA) monitors the quality of higher and vocational education on the basis of indicators in order to improve the quality of vocational education and increase links with the labour market.

The quality of the apprenticeship is the responsibility of the VET institution or the employer, if the apprenticeship takes place not in a VET institution. In addition to the general quality assurance measures for VET there are internal and external evaluation and accreditation procedures.

The report underlines that as a result of the new law on VET, the role of sectoral professional committees is strengthened in the process of evaluating both VET institutions and their capacity to implement programmes, as well as the role of social partners in the implementation of programmes. The social partners are involved in designing the content of VET programmes, evaluating VET programmes for their relevance to labour market needs, organising practical training for apprentices and assessing acquired skills.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 10§5 of the Charter.

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

Paragraph 1 - Vocational training for persons with disabilities

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

The Committee previously found the situation to be in conformity with article 15§1 of the Charter (Conclusions 2016).

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”). The questions posed for this cycle of supervision focused exclusively on the education of children with disabilities.

The Committee recalls nonetheless that under Article 15 all persons with disabilities, irrespective of age and the nature and origin of their disabilities, are entitled to guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialized bodies, public or private.

Therefore, in its next cycle of supervision, the Committee will examine Article 15§1 issues as they apply to all persons with disabilities (not just as they apply to children).

Legal Framework

According to the report the Law on Education (2011) provides that when necessary, general education curricula and vocational training programmes shall be adapted to children with special educational needs (SEN), in accordance with the procedure specified in the law.

Article 34 of the Law specifies that “[a]t the request of the parents or guardians of a learner with special needs, conditions shall be created for them to study at a preschool education and general education school located close to their home or at any state, municipal or regional school designated for learners with special educational needs. The pedagogical psychological service shall recommend a school for the child”. The same article states that it is the responsibility of a municipality where the person lives to ensure access to education and that this should be done “...by adapting the school environment, by providing psychological, special pedagogical, special and social-pedagogical assistance, by supplying schools with technical aids and special teaching aids, and in other ways as prescribed by law”.

The Committee notes from the Academic Network of European Disability Experts (ANED) that the Law on Education does not preclude schools from refusing children with disabilities and that the UN Committee on the Rights of Persons with Disabilities (see above) recommended that the State party guarantee a legally enforceable right to inclusive, quality and free primary education and to affordable secondary education on an equal basis with others. The Committee asks for the Governments comments on this.

As regards the definition of disability the Committee has previously stressed the importance of moving away from a medical definition of disability towards a social definition. An early example is that endorsed by the World Health Organisation in its International Classification of Functioning (ICF 2001) which focuses on the interaction of health conditions, environmental factors and personal factors.

Article 1 of the UN Convention on the Rights of Persons with Disabilities (CRPD) crystallises this trend by emphasizing that persons with disabilities include those with long term disabilities including physical, mental or intellectual disabilities which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Importantly, this means there is no a priori exclusion from inclusive education based on the type of disability. Indeed, Article 2 of the CRPD which prohibits discrimination “on the basis of disability” may be read to go further by including those who have had a record of disability in

the past but who continue to be treated negatively and those who never had a disability but may nevertheless be treated by others as if they had a disability (the so-called “attitudinally disabled”).

The Committee therefore asks the next report to clarify whether the assessment of disability” in the fields of education and vocational training takes into account the personal and environmental factors interacting with the individual. These factors are particularly relevant when it comes to an assessment of “reasonable accommodation”.

Access to education

The report states that children with special educational needs (SEN) are entitled to be educated in all schools providing compulsory general education. Practically all general education schools may be regarded as inclusive (except for special schools and sanatorium schools) as they accept children with various educational needs. The general curriculum is adapted for children with SEN. Children with SEN are provided with necessary learning tools and technical aids. The educational environment is adapted, aiming to ensure equal access to education. Schools provide educational assistance in two ways: they employ support staff or they contract relevant specialists from the Pedagogical-Psychological Service (hereinafter referred to as the PPS).

The report states that the proportion of pupils with SEN in mainstream schools is increasing: in the 2012/2013 school year it was 10.8% and in 2016/2017 it was 11.7% (Source: Statistics Lithuania).

About 45.7% of all general education schools (schools providing compulsory education) are adapted for pupils with SEN. Some 45.5% of pupils with SEN are engaged in part-time activity groups in general education schools (including special schools).

Special education schools provide general education curricula to learners with SEN in adapted learning environments. In the 2016/2017 school year, there were 47 special schools educating 3,680 children. Special classes in mainstream schools have been created to enable learners with SEN to develop alongside their peers, closer to home, and to gradually reduce the number of special schools. The number of pupils with SEN attending special schools had been decreasing from 2012 up until recently. Accordingly, the number of special schools has decreased.

The Committee notes from a report of the Commissioner for Human Rights of the Council of Europe, following his visit to Lithuania in December 2016 (CommDH(2017)7) that Lithuania has a tradition of special schools for children with various disabilities, and this practice has seldom been questioned due to prevailing misconceptions in society that such children are best educated in segregated settings. The majority of children with intellectual and psychosocial disabilities attend special schools, which are segregated from mainstream educational systems and facilities. The Commissioner also received reports that access to buildings for students with disabilities remained problematic. The Committee asks for the Governments comments on this.

The Committee further notes from the Concluding Observation of the UN Committee on the Rights of Persons with Disabilities (CRPD/C/LTU/CO/1, April 2016) that the UN Committee was concerned, inter alia, that many students with disabilities, particularly those with visual, auditory, psychosocial or intellectual impairment, in preschool and primary and secondary education are referred to and obliged to attend special schools due to a lack of reasonable accommodation and accessibility in the mainstream educational system, among other reasons. The Committee asks for the Governments comments on this.

In this respect the Committee also notes from the ANED that on 27 June 2017, the Minister of Education and Science adopted Order No. V-527 on ‘Children inclusive learning and approval of the Action Plan on the Inclusion of Children in Education and Multidimensional Education 2017-2022’. The plan specifically aims to reduce the number of children in special schools

from 0.8% of all children in education in 2017 to 0.6-0.5% between 2020-2022. Further the ANED cites a report by the National Audit Office, which indicates that there has been no improvement with regards to inclusive education between 2013 and 2019. The number of children with special needs increased from 35,038 (in 2013-2014) to 35,711 (in 2018-2019), while the number of children with disabilities in special education schools rose from 3,597 (2013-2014) to 3,686 (2018-2019), and the number of special education schools remained the same: 48 (in 2013-2014) and 47 (in 2017-2018). The Committee asks for the Government's comments on this.

In order to assess the effective equal access of children with disabilities to education, the Committee needs States parties to provide information, covering the reference period, on:

- the number of children with disabilities, including as compared to the total number of children of school age;
- the number and proportion of children with disabilities educated respectively in:
 - mainstream classes.
 - special units within mainstream schools (or with complementary activities in mainstream settings)
 - in special schools
- the number and proportion of children with disabilities out of education;
- the number of children with disabilities who do not complete compulsory school, as compared to the total number of children who do not complete compulsory school;
- the number and proportion of children with disabilities under other types of educational settings, including:
 - home-schooled children
 - attending school on a part time basis
 - in residential care institutions, whether on a temporary or long-term basis
- the drop-out rates of children with disabilities compared to the entire school population.

As regards measures in place to address costs associated with education the Committee notes that pupils designated by the state as having SEN receive free transport to and from school. The Committee asks whether children with disabilities/SEN are entitled to financial support to cover any additional costs that arise due to their disability.

Measures aimed at promoting inclusion and ensuring quality education

The Committee asks for information on the implementation and outcomes of the Action Plan on the Inclusion of Children in Education and Multidimensional Education 2017-2022 and on any other measures taken to ensure inclusive education.

The Committee recalls that Article 15§1 of the Charter makes it an obligation for States Parties to provide quality education for persons with disabilities, together with vocational guidance and training, and that priority should be given to inclusive education in mainstream school. States parties must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems.

The Committee has recognised that “integration” and “inclusion” are two different notions and that integration does not necessarily lead to inclusion Mental Disability Advocacy Centre (MDAC) v. Belgium Complaint No.109/2014, Decision on the admissibility and merits 16 October 2017, International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium Complaint No. 141/ 2017, Decision on the merits of 20 September 2020). The right to an inclusive education relates to the child's right to participate meaningfully in mainstream education.

The Committee notes that the UN Committee on the Rights of Persons with Disabilities, in its General Comment No. 4, (2016), on the Right to Inclusive education has stated that “inclusion

involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion”.

The Committee also recalls that inclusive education implies the provision of support and reasonable accommodations which persons with disabilities are entitled to expect in order to access schools effectively. Such reasonable accommodations relate to an individual and help to correct factual inequalities (MDAC v. Belgium, Complaint No.109/2014, Decision on admissibility and merits 16 October 2017 para 72). Appropriate reasonable accommodations may include: adaptations to the class its location, provision of different forms of communication and educational material, provision of human or assistive technology in learning or assessment situations as well as non-material accommodations, such as allowing a student more time, reducing levels of background noise, sensitivity to sensory overload, alternative evaluation methods or replacing an element of the curriculum by an alternative element.

The Committee asks the States parties to provide information on how reasonable accommodation is implemented in mainstream education, whether and to what degree there is an individualized assessment of ‘reasonable accommodation’ to ensure it is adequately tailored to an individual’s circumstances and learning needs, and to indicate what financial support is available, if any, to the schools or to the children concerned to cover additional costs that arise in relation to ensuring reasonable accommodations and access to inclusive education.

It asks in particular what measures are taken to ensure that teachers and assistants dealing with pupils and students with disabilities are adequately qualified.

It furthermore asks whether the qualifications that learners with disabilities can achieve are equivalent to those of other learners (regardless of whether learners with disabilities are in mainstream or special education or of whether special arrangements were made for them during the school-leaving examination). The Committee also asks whether such qualifications allow persons with disabilities to go on to higher education (including vocational training) or to enter the open labour market. The Committee also asks the state to provide information on the percentage of disabled learners who go on to higher education or training. The Committee also asks what percentage of learners with disabilities enter the open labour market.

Remedies

The report provides no information as regards remedies for children with disabilities /SEN who believe they have been discriminated in access to education or who believed they have been denied the assistance they require.

The Committee asks the next report to provide updated information on the remedies available in the case of discrimination on the ground of disability with respect to education (including access to education, including the provision of adequate assistance or reasonable accommodation) and the relevant case-law.

Conclusion

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

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

Paragraph 2 - Employment of persons with disabilities

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”) as well as previous conclusions of non-conformity or deferrals.

The Committee previously concluded that the situation was in conformity with the Charter Conclusions 2016).

Legal framework

The report states that as of 1 July 2017 the updated provisions of the Labour Code regarding measures to encourage employment of persons with disabilities are applicable. Subparagraph 6 of paragraph 2 of Article 26 states that in implementing the principles of equality and non-discrimination, an employer, must take appropriate measures for conditions to be created for people with disabilities to get a job, work, pursue a career or learn, including the adequate adaptation of premises, provided that the duties of the employer are not disproportionately burdened by the said measures.

No information is provided on how the reasonable accommodation requirement is implemented in practice (including statistics showing the number of requests for reasonable accommodation measures, the number of requests granted, and the costs refunded and examples of case-law). The Committee reiterates its request for this information and information on mechanisms established to monitor the effective implementation of the reasonable accommodation provisions.

Access of persons with disabilities to employment

The Committee notes that no information is provided in response to the question on the number of persons with disabilities in employment etc.

The Committee recalls that it needs to systematically be provided with updated figures concerning the total number of people with disabilities of working age, those in employment (on the open market and in sheltered employment), those benefiting from employment promotion measures and those seeking employment as well as those that are unemployed.

The Committee asks that this information be provided in the next report. If the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 15§2 of the Charter.

The Committee notes from the Academic Network of European Disability experts (European Semester 2018/2019 country fiche on disability) that according to the estimates available from EU-SILC data, and compared to other EU Member States, that Lithuania has a low disability employment rate and one of the widest disability employment gaps in the EU. This is despite strong growth in the general labour market. The situation is particularly marked for persons who declare more severe levels of impairment, for whom the average employment rate was the lowest in the EU in 2015. The unemployment rate for this group is also exceedingly high by European standards.

It further notes in this regard from the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities (CRPD/C/LYU/CO/1, April 2016), that the UN Committee was concerned at the commonly applied concept of “working incapacity”, which results in a low employment rate among persons with disabilities, and at a singular focus on segregated work environments, such as social enterprises.

Likewise the Commissioner for Human Rights of the Council of Europe, following his visit to Lithuania in December 2016 (CommDH(2017)7) noted that Lithuania has yet to prioritise and promote the employment of persons with disabilities in the open labour market and there is a low employment rate among persons with disabilities.

The Committee asks for the Government's comments on these observations.

Measures to promote and support the employment of persons with disabilities

According to the report persons with disabilities are entitled to support in access employment under the Law on Support for Employment. The Committee recalls from its previous Conclusion (Conclusions 2016) that under the Law on Support for Employment, State support is provided for employers who create new jobs, adapt existing workplaces or hire unemployed people with disabilities on open-ended employment contracts. The employers must cover part of the expenses relating to the creation or adaptation of a workplace and maintain such a workplace for at least 36 months from the date of employment of persons referred by labour offices. Under the above-mentioned law, employers may be granted wage subsidies (there being no limit on the number of persons with disabilities employed).

The report mentions other measures aimed at promoting the employment of persons with disabilities. The Project "Assistance for disabled" was implemented in 2015-2018, 220 persons with disabilities participated, out of whom 59 started to work. The Public Employment Service under the Ministry of Social Security and Labour implemented the 2016–2018 Action Plan for Implementation of the National Programme for Social Integration of Persons with Disabilities which provided funds, inter alia for assistance in resolving issues concerning employment, looking for a job, increasing motivation to work, vocational rehabilitation, and support at the workplace.

Further the report states that the Public Employment Service employs case managers who assist the client in overcoming the barriers in accessing employment. Case management services are provided in 52 customer service divisions.

The Committee wishes to receive information in the next report on additional measures taken to improve the employment rate of persons with disabilities on the open labour market.

Remedies

The Committee asks the next report to provide updated information on remedies as well examples of relevant case law. It recalls that legislation must confer an effective remedy on those who have been discriminated against on grounds of disability and denied reasonable accommodation.

Conclusion

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

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 Lithuania.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 27 May 2019, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”) as well as previous conclusions of non-conformity or deferrals.

The Committee previously concluded that the situation was in conformity with Article 15§3 of the Charter.

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 (Conclusions 2012, 2016) for a description of the relevant legislation that it had considered to be in conformity with the requirements of Article 15§3. The Committee asks the next report to provide updated information in this respect.

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 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

According to the report the “Creation of conditions in Lithuania for the sustainable transition from institutional care to family- and community-based services” project continued during the reference period. Community-based social rehabilitation service projects for persons with disabilities were implemented during the reference period by non-governmental organisations services included daytime activities, leisure activities and personal assistant service (as of 2019 – individual assistance for persons with disabilities).

Personal assistance includes assistance for persons with disabilities in accessing activities, education, rehabilitation, healthcare, and justice, the provision of information to persons with hearing and visual impairments in an accessible form and with technologies that are appropriate for the nature of their disability, assistance in the home (this service is only provided to persons who have a recognised severe or moderate level of disability).

In 2018, 12,587 persons with disabilities (11,920 adults and 667 children) availed of daytime activity services. 12,110 persons with disabilities (11,755 adults and 355 children) received personal assistant services. €5 million in European Union funding has been allocated for the development of personal assistance services.

During the project period, training was provided to 253 personal assistants, 800 individuals working with persons with disabilities and their families, 1,587 employees at social care homes undergoing reform, and 192 employees of structural units of municipal administrations responsible for the organisation and provision of social services.

The Committee notes that the budget for community based social services increased over the reference period however the number of beneficiaries declined. It asks the reasons for this.

The Committee notes that the UN Committee on the Rights of Persons with Disabilities in its Concluding Observations (CRPD/C/LTUCO/1, 2016) expressed concern about the lack of sufficient choice and range of adequate support mechanisms, including independent living schemes, to ensure that persons with disabilities can access accommodation within their local community, regardless of their sex, age or impairment.

The Committee asks for the Government comments on this.

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

The 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

As noted in the Committee's previous conclusions, the Centre for Technical Aids for Persons with Disabilities under the Ministry of Social Security and Labour supplies technical aids.

The Committee notes from the report that the number of beneficiaries of technical aids has increased during the reference period. The report also states that the Centre for Technical Aids carried out counselling and training activities during the reference period on social integration, independence in everyday life and use of technical (assistive) devices.

Housing

Under the Law on Support for the Acquisition of or Rental of Housing, persons with disabilities may apply for support / assistance for the adaptation of their housing. Assistance is subject to a means test.

Further the report states that between 2016–2018, a programme was implemented for the adaptation of housing for persons with disabilities. The cost of the works was covered from state and municipal budgets. In 2018, 381 housing units were adapted to the needs of persons with disabilities in 60 municipalities, which satisfied 59% of the need for housing adaptation.

The Committee asks whether this programme is in addition to the scheme under the Law on Support for the Acquisition of or Rental of Housing.

The Committee also takes notes of the programme designed to adapt the living environment for families raising children with severe disabilities. 88 housing units were adapted for 92 children in 2017, and 210 housing units were adapted in 2018.

According to the report the de-institutionalisation programme continued during the reference period. New forms of community services were developed including supported accommodation services, where individuals are provided with services depending on their level of need:

- sheltered housing which combines social care and the provision of housing in the community for up to four semi-independent adults with disabilities,
- independent living homes; which provide social care and accommodation services for up to 10 partially dependent adults with intellectual disabilities and/or mental health disorders. The residents of independent living homes receive the majority of services not at home, but in the community.
- group homes which are community-based institutions providing care, where up to 10 dependent or semi-independent individuals live in a home environment.

Sheltered housing was provided to 22 individuals and by January 2019, the country had 27 group homes, providing accommodation to 156 persons with disabilities who had previously lived in institutions.

The Committee notes from the report of the Commissioner for Human Rights of the Council of Europe following his visit to Lithuania in December 2016 that several of the Commissioner's interlocutors indicated that no particular progress had been achieved in relation to the de-institutionalisation process for adults with disabilities. While certain planned benchmarks were quite ambitious, they were not necessarily supported by concrete measures to develop community-based services and to ensure the right to independent living.

Further the Committee notes from other sources (ANED 2018-2019, Living independently and being included in the community, country report Lithuania) that the number of people who are living in institutional care has remained almost the same from the beginning of de-institutionalisation until now.

The Committee asks for the Government's observations on these findings.

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

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

Mobility and transport

According to the report, each year construction projects submitted to the State Construction Supervision Information System (Infostatyba) are monitored to ensure that they are properly accessible. Each year, over 2,500 construction projects are monitored. The project is implemented by a non-governmental organisation for persons with disabilities.

The Committee asks that 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.

In 2016–2018, 99 individuals with mobility impairments were provided with driving instruction in adapted cars.

The Committee asks for updated information on the accessibility of the public transport system.

The Committee notes that the UN Committee on the Rights of Persons with Disabilities in its Concluding Observations (CRPD/C/LTUCO/1 2016) expressed concern about the limited scope of measures taken and the reportedly insufficient progress made to promote the application of universal design principles in the physical environment and in transport, especially to improve accessibility within and around private and public buildings and throughout the chain of transport, including in parking spaces, in train stations, on platforms and in intercity buses, taxis and ferries.

The Committee asks for the Government's comments on this.

Communication

The report provides details of the various project undertaken during the reference period to ensure access to different modes of communication. Funding was provided for projects for publishing and distributing periodicals for the people with disabilities. In 2016, 441 publications were financed and published for persons with visual impairments.

In 2016–2018, there was an increase in the number of television programmes and films broadcast by the Lithuanian National Radio and Television that were captioned and translated into sign language. Approximately 10 per cent of broadcasts are captioned and translated into sign language. This amounts to approximately 1,200 hours per year.

The Committee asks the next report to provide information on the measures taken 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

According to the report every year, over 90 projects are implemented in municipalities for the social integration of persons with disabilities through physical education and sports. More than 4,000 persons with disabilities benefit from these projects annually.

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, especially in rural areas.

Conclusion

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

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

Paragraph 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 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 Lithuania.

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 indicates that since 2015, there has been no legal changes on any of the specific elements requested by the Committee, mainly on the shifting of the burden of proof, rules on compensation and pay comparisons. The Committee also takes into account that in 2016 it considered the situation to be in conformity with the Charter in this respect (Conclusions 2016, Lithuania, Article 20). The report further refers to the new Labour Code adopted in 2016, which entered into force in 2017. The legislation mentions, among the principles of labour law, the principle of fair remuneration and the general principle of the equality of employees irrespective of (inter alia) their gender, marital and family status as well as their intention to have children. There is also a special article devoted to implementation of the principle of equal treatment in the area of employment (Article 26 of the Labour Code). It also has strengthened the protection from discriminatory dismissal.

The Committee considers the legal framework to be in conformity with the Charter.

Effective remedies

The Committee recalls that domestic law must provide for appropriate and effective remedies in the event of alleged pay discrimination. Workers who claim that they have suffered discrimination must be able to take their case to court. Effective access to courts must be guaranteed for victims of pay discrimination. Therefore, proceedings should be affordable and timely. Moreover, any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and from being sufficiently dissuasive is contrary to the Charter. The burden of proof must be shifted meaning that where a person believes she or he has suffered discrimination on grounds of sex and establishes facts which make it reasonable to suppose that discrimination has occurred, the onus should be on the defendant to prove that there has been no infringement of the principle of non-discrimination (Conclusions XIII-5, Statement of interpretation on Article 1 of the 1988 Additional Protocol). Employees who try to enforce their right to equality must be legally protected against any form of reprisals from their employers, including not only dismissal, but also downgrading, changes to working conditions and so on.

The report states that there have been no legal changes and that the shift of the burden of proof is guaranteed. There are no ceilings applicable for compensation for victims of sex discrimination. In its previous conclusion, the Committee considered the situation in respect of these two aspects to be in conformity with the Charter (Conclusion 2016, Lithuania, Article 20).

The Committee recalls that in its conclusion on Article 4§3 of the Charter, it found that a person who considers her or his right to equal pay to be breached, can apply directly to the court. According to Section 3 of the Law on Equal Opportunities for Women and Men, when investigating complaints or applications of natural persons, it shall be presumed that direct or indirect discrimination has indeed occurred. The Committee noted that Section 18 of the Law

on Equal Opportunities for Women and Men stipulates that a person who has suffered discrimination on the grounds of sex shall have the right to compensation for pecuniary and non-pecuniary damage in the manner prescribed by legislation (Conclusions 2018, Lithuania, Article 4§3).

However, the Committee further notes that there is no assessment of the situation in practice. According to the report of the European Network of legal experts on gender equality and non-discrimination: Country Report on gender equality: Lithuania 2019, cases on discrimination are still very rare. Although in legislation administrative and criminal sanctions are possible for the breach of the principle of equal pay according to the new Labour Code, there have been no cases so far.

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

Pay transparency and job comparisons

The Committee recalls that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities. States should take measures in accordance with national conditions and traditions with a view to ensuring adequate pay transparency in practice, including measures such as those highlighted in the European Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender. The Committee regards such measures as indicators of compliance with the Charter in this respect. The Committee also recalls that, in order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, 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.

As regards *pay transparency* in the labour market and notably the possibility for workers to receive information on pay levels of other workers and available information on pay, the Committee notes from the report that Article 26.6 of the Labour Code states that an employer whose average number of employees is more than fifty must adopt measures for the implementation of the principles for the supervision of the implementation and enforcement of the equal opportunity policies. Article 23.1.2 of the Code stipulates that an employer, who has an average number of twenty or more employees, is obliged upon the request of the work council or, where it doesn't exist, of the trade union operating on the level of an employer, at least once a year, to provide updated information on the depersonalised data on the average remuneration of employees, except for employees holding managerial positions, by profession groups and gender, if a profession group consists of more than two employees.

Moreover, the report states that, according to the new paragraph 6 of Article 25 of the Labour Code (entry into force on 27 July 2019) the employer shall indicate the amount and / or range of the proposed basic (tariff) wage (hourly wage or monthly salary, or a fixed part of the wage) for a vacant post, except in cases prescribed by law. This paragraph was included in a provision which regulates proper informing and protection of confidential information. According to the report, it contributes to the transparency of employee's right to fair pay and non-discrimination.

The Committee welcomes this development, although it took place outside the reference period. The Committee further recalls that the parameters for establishing equal value of the

work performed, such as the nature of the work, training and working conditions should be laid down in the legislation and respected in practice.

The Committee observes from the report states that Article 140.5 of the Labour Code lays down that the remuneration system must be prepared in such a way so as to avoid any kind of gender-based or other discrimination in its application. Men and women shall receive equal remuneration for equal work or work of equal value. The Committee requests that in the next report it is clarified what is the job classification and promotion systems and whether individual workers may receive information on pay levels of other workers and in which conditions.

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, University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden, 5-6 December 2019).

As regards *job comparisons across companies*, the Committee, in its two previous conclusions on Lithuania, reiterated the question whether job comparison is possible outside one company, for example, if such company is a part of a holding company and the remuneration is set centrally by such holding company (Conclusions 2016, Lithuania, Article 20; Conclusions 2018, Lithuania, Article 4§3). The Committee notes that the report still does not provide this information. In the light of the above mentioned, the Committee reiterates its question. Pending the receipt of this information, it reserves its position on this point.

Enforcement

The Committee notes from the report that, in order to implement the new Labour Code and monitor whether the employers execute their duties according to the new regulation, the State Labour Inspectorate under the Ministry of Social Security and Labour carried out special-subject inspections of compliance with the provisions ensuring equal pay for work of equal value. A checklist on ensuring equal rights for women and men at work has been prepared and approved by Order of the Chief State Labour Inspector of the Republic of Lithuania. Labour inspectors have used this checklist in their work when carrying out scheduled or non-scheduled spot checks of business entities in the following target areas: information and communications (provision of information services, mobile communications networks), human health care and social work (private clinics, nursing institutions), public catering (restaurants and cafes), security services and transport (public transport, taxi companies).

According to the data contained in the State Labour Inspectorate’s information system for continuous monitoring of working conditions (DSS IS), in 2016, inspectors carried out 54 inspections, in 2017 69 inspections, in 2018 over 60 inspections. Over the period of 2016-2017 no violations were found, whereas in 2018, there were 7 cases where the employer did not comply with the duty, provided for by t Article 26.6 of the Labour Code, to adopt and publish the measures for implementation of the principles for the supervision of the implementation and enforcement of the equal opportunities policies. In one case the employer did not take measures to ensure the publication at the workplace. In cases of infringements, inspectors issued mandatory orders and recommendations, which are subsequently followed up.

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

Obligations to promote the right to equal pay

The Committee recalls that in order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of

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

The Committee notes from the report the measures and action plans adopted. The National Programme on Equal Opportunities for Women and Men 2015-2021 was approved, together with the associated implementation plans (National Programmes on Equal Opportunities for Women and Men Implementation Plan 2015-2017 and 2018-2021). The National Programme pursues four main priorities: equal opportunities for women and men in the labour market; gender balance in decision-making; gender mainstreaming (especially in culture, education and science, national defence and international obligations); increased management effectiveness. Training and awareness-raising campaigns were organised regularly during the last three years by different NGOs dealing with gender equality issues with budget from the National Programme on Equal Opportunities for Women and Men 2015–2021.

Concerning the gender pay gap, the Committee notes from Eurostat that the unadjusted gender pay gap was 14.2% in 2015 and 14.4% in 2016. The report explains that in 2016, the largest gender pay gaps were recorded in enterprises engaged in financial and insurance activities (38.3% of the gender pay gap), information and communication (29.9%) and human health and social work activities (26.6%). The gender pay gap was influenced by social and economic rather than legal factors, such as number of men and women in a certain economic activity, their occupation, education, age, length of service, and other reasons. In 2017 the gender pay gap increased in Lithuania (except, according to the report, for agriculture, forest and fishing enterprise) and stood at 15.2%. In 2018, according to Eurostat, the gender pay gap stood at 14% (data published on 29th October 2020). The gender overall earnings gap in Lithuania was 19.2% in 2014, which is the most recent available figure (the average overall earnings gap in the EU was 39.8%).

The Committee notes that the Government has made efforts to reduce the gender pay gap and has taken measures to raise awareness through gender mainstreaming. Nevertheless, the Committee also observes that the gender pay gap, as an indicator of the effectiveness of these measures, has not changed in a significant manner in the years covered by the current cycle and has even come up. The gender pay gap is persistent and, although slightly below the EU average, it remains high. The measures adopted by the Government have not achieved measurable progress in this respect. Therefore, the situation in this respect is not in conformity with Article 20(c) of the Charter.

Conclusion

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

Article 24 - Right to protection in case of dismissal

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

Scope

The Committee recalls that in its previous conclusion (Conclusions 2016) it considered that the situation was in conformity with the Charter as regards the personal scope.

The Committee addressed specific targeted questions to the States (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”) concerning strategies and measures that exist or are being introduced to ensure dismissal protection for workers (labour providers), such as “false self-employed workers” in the “gig economy” or “platform” economy.

As regards false self-employed workers, the report refers to Article 32, paragraph 1 of the Labour Code, which defines the concept of an employment contract. The employment contract is an agreement between the employee and the employer by which the employee undertakes to perform a job function for the benefit and under the subordination of the employer, and the employer undertakes to pay remuneration. Therefore, there are three mandatory elements: subordination; a work function for the benefit of the employer; and remuneration. According to the report, this Article serves to qualify the legal relationship as labour relations. Moreover, paragraph 2 of this Article defines that subordination to the employer shall mean the performance of a job function when the employer has the right to control or manage either the entire work process or part thereof, and the employee obeys the instructions of the employer and the procedures in force at the workplace.

The report further refers to Article 56 of the Law on Employment which determines illegal work and liability. Paragraph 1.1 provides that illegal work is defined as work performed for remuneration by a natural person (an employee), who is subordinate to another person (an employer), for the benefit of the latter, where the employer has not concluded an employment contract in writing according to the established procedure or has not given a notification of the hiring of the employee to a territorial office of the State Social Insurance Fund Board at least one hour prior to the start of the work.

Article 56 paragraph 4 states that having established that the employer has committed a violation referred to in subparagraph 1 of paragraph 1 above, the State Labour Inspectorate, the State Tax Inspectorate, the Financial Crimes Investigation Service or the Police shall take the following actions irrespective of the formal expression of the activities of the illegal worker and/or the person who has permitted illegal work:

- where the labour relations have not ended – obligate the employer to conclude a written employment contract with the illegal worker and notify the conclusion of the employment contract and the hiring of an employee to a territorial office of the State Social Insurance Fund Board;
- obligate the employer to pay the agreed remuneration for work to the illegal worker, unless the payment has already been made;
- impose a fine on the employer according to a procedure prescribed by this Law between EUR 868 and 2,896 for each illegal worker.

The Committee takes note of the definitions of employment contract, self-employed workers and illegal work. It asks what safeguards exist to ensure that employers hiring workers in the platform or gig economy do not circumvent labour law as regards protection against dismissal on the grounds that a person performing work for them is self-employed, when in reality, after examination of the conditions under which such work is provided it is possible to identify certain indicators of the existence of an employment relationship.

Obligation to provide valid reasons for termination of employment

In its previous conclusion the Committee considered that the situation was in conformity with the Charter as regards valid reasons for dismissal.

The Committee notes from the report that as of 1 July 2017 under Article 57, paragraph 2 of the Labour Code the list of valid grounds on which employment could be terminated is as follows:

- the function performed by the employee has become superfluous due to changes in work organisation or other reasons related to the employer's activities;
- the employee is not achieving the agreed performance outcome according to the performance improvement plan provided for in paragraph 5 of this Article;
- the employee refuses to work under changed indispensable or supplementary employment contract terms or to change the type of working-time arrangements or place of work;
- the employee does not agree to continuity of employment relations in the case that the business or part thereof is transferred.

The Committee addressed a specific targeted question to the States whether in case of dismissal for certain economic reasons, the courts have the competence to review a case on the economic facts underlying dismissals.

The Committee notes that according to Paragraph 2 of Article 105 of the Labour Code disputes on refusal to conclude an employment contract, as well as on the legality of the termination of an employment contract shall be settled in court.

According to the report, both the Court and the Labour Disputes Commission have the competence to examine the merits of the case. Paragraph 3 of Article 231 of the Labour Code also states that upon filing a claim to the court, the court shall hear the labour dispute on rights on the merits, applying the specifics of labour case resolution established in the Code of Civil Procedure.

In this respect the report further states that the Supreme Court of Lithuania in its ruling 3K-3-336-248/2016 stated that the Court (as of 1 July 2017 also the Labour Disputes Commission) has no jurisdiction to assess whether the reduction in the number of employees due to economic reasons is appropriate and reasonable. Only the circumstances and the procedure may be assessed by the Court or the Labour Disputes Commission.

Prohibited dismissals

In its previous Conclusion the Committee considered that the situation was in conformity with the Charter.

Remedies and sanctions

In its previous Conclusion the Committee considered that the situation was in conformity with the Charter. The Committee asked for an up-dated description of national law and practice as regards compensation and reinstatement in case of unlawful dismissals.

The Committee notes that according to Article 218 of the Labour Code the employee shall be reinstated no later than the next working day after the decision of the labour dispute resolution body on reinstatement becomes effective. If the body resolving the labour dispute on rights establishes that the employee cannot be returned to his/her or her previous job due to economic, technological, organisational or similar reasons, or because he/she may be provided with unfavourable conditions to work, or when the employer requests that the employee not be reinstated, the labour dispute resolution body shall take a decision to recognise the dismissal as being unlawful, and shall order that the employee be paid average remuneration for the period of forced absence, from the date of dismissal to the date of enforcement of the judgement but no more than one year, and for the material and non-

material damage incurred. The employee shall also be awarded compensation equal to one average remuneration for every two years of the employment relationship, but no more than six times the employee's average remuneration.

The Committee understands that the compensation for unlawful dismissal that can be claimed comprises the average remuneration for the period of force absence, as well as compensation for material and non-material damage.

Conclusion

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

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

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

