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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2020

SLOVAK REPUBLIC

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, statements of interpretation, and general questions from the Committee, is contained in the General Introduction to all Conclusions.

The following chapter concerns the Slovak Republic, which ratified the Revised European Social Charter on 23 April 2009. The deadline for submitting the 10th report was 31 December 2019 and the Slovak Republic submitted it on 12 December 2019.

The Committee recalls that the Slovak Republic 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).

The Slovak Republic has accepted all provisions from the above-mentioned group except Articles 15§3 and 18§3.

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

The conclusions relating to the Slovak Republic concern 14 situations and are as follows:

– 2 conclusions of conformity: Articles 1§1 and 10§2.

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

In respect of the other 9 situations related to Articles 1§2, 1§4, 9, 10§1, 10§3, 15§1, 15§2, 18§2 and 24, the Committee needs further information in order to examine the situation.

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

The next report from the Slovak Republic 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 the Slovak Republic.

The Committee recalls that in 2016, it deferred its conclusion pending information on the activation rate and activities for employment policy monitoring (Conclusions 2016).

Employment situation

According to Eurostat, the GDP growth rate fluctuated during the reference period, falling from 4.8% in 2015 to 2.1% in 2016, and then rising to 3% in 2017 and 3.8% in 2018, a rate which is 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 62.7% in 2015 to 67.6% in 2018, which is slightly below the EU 28 average (68.6% in 2018).

The employment rate for men increased from 69.5% in 2015 to 73.9% in 2018, which is practically the same as the EU 28 average (73.8% in 2018). The employment rate for women rose from 55.9% in 2015 to 61.2% in 2018, which is below the EU 28 average (63.3% in 2018). The employment rate for older workers (55 to 64-year-olds) increased from 47% in 2015 to 54.2% in 2018, which is below the EU 28 average (58.7% in 2018). Youth employment (15 to 24-year-olds) increased from 23.3% in 2015 to 27.5% in 2018, which is below the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) fell from 11.5% in 2015 to 6.6% in 2018, which is below the EU 28 average (7% in 2018).

The unemployment rate for men decreased from 10.4% in 2015 to 6.2% in 2018, which is below the EU 28 average (6.7% in 2018). The unemployment rate for women dropped from 13% in 2015 to 7.1% in 2018, which is practically the same as the EU 28 average (7.2% in 2018). Youth unemployment (15 to 24-year-olds) decreased from 26.5% in 2015 to 14.9% in 2018, which is below the EU 28 average (15.2% in 2018). Long-term unemployment (12 months or more, as a percentage of overall unemployment for persons aged 15 to 64 years) dropped from 65.8% in 2015 to 61.7% in 2018, a rate which is considerably higher than the EU 28 average (43.4% in 2018).

The proportion of 15 to 24-year-olds “outside the system” (not in employment, education or training, i.e. NEET) decreased from 13.7% in 2015 to 10.2% in 2018 (as a percentage of the 15 to 24-year-old age group), which is below the EU 28 average (10.5% in 2018).

The Committee notes the economic upturn during the second half of the reference period. In addition, the employment and unemployment rates showed positive trends (rising employment and falling unemployment rates). However, employment rates were generally below the EU 28 average and the long-term unemployment rate remained very high in 2018.

Employment policy

In its report, the Government states that it took several (active and passive) measures to combat unemployment among vulnerable groups. In particular, an “Action Plan on Enhancing the Integration of Long-Term Unemployed in the Labour Market” was adopted in November 2016. This plan describes the measures to be implemented with a view to supporting these people in finding employment (training and individual services). According to the Government’s figures, of the 156,339 jobseekers participating in active labour market measures, 53.71% were in long-term unemployment; however, the year in question and the different types of measures were not specified. The Committee requests that the next report provide information on the number of long-term unemployed participating in active measures, presented by type of measure and by year.

The Government further reports that Law No. 336/2015 on Support for the Least Developed Districts was adopted in 2015 with a view to mitigating regional disparities. This law lays down the system, conditions and forms of support provided to the districts concerned. According to the list drawn up by the Central Office of Labour, Social Affairs and Family, these districts were located in the Prešov, Banská Bystrica and Košice regions. In 2017, the funds allocated to active labour market measures in the 12 least developed districts accounted for 113% of the funds allocated to the other districts (on average), and approximately 49,300 jobs were created there.

The Committee notes that other sources point to a particularly weak labour market situation for Roma (who are estimated to make up close to 8% of the total population, according to the United Nations Development Programme, 2014). For example, the unemployment rate for Roma was estimated at 48% in 2016 by the European Commission (Commission staff working document, Slovakia Country Report 2019, SWD(2019) 1024 final, 27 February 2019). The Committee requests that the next report provide information on the labour market measures specifically implemented to support Roma.

According to European Commission statistics, public expenditure on labour market policies (as a percentage of GDP) rose slightly, from 0.53% in 2015 to 0.56% in 2017 (of which 0.19% was for active measures and 0.33% for passive measures in 2017). On this point, the Government reports that in 2017 just over €165 million were allocated to active labour market measures (of which about 85.7% for measures to increase the number of jobs and maintain existing jobs, and 14.3% for measures to increase employability), and that the Regional Offices of Labour, Social Affairs and Family took action in more than 1.33 million cases (with information and advisory services accounting for about 82.5% of the measures). The Committee requests that the next report provide information on the number of participants in active measures, presented by type of measure (particularly for training) and by year, and on the activation rate (i.e. the average number of participants in active measures as a percentage of the total number of unemployed).

Lastly, the Committee recalls that labour market measures should be targeted, effective and regularly monitored. On this matter, the Government provides little information and focuses on the positive trends in employment and unemployment rates. The Committee therefore reiterates its request for information on how employment policies are monitored and how their effectiveness is assessed.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Slovak Republic 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 the Slovak Republic.

1. Prohibition of discrimination in employment

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

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

Slovakia has accepted Articles 15§2 and 20 of the Charter. Therefore, it was under no obligation to report on prohibition of discrimination on grounds of disability and gender, which will be examined under the said provisions.

In its previous conclusion (Conclusions 2016), the Committee concluded that the situation in Slovakia was in conformity with Article 1§2 of the Charter, pending information on concrete measures taken to provide effective and targeted assistance to the victims of discrimination due to their ethnicity and, in particular, the impact of such measures on the situation of Roma in training and employment, as well as on the functioning of the equality bodies and on remedies.

As regards the legislation prohibiting discrimination in general terms, the Committee examined the relevant legal framework in its previous conclusion (Conclusions 2016). The report recalls the anti-discrimination principles introduced by the 2004 Anti-Discrimination Act. The Committee notes the concern raised by the European network of legal experts in gender equality and non-discrimination (European Equality Law Network) in its 2019 country report on Slovakia that, although anti-discrimination legislation is relatively progressive, its implementation is very weak in practice and that one of the reasons may be its very low enforcement through legal procedures. It asks that the next report comment on this observation and provide information on the functioning of the Anti-Discrimination Act in practice (its supervision, implementation, enforcement).

As regards specific legislation and practical measures explicitly targeted at combating discrimination on grounds of ethnic origin, the Committee previously noted that Roma had difficult access to the labour marked, due to, *inter alia*, poor access to education resulting in lower qualifications, poor support in job search by labour offices, the non-suitability of vocational training programmes. It further noted that the Government adopted a Strategy for the Integration of the Roma up to 2020 aimed at addressing the challenges associated with their social inclusion in the fields of education, employment, non-discrimination, health, housing and financial inclusion, with particular focus on marginalized Roma communities. It asked for information on the concrete measures taken in its framework and their impact (Conclusions 2016). The report provides examples of projects designed, in particular, to improve the education of Roma children. It also describes the 2016 Action Plan for Strengthening the Integration of Long-term Unemployed which was expected to provide data on the success rate by the end of 2017. Furthermore, in 2017 two community projects focused on the marginalised Roma communities were launched, to increase their education, employability and employment, and to support the integration of the Roma into all spheres of the society. The report does not provide any information on the impact of the above-mentioned

measures. It states that statistical data based on ethnic origin are not collected. The Committee notes in this respect that the European network of legal experts in gender equality and non-discrimination (European Equality Law Network) in its 2019 country report on Slovakia continues to raise concerns over the implementation of anti-discrimination laws which is very weak in practice and concludes that, despite being poorly documented by the state and its bodies, discrimination seems to be widespread and present. The Committee recalls that States must effectively combat any discriminatory practice that might interfere with the workers' right to earn their living in an occupation freely entered upon. Furthermore, States must demonstrate that tangible progress is being made in setting up a non-discriminatory labour market. The Committee finds that the information at its disposal does not allow an adequate assessment of the situation, in particular as regards the effectiveness of the measures adopted. It asks that the next report provide comprehensive information on all the efforts made by the State to improve the labour market situation of ethnic minorities, including on the effect, observed or envisaged, of the 2016-2017 projects, the evaluation of which had been expected by the end of 2017, according to the report. The Committee considers that, should this information not be provided, nothing will allow to show that the situation is in conformity with Article 1§2 of the Charter in this respect.

Apart from general information on the legal framework prohibiting discrimination, the report does not reply to the Committee's request for information on any specific, targeted legislation and practical measures focused specifically on discrimination on grounds of race, age, sexual orientation, political opinion or religion, and the Committee renews its request in this respect.

As regards specific measures taken to counteract discrimination in the employment of migrants and refugees, the report states that the Anti-Discrimination Act and the related prohibition of discrimination apply to all foreigners who live legally in Slovakia. The treatment of other foreigners resulting from the conditions of entry and residence in the territory of the Slovak Republic is stipulated by special regulations. The Committee considers that the information provided does not allow for an assessment of the prevention and prohibition of discrimination of foreigners who require international protection. It notes in this respect the observation of the UN Committee on the Elimination of Racial Discrimination (Concluding observations (2018) CERD/C/SVK/CO/11-12) that there is lack of comprehensive and detailed information regarding access by non-citizens to employment and social protection without discrimination. The Committee thus requests that the next report comprehensively describe the legal framework and practical measures in this respect. It considers that, should the requested information not be provided in the next report, nothing will allow to establish that adequate and appropriate remedies exist, as required by Article 1§2 of the Charter on this point.

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

The Committee noted in its previous conclusion a weakness of implementation of the anti-discrimination laws in practice, referring to the low number of court cases, the insufficiency of sanctions and lack of adequate resources available to human rights bodies to disseminate the Anti-Discrimination Act and to assist victims of discrimination. It asked for specific information on the monitoring and promotional activities in the field of non-discrimination and equality in employment and occupation carried out by these bodies – NCHR, the Ombudsman and the Government Council for Human Rights, National Minorities and Gender Equality and its specialized committees – and detailed information on any complaints of discrimination that they have dealt with. It further asked about cases of discrimination in employment handled by courts, with specific indications regarding their nature and outcome, the sanctions imposed on perpetrators and the amounts of compensation paid to the employees. It also asks that the next report provide information on positive measures/actions for combating all forms of

discrimination in employment. (see Conclusions 2016). The report does not address the issue of remedies. The Committee notes that similar concerns to those raised in its 2016 Conclusion are repeated by the European Equality Network in its 2019 report, mentioned above, which, in particular, points out to barriers to access to courts and to justice in general; lack of proper knowledge of anti-discrimination legislation by legal professionals and by decision-makers; racial prejudice among judges and a lack of programmes to raise their awareness; lack of case law and deficiencies in the registration of cases on discrimination; lack of data and statistics connected to discrimination and its grounds; lack of effectiveness in the functioning of the equality body; lack of public policies in the field of anti-discrimination; lack of effective policies and resources for the transition from a segregated to an inclusive educational system; lack of mainstreaming of the principle of non-discrimination and lack of coordination among public bodies responsible for non-discrimination; lack of resources invested by the Government into non-discrimination. Further, the UN Committee on the Elimination of Racial Discrimination in its above-mentioned 2018 concluding observations observes that the Slovak National Centre for Human Rights (SNCHR) is not yet in full compliance with the principles relating to the status of national human rights institutions for the promotion and protection of human rights.

The Committee asks that the next report provide information on the application of the Anti-Discrimination Act by courts, including statistics on the number of court cases concerning discrimination, as well as whether the procedure is easily accessible, including an appropriate adjustment of the burden of proof, costs, representation, as well as the NGOs' participation and the sanctions that may be imposed. It also asks how violations of the legal provisions prohibiting discrimination in the workplace are scrutinised, whether adequate penalties exist and if so, whether they are effectively enforced by labour inspectors. Further, it asks for a comprehensive description of the role and functioning of the equality bodies. It considers that, should the requested information not be provided in the next report, nothing will allow to establish that adequate and appropriate remedies exist, as required by Article 1§2 of the Charter. Meanwhile, it reserves its position on this point.

2. Forced labour and labour exploitation

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

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

The European Court of Human Rights has established that States have positive obligations under Article 4 of the European Convention to adopt criminal law provisions which penalise the practices referred to in Article 4 (slavery, servitude and forced or compulsory labour) and to apply them in practice (*Siliadin,* par. 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 workers to earn their living in an occupation freely entered upon. Therefore, it considers that States Parties to the Charter are required to fulfil their positive obligations to put in place a legal and regulatory framework enabling the prevention of forced labour and other forms of labour exploitation, the protection of victims and the investigation of arguable allegations of these practices, together with the characterisation as a criminal offence and effective prosecution of any act aimed at maintaining a person in a situation of severe labour exploitation. The Committee will therefore examine under Article 1§2 of the Charter whether States Parties have fulfilled their positive obligations to:

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

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

The Committee notes that the national authorities have partially replied to the specific, targeted questions for this provision on the exploitation of vulnerability, forced labour and modern slavery in their addendum to the report (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 addendum to the report also provides information concerning the prevention of trafficking in children. On this point, the Committee refers to its 2019 Conclusions on Article 7§10 of the Charter, in which it deferred its conclusion and asked for further information on the measures taken to protect children and prevent and combat child trafficking and exploitation.

Criminalisation and effective prosecution

The national authorities have not provided any information on this point. The Committee notes however from GRETA's 2015 Report on the Slovak Republic that forced labour, slavery and servitude are criminalised in the context of trafficking in human beings. Article 179 of the Criminal Code (trafficking in human beings) includes, among the various forms of exploitation, forced labour, forced service including forced begging, slavery, slavery-like practices and servitude (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic, second evaluation round, GRETA (2015)21, 9 November 2015, para. 144).

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

The Committee notes from GRETA's 2020 Report on the Slovak Republic (Evaluation Report, third evaluation round, GRETA (2020)05, 10 June 2020, para. 105), that sanctions have not always been commensurate with the impact this crime has on individuals and society and that in the reporting period, a large majority of sentences imposed had been suspended. GRETA urged the Slovak authorities to take additional measures to ensure that trafficking cases lead to effective, proportionate and dissuasive sanctions (para. 114).

The Committee asks that the next report provide information on the application in practice of Article 179 of the Criminal Code in relation to forced labour and other forms of labour exploitation. The report should provide information (including figures, examples of case law and specific penalties effectively applied) on the prosecution and conviction of exploiters during the next reference period, in order to assess in particular how the national legislation is interpreted and applied.

Prevention

The Committee considers that States Parties should take preventive measures such as data collection and research on the prevalence of forced labour and labour exploitation, awareness-raising campaigns, the training of professionals, law-enforcement agencies, employers and vulnerable population groups, and should strengthen the role and the capacities/mandate of labour inspection services to enforce relevant labour law on all workers and all sectors of the economy with a view to preventing forced labour and labour exploitation. States Parties should also encourage due diligence by both the public and private sectors to identify and prevent forced labour and exploitation in their supply chains.

The Committee notes from the addendum to the report that on 6 November 2018 the fifth National Programme against Trafficking in Human Beings, covering the years 2019-2023, was adopted by the Slovak Government. The main objective of the programme is to establish a coordinated system to reduce the crime of trafficking in human beings, narrowing the scope for committing it with regard to current trends and developments. The Committee requests that the next report include more detailed and up-to-date information on the implementation and achievements of the abovementioned national programme regarding the prevention of trafficking for the purpose of labour exploitation.

The Committee takes note of the information provided in the addendum concerning training of state and non-state entities in the field of trafficking in human beings. Participants included workers and employees of children's homes, rehabilitation, re-education centres, university hospitals, emergency medical services and labour inspectorates. Training is delivered by the Information Centre for Combating Trafficking in Human Beings and Crime Prevention.

With regard to labour inspectorates, the Committee requests that the next report provide information on specific actions carried out by labour inspectorates or other competent bodies performing inspections with a view to detecting cases of labour exploitation, particularly in sectors such as agriculture, construction, hospitality and manufacturing. The report should indicate the number, if any, of presumed victims of forced labour or labour exploitation detected as a result of such inspections. In this context, according to GRETA's 2020 Report (para. 201), it would appear that labour inspectors and other bodies participating in inspections of workplaces pursue objectives of immigration control with regard to third-country workers, rather than detect cases of trafficking for the purpose of labour exploitation and refer presumed victims to assistance. The Committee therefore asks that the next report indicate the number, if any, of third-country nationals identified as presumed victims of forced labour or labour exploitation by the competent inspection services.

No information has been provided in the report on whether Slovak legislation includes measures designed to force companies to report on action taken to investigate forced labour and exploitation of workers among their supply chains. It requires that every precaution be taken in public procurement processes to guarantee that funds are not used unintentionally to

support various forms of modern slavery. The Committee accordingly reiterates its request on this point.

Protection of victims and access to remedies, including compensation

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

The Committee takes note of the information provided in the addendum relating to the so-called National Referral Mechanism (NRM). The NRM, headed by the State Secretary of the Ministry of the Interior acting as National Coordinator, is a cooperation structure in which public authorities fulfil their obligation to protect the rights of victims of trafficking in human beings and to provide them with access to assistance, in cooperation with the non-profit sector. The NRM includes *ad hoc* multidisciplinary working groups that address specific areas related to victims (e.g., identification, assistance, protection, participation in legal proceedings and redress, compensation, return and social inclusion). In 2018, the Information Centre for Combating Trafficking in Human Beings and Crime Prevention in cooperation with other bodies produced a leaflet informing victims of trafficking on what they can expect during criminal proceedings. Finally, the addendum refers to the Programme for the Support and Protection of Victims of Trafficking in Human Beings, which has been implemented within the subsequent National Programmes.

The Committee asks for full and detailed information on the type of assistance provided within the Programme for the Support and Protection of Victims of Trafficking in Human Beings (e.g., protection against retaliation, safe housing, healthcare, material support, social and economic assistance, legal aid, translation and interpretation, voluntary return, provision of residence permits for migrants), and on the duration of such assistance. It also requests that the next report indicate the number of presumed and identified victims of forced labour and labour exploitation and the number of such victims benefiting from the abovementioned Programme during the next reference period.

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

Domestic work

The Committee reiterates that domestic work may give rise to forced labour and exploitation. Such work often involves abusive, degrading and inhuman living and working conditions for the domestic workers concerned (see Conclusions 2012, General Introduction, General Questions, and the Court's judgment in *Siliadin v. France*). States Parties should adopt legal provisions to combat forced labour in the domestic environment and protect domestic workers as well as take measures to implement them (Conclusions 2008, General Introduction, General Question). The Committee recalls that under Article 3§3 of the Charter, inspectors must be authorised to inspect all workplaces, including residential premises, in all sectors of activity (Conclusions XVI-2 (2003), Czech Republic, relating to Article 3§2 of the 1961 Charter; Statement of Interpretation of Article 3§3 (i.e., Article 3§2 of the 1961 Charter)). It considers that such inspections must be clearly provided for by law, and sufficient safeguards must be put in place to prevent risks of unlawful interferences with the right to respect for private life.

In its previous conclusion (Conclusions 2016), the Committee asked for relevant information on the laws enacted to combat forced labour in the domestic environment and the measures taken to apply such provisions and monitor their application. The Committee notes from the current report that domestic work is neither defined nor regulated in the Slovak Labour Code. The report refers however to the Labour Inspection Act and the Illegal Work and Illegal

Employment Act. In accordance with the principle of inviolability of private households (Article 21§1 of the Constitution), inspections by labour inspection services without the owner's consent would be contrary to the Constitution. The report indicates that this is the reason why the Slovak Republic is not bound by the ILO Domestic Workers Convention of 2011 (No. 189).

The Committee asks that the next report provide information on how domestic workers are protected from labour exploitation and abusive conditions, including on whether these workers have access to effective remedies to complain about exploitative conditions. In this connection, it recalls that it has previously concluded under Article 3§2 of the Charter that it was not established that domestic workers in the Slovak Republic were protected by occupational health and safety regulations (see Conclusions 2017, 3§2).

"Gig economy" or "platform economy" workers

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

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

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

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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

In its previous conclusion (Conclusions 2016) the Committee concluded that the situation was not in conformity with the requirements of this provision on the ground that the public employment services did not operate in an efficient manner.

It further considered that the report did not provide sufficient information for the third consecutive reporting cycle and asked for the following information:

- measures taken to ensure effectiveness of public employment services to provide personalised services, in particular to the long-term unemployed, the low-skilled, young people and Roma;
- number of jobseekers and unemployed persons registered with public employment services (PES);
- number of vacancies notified to PES;
- number of persons placed via PES;
- placement rate;
- average time taken by PES to fill a vacancy;
- placements by PES as a percentage of total employment in the labour market;
- respective market shares of public and private services;
- number of persons working in PES (at central and local level);
- number of counsellors involved in placement services;
- ratio of placement staff to registered jobseekers;
- how private employment agencies are licensed, operate and co-ordinate their work with PES;
- participation of trade union and employers' organisations in the organisation and running of the employment services.

In reply to the Committee's question on measures taken to ensure effectiveness of PES to provide personalised services, the report describes several active and passive measures to combat unemployment among vulnerable groups, including:

- the Action Plan to Strengthen the Integration of the Long-Term Unemployed in the Labour Market, which involved 5,255 long-term unemployed in 2017-2018;
- the national project 'Way out of the circle of unemployment', which financially sustains employers who provide jobs to jobseekers for a minimum of 15 months. It led to the employment of 6,764 jobseekers in 2016;
- the national project 'Employment Opportunity' (see report for details), under which 6,301 jobseekers were placed in 2016;
- the national project 'We want to be active on the labour market (+50)', tailormade for jobseekers over 50 years of age, through which 520 vacancies were created and filled in less developed regions in 2016.

According to the information provided under Article 1§1, through the active labour market measures 40,400 jobseekers were placed in the labour market in 2017. A large share of them was placed in least developed districts thanks to the implementation of an *ad hoc* national project ('Road to Labour Market', launched in 2017) which aimed specifically at tackling high unemployment rate in these districts.

While taking note of the measures implemented to support the integration of long-term unemployed persons, low-skilled jobseekers, young people and persons over 50 years of age into the labour market, the Committee observes that only the national plan 'Road to the labour market' includes among its activities the provision of personalised services for jobseekers.

Furthermore, the report explains that there are no measures to improve the provision of employment services to members of the Roma national minority. However, Roma can be included in national projects if they belong to the relevant target group.

The report indicates that the functioning of employment services has been significantly improved. Since January 2015 more employees were hired to work in placement services reducing the number of jobseekers per employee from 550 to around 195 during the reference period. Nonetheless, as the report does not indicate the number of persons working in PES (at central and local level), the Committee reiterates its question in this respect.

Moreover, the Committee observes that according to the OECD Economic Survey, employment services need more resources, specifically in terms of placement staff. The Committee asks the Government to comment on this point.

As regards jobseekers registered with public employment services, the Committee notes from the Report on the Social Situation of the Population of the Slovak Republic for 2016, that there were 300,988 registered jobseekers in 2016.

The same source points out that the number of registered jobseekers was lower in each month of 2016 than in the same month of the previous year and that the average number of jobseekers registered for more than 12 months in 2016 was lower than the one in 2015.

The Report on the Social Situation of the Population of the Slovak Republic also indicates that a monthly average of 38,170 job vacancies was reported to the local Offices of Labour, Social Affairs and Family in 2016. The Committee asks the next report to provide information on the number of vacancies notified to the public employment services for the different years of the reference period.

As regards private employment agencies, the report indicates that according to the Employment Services Act, legal and natural persons engaged in recruitment services for remuneration, temporary employment agencies and supported employment agencies need a permit from the Central Office of Labour, Social Affairs and Family in order to provide employment services.

The report indicates that both private and public employment agencies cooperate with employers to fill available vacancies and that in 2016, a new project (Networking) has been launched to streamline the functioning of the employment services in this respect. As the report does not indicate the respective market shares of public and private services, the Committee reiterates its question.

In response to the question on the participation of trade union and employers' organisations in the organisation and running of the employment services, the report indicates that under the Employment Services Act, each office established within its territorial district an Employment Committee of 11 members, in which representatives of employers and representatives of trade unions operating in the Office's territorial district are involved. The report also provides information on the Employment Committee prerogatives.

While taking note of the information provided and the efforts undertaken to reduce the number of registered long-term unemployed persons, the Committee notes that the report does not provide many of the quantitative indicators requested by the Committee to assess the situation.

Therefore, the Committee asks the next report to provide the following quantitative indicators:

- updated data on the number of jobseekers and unemployed persons registered with PES for the different years of the reference period;
- number of persons placed via PES for the different years of the reference period;
- placement rate (i.e. percentage of placements compared to the number of notified vacancies);
- average time taken by PES to fill a vacancy;
- placements by PES as a percentage of total hirings in the labour market;

- number of counsellors involved in placement services.
  In the meantime, in the absence of these indicators, the Committee considers that it has not been established that free public employment services operate in an efficient manner and reiterates its previous conclusion.

Conclusion

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

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

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

It deferred however its conclusion as regards measures concerning vocational guidance (Article 9) (Conclusions 2020) and vocational training and retraining of workers (Article 10§3) (Conclusions 2020). Accordingly, the Committee defers its conclusion on Article 1§4.

Conclusion

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

Article 9 - Right to vocational guidance

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

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 despite its repeated requests, the report did not contain any information on the resources (in terms of budget and staff) allocated to vocational guidance within the education system, nor on the number of pupils and students who were provided with such guidance. It asked for the next report to contain such information and concluded that the situation in the Slovak Republic was not in conformity with Article 9 of the Charter on the ground that it had not been established that vocational guidance services were operated in an efficient manner.

The current report indicates that vocational guidance in each primary and secondary school is carried out within the so-called educational counselling, that is provided to children, guardians and school staff in schools through activities of educational counsellors. Where needed, the educational counsellors will provide children and their legal representatives with educational, psychological, social, psychotherapeutic, re-education and other services, which they coordinate in cooperation with class teachers. They work closely with the school psychologist, school special pedagogue and professional staff of counselling facilities.

The report provides data on the number of educational advisors in primary and secondary schools, as well as on the number of career advisors in secondary schools. The Committee notes in particular that during the school year 2017/2018 a total number of 2,663 educational advisors was involved in primary and secondary schools and a total number of 529 career advisors was involved in secondary schools. The report specifies that the total number of the staff engaged in educational and career counselling is higher than indicated due to the fact that usually the teachers, on top of teaching, are also fulfilling the role of such counsellors.

The report further indicates that individual offices of labour, social affairs and family also provide pupils and students from primary and secondary school with information and advisory services (IaPS) aimed at assisting them in choosing the appropriate study or employment and communicating the market situation, work and study opportunities. The report provides data concerning the number of beneficiaries of such services during the reference period. The Committee notes in particular that in the year 2018, IaPS was provided to 16,452 pupils and students, of which 6,154 were primary school students and 10,298 secondary school students; the services were provided in 222 primary schools and 200 secondary schools.

The Committee asks the next report to indicate the proportion between the given number of educational and career advisors employed in schools and the number of students attending such schools, as well as the proportion between the number of staff employed in employment centres and the given number of beneficiaries provided for in the report.

The Committee notes that the report does not provide any information on the qualification of the staff involved in vocational guidance services. It notes from another source (Euroguidance, www.euroguidance.eu) that tertiary education is required for guidance practitioners in the educational sector, preferably related to human or social sciences (psychology, sociology, HR management, teaching, adult education). The Committee further notes from the same source that outside the reference period, in 2019, a quality standard for career guidance and counselling services was developed by the Association for Career Guidance and Career Development (output of an international Erasmus+ strategic partnership). As of 2020, career guidance providers have the possibility to go through the certification and mentoring process in the new quality standard to become certified career guidance providers. The Committee

asks the next report to confirm such information and wishes to be informed of any developments in this regard.

While taking note of the information provided, the Committee notes that the current report does not contain the requested information on the financial resources allocated to vocational guidance within the education system, nor on the number of pupils that benefited from vocational guidance services by educational and career advisors employed in schools, as well as on the number of the staff employed in the employment centres involved in advisory services for primary and secondary school. The Committee accordingly asks the next report to provide such information. In the meantime, it reserves its position on this point.

Vocational guidance in the labour market

In its previous conclusion (Conclusions 2016), the Committee took note of the organisation of vocational guidance services within the labour market as well as on the expenditure related to information and advisory services and professional consultancy. However, it noted that the report did not provide any data on the qualifications and number of the staff providing information, advice and vocational guidance services in the labour market. It recalled that vocational guidance must be provided free of charge, by qualified and sufficient staff, to a significant number of persons and with an adequate budget. It asked the next report to provide such information. In the meantime, it reiterated its previous conclusion of non-conformity with Article 9 of the Charter, on the ground that it had not been established that vocational guidance services within the labour market are operated in an efficient manner.

The current report indicates that information and advisory services for jobseekers are provided by the authorities through internal professional consultants or external suppliers. According to the report, such services are focused on solving problems related to job application of jobseekers, on creating consistency between his/her personality prerequisites and performance requirements to influence the decision-making and behaviour of the jobseeker and his social and occupational adaptation.

The report indicates that in 2018, information and advisory services were provided by 349 internal expert advisors. On average, one expert advisor provided services for 173 jobseekers. According to the report, this ratio decreased compared to 2017 – when one advisor provided services to 386 jobseekers – allowing for more intensive and longer-term delivery of individual counselling support for a specific jobseeker. The report indicates that external suppliers also provided these services within the framework of the national project Support for Personalized Counselling for Long-term Unemployed Jobseekers.

According to the report, in 2018 a total of 432,752 services were provided, compared to a total of 242,002 provided in 2017. The Committee takes note from the report that the significant increase in the number of services provided is related to the intensification of provided personalized services – by increasing the personnel capacities of expert advisors at the authorities – and providing comprehensive, long-term guidance programs through national projects.

As regards the qualification of the staff involved in these services, the current report does not provide any information. The Committee notes from another source (Euroguidance, www.euroguidance.eu) that professional career counsellors in the public employment services (dealing mostly with disadvantaged job seekers) are required to hold a Master's degree, but no other requirements (e.g. field of study) are specified. The Committee asks the next report to confirm such information and to provide any other relevant data on this point.

The Committee notes that the report does not contain up-to-date information on the financial resources allocated to vocational guidance in the labour market. It therefore asks the next report to contain such information. Pending receipt of the information requested, it reserves its position on this point.

Conclusion

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

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 the Slovak Republic.

The Committee notes that a substantial reform of the system of vocational education and training (Law No. 61/2015) was implemented as of the 2016/2017 school year. It notes that this dual education system allows pupils to acquire theoretical knowledge at school which is put into practice during workplace training in companies.

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

The Committee refers to its 2016 conclusion in which it found that the situation in the Slovak Republic was not in conformity with Article 10§1 of the Charter on the ground that it had not been established that the right to vocational education was adequately guaranteed. The Committee noted the lack of reliable instruments for anticipating labour market needs and asked the authorities to provide information following the implementation of the new Law No. 61/2015 on Vocational Education and Training (VET).

According to the information provided, the new system put in place by the authorities establishes a partnership between the employer and the pupil in the form of a training contract which sets down the rights and obligations of each party (as well as matters relating to the award of grants and the provision of other financial and material support). A contract is also signed between the employer and the school to determine the scope, conditions and co-ordination of the pupil's vocational training (i.e. the balance between theoretical and practical learning). Under this system, the employer bears sole responsibility for all practical training as well as the entirety of the costs incurred by its implementation.

Law No. 61/2015 lays down the arrangements for an employer to be able to offer practical training to pupils. It follows from the relevant provisions that it is the professional organisation to which the employer is affiliated that is able to deliver a certificate entitling the employer to provide such training.

The Committee notes that the programme for Dual Education and Increasing VET Attractiveness and Quality, which ran from January 2016 to October 2020, made it possible to implement the 2015 legislative reform and to introduce several measures, including training for relevant staff, information available in digital format and steps to strengthen ties between employers, schools and pupils.

According to the report, around 280 vocational schools and 8 higher territorial units currently work with the dual vocational education and training system. The authorities reported the participation of 1 450 employers and 7 professional organisations.

Several statistics show that the number of students participating in the current system of vocational education and training is on the rise. Pupils who graduate from the system are awarded a training certificate.

The Committee notes that the authorities have also undertaken work to collect data on the graduate employment rate of these training courses. Moreover, they aim to create a tool making it possible to identify employers' needs at territorial level (by updating the map of employers' competences in terms of material circumstances and region) and set the performance plans of vocational schools in accordance with labour market requirements. The Committee asks the authorities to include up-to-date statistics in their next report.

The Committee notes that several projects aimed at improving the employability of young people (up to the age of 29) have been implemented nationally as part of the EU's Youth Guarantee programme (e.g. "Be Active!"; "Working Experience" – see information provided on

Article 1§3 in the report). In particular, they make it possible to offer training or internships to young people within four months of completing formal education or becoming unemployed.

The Committee concludes that the situation has been brought into conformity with Article 10§1 in this respect.

Measures taken to integrate migrants and refugees

The Committee notes that no information has been provided by the Slovakian 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 submitted by the Slovak Republic.

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

The Committee recalls that in its 2016 conclusions, it had concluded that the situation was not in conformity as there was no well-functioning apprenticeship system in place during the reference period.

In response to the Committee's request for information on the implementation of the alternation system, the report refers to the information provided under Article 10§1 of the Charter. The Committee notes that a substantial reform of the vocational education and training system (Law No. 61/2015) has been implemented as from the 2016/2017 school year. In the light of this information (for more details, see the conclusion adopted under Article 10§1), the Committee considers that the situation has also been brought into line with Article 10§2.

Conclusion

The Committee concludes that the situation in the Slovak Republic 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 the Slovak Republic.

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

The Committee notes that Slovak Republic 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 vocational training and retraining activities for the employed are provided by the employer. Financial contributions for these training activities are provided by the Labour Office, upon the requirement that the employer will continue to employ the trained employees for at least 12 months following the training. The Committee takes note that these contributions were provided for 443 employees in 2016, with the respective expenditure amounting to € 4,476,354 and for 432 employees in 2017, with the respective expenditure amounting to € 3,256,200.00. In its previous conclusion (Conclusions 2016), the Committee asked the next report to provide updated statistics concerning the overall number of employed persons in training and as a percentage of the total number of employed persons. The report does not provide the requested information. The Committee, therefore, reiterates its previous question.

In response to the Committee’s request for information on the existence of legislation on individual leave for training (Conclusions 2016), the report states that training activities take place during working hours and are considered "an obstacle to work on the part of the employee". The Committee asks the next report to provide more precise information on the right to individual leave for training, in particular whether there is legislation in place authorising individual leave for training and, if so, under what conditions and on whose initiative, its duration and whether it is paid or unpaid.

The Committee notes from the report that with respect to vocational training available to unemployed persons, reforms to the vocational training services were introduced during the reference period. The Committee takes note of the new active labour market measure titled ‘REPAS’, aiming to promote the cooperation between jobseekers, the authorities and training institutions. Within the context of this measure, jobseekers choose both the type of work activity in which they wish to retrain and the training provider, while the total cost of the training is reimbursed by the Labour Office. The Committee also takes note of the reform of this measure in 2017 and the introduction of the projects REPAS+ and KOMPAS+. It notes that participation of jobseekers in the above programmes rose from 15.351 in 2016 to 22.181 in 2018, taking into account the total participants in both REPAS+ and KOMPAS+ programmes. The expenditure also increased from € 6.769.208,93 in 2016 to 10.247.562,26 € for the REPAS+ programme and 6.691.907,65 € for the KOMPAS+ in 2018. The employment rate of participants of the programmes was 47,96% in 2016 and 51,39% in 2017.

In previous conclusion (Conclusions 2016), the Committee requested information on the numbers of unemployed persons trained and the activation rate. The report does not provide the requested information. The Committee, therefore, reiterates its previous question.

In relation to the targeted question addressed to Slovak Republic with the letter of 27 May 2019, the report does not provide the requested information. The Committee, therefore, reiterates its question and asks the next report to provide information on strategies and measures (legal, regulatory and administrative frameworks, funding and practical arrangements) in place to ensure skilling and re-skilling in the full range of competencies (in particular 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.

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 the Slovak Republic.

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

The Committee previously concluded that the situation in the Slovak Republic was not in conformity with Article 10§4 of the Charter on the ground that it has not been established that special measures for the retraining and reintegration of the long-term unemployed have been effectively provided or promoted (Conclusions 2016).

According to the report under Article 1.1. in order to strengthen the integration of the long-term unemployed, the Action Plan on Enhancing the Integration of Long-Term Unemployed in the Labour Market (AP) was adopted in November 2016, specifying concrete measures in order to activate disadvantaged groups in the labour market. The AP is regularly monitored

As of December 31, 2016, a total of 137,309 Long-Term Unemployed persons was recorded, which was 49.73% of the 276,131 registered jobseekers; as of December 31, 2017 this number decreased to 87,850 , which was 44.92% of the 195 583 registered jobseekers. The average long-term unemployment rate was 4.8% in 2017.

Regarding the situation of the long-term unemployed persons, the report indicates, under Article 10§3 of the Charter, that in 2016 11,590 (75.50%) jobseekers assigned to retraining were disadvantaged. The largest group consisted of long-term unemployed jobseekers (5,065; 32.99% of all jobseekers undergoing retraining).

The report does not provide any further information regarding measures taken to combat long term unemployment.

The Committee reiterates its request that the next report provide the following information, including statistics for all the years of the relevant reference period:

- the types of training and retraining measures available on the labour market for the long-term unemployed;
- the number and rate of persons in this category participating in these types of training;
- the types of training and retraining measures available on the labour market for young long-term unemployed and the number and rate of persons participating in these types of training;
- the impact of the measures on reducing long-term unemployment. Meanwhile the Committee reserves its conclusion on the situation.

In its previous conclusions (Conclusions 2012 and 2016), the Committee recalled that equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to nationals of other States Parties lawfully residing in the Slovak Republic, on the basis of the conditions mentioned under Article 10§1. It therefore asked whether this was the case. The report does not answer this question. Therefore the Committee concludes that it has not been established that equal treatment with respect to access to training and retraining for the long-term unemployed persons is guaranteed to nationals of other States Parties.

Conclusion

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 10§4 of the Charter on the ground that it has not been established that equal treatment with respect to access to training and retraining for the long-term unemployed persons is guaranteed to nationals of other States Parties.

Article 10 - Right to vocational training

Paragraph 5 - Full use of facilities available

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 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 the Slovak Republic.

It previously found (Conclusions 2016) that the situation was in conformity with Article 15§1 of the Charter.

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

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

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

Legal framework

The Committee refers to its previous conclusion (Conclusions 2016) as regards the legislation (Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination), which prohibits any discrimination based on disability, including in respect of education.

As regards the notion of disability, the report states that as the Slovak Republic has ratified in 2010 the UN Convention on the Rights of Persons with Disabilities, the definition under this instrument is directly applicable in the national legislation. The Committee notes from the European Equality Network country report 2019 that indeed the Supreme Court has confirmed this principle in a case that concerned the right of a child with a disability to inclusive education (Decision of the Supreme Court of the Slovak Republic, ref. No 7Sžo/83/2014, 24 September 2015).

As regards specifically education, the Committee previously noted that under Article 94 §1 of the Act No. 245/2008 Coll. on upbringing and education (the School Act), students with disabilities are enrolled in regular education institutions and only if their health does not allow it, they attend classes for students with special needs.

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) (2006) crystallises this trend by emphasizing that persons with disabilities include those with long term disabilities including physical, mental or intellectual disabilities which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Importantly, this means there is no a priori exclusion from inclusive education based on the type of disability. Indeed, Article 2 of the CRPD which prohibits discrimination "on the basis of disability" may be read to go further by including those who have had a record of disability in the past but who continue to be treated negatively and those who never had a disability but may nevertheless be treated by others as if they had a disability (the so-called "attitudinally disabled").

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

Access to education

According to the data presented in the report, the majority of children with disabilities (around 88% in primary education and around 78% in secondary education) was in mainstream education in 2016/2017 and 2017/2018. In particular, at primary school level, the number of children with disabilities in mainstream education went from 33090 in 2016/2017 to 34884 in 2017/2018 while the number of children with disabilities in special education went from 4614 in 2016/2017 to 4580 in 2017/2018. In secondary schools, the number of children with disabilities in mainstream education went from 5751 in 2016/2017 to 5845 in 2017/2018 and the number of children with disabilities in special education went from 1629 in 2016/2017 to 1695 in 2017/2018. According to the data (concerning 2016-2017) presented in the 2018 report of the European Agency for special needs and inclusive education (EASIE European Agency Statistics on Inclusive Education, 2018 Dataset Cross-Country Report), in primary education, children with recognised special educational needs were 15,07% of the school population; 62.68% of them were in mainstream inclusive education, 13,09% in special classes and 24,23% in special schools while in upper secondary education, students with special educational needs were 6,38% of the school population, 66.77% in mainstream settings, 0.80% in special classes and 32.43% in special schools.

The Committee notes the concerns expressed by the UN Committee on the Rights of Persons with Disability in its latest Concluding Observations (2016) and by the European Equality Network, in their country report 2019, concerning the over-representation of Roma children in segregated education (according to data of 2018, presented in the European Equality Network report, they accounted for 63% of all children educated in special classes and 42% of all children educated in special schools). It recalls in this respect its Conclusion (2019) concerning Article 17§2, where it found that it had not been established that adequate measures had been taken to include Roma children in mainstream education, resulting in the perpetuation of segregation in education. It accordingly decides to follow-up this issue in the framework of the next conclusions concerning Article 17§2.

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.

In the meantime the Committee reserves its position on the situation.

Measures aimed at promoting inclusion and ensuring quality education

The Committee previously asked for information on the steps taken to provide teachers with proper training for special education (Conclusions 2016). In this respect, the report describes the tasks of the teachers assistants, provided by the school to accompany children with disabilities and assist them in their material and educational needs. The report explains that the costs related to teachers assistants may be allocated by the state at the request of the school founder (municipality or a self-governing region), pursuant to Section 4a of Act of the National Council of the Slovak Republic No. 597/2003 Coll. on the financing of primary schools, secondary schools and school facilities, as amended.

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

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

The Committee notes that the UN Committee on the Rights of Persons with Disabilities, in its General Comment No. 4, (2016), on the Right to inclusive education has stated that "inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion".

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

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

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

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

Remedies

In its previous conclusion (Conclusions 2016), the Committee asked for more information about effective remedies for those who are found to have been unlawfully excluded or isolated or otherwise denied an effective right to education. It also wished to be informed about any relevant case-law on discrimination based on disability relating to education and training. The report refers to the direct applicability in Slovak law of the UN Convention on the Rights of Persons with Disabilities; it also refers to a reform of the civil procedure in 2016 (see Sections 307-315), which set up new standards for seeking protection against discrimination in front of the court, including the possibility for NGOs to represent a victim of discrimination.

While taking note of this information, and of the decision of the Supreme Court in 2015 referred to above, the Committee asks the next report to provide updated information on the relevant case law of the courts and relevant cases solved by the Commissioner for persons with disabilities or the Slovak National Centre for Human Rights concerning access to education of children with disabilities including the provision of adequate assistance or 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 2 - Employment of persons with disabilities

The Committee takes note of the information contained in the report submitted by the Slovak Republic. It also takes note of the information provided by a group of NGOs representing persons with disabilities (Forum for Human Rights (FORUM), SOCIA-Social Reform Foundation (SOCIA), Social Work Advisory Board (RPSP) and Validity (formerly Mental Disability Advocacy Centre) in their comments registered on 30 June 2020.

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 (Conclusions 2016) deferred its conclusion, pending receipt of information notably on the implementation in practice of the relevant provisions prohibiting discrimination in employment on ground of disability and providing for reasonable accommodation; updated statistical data on the effective access of persons with disabilities to employment and the respect in practice of the quota system.

Legal framework

According to the report, the Labour Code defines an 'employee with a disability' as an employee who is officially acknowledged as disabled on the basis of the Social Insurance Act and who submits to their employer a decision proving entitlement to a disability pension. On this point, the Committee notes that the relevant NGOs allege in their comments (see above) that the assessment of disability, even when it includes a social element, remains fundamentally built on the medical model of disability. The Committee asks the next report to comment on this point and to explain whether and how the assessment of disability in the field of employment takes into account the personal and environmental factors interacting with the individual.

The Committee previously took note of the employers' obligations in respect of persons with disabilities under the Anti-Discrimination Act No. 365/2004, the Labour Code and Act No. 5/2004 Coll. on Employment Services (see Conclusions 2016 for details). In particular, discrimination in employment on grounds of disability is prohibited and the employers' obligations include the provision of adequate working conditions, as explained in the report, unless this would involve a disproportionate burden on the employer. The Committee asks the next report to provide information about the implementation in practice of reasonable accommodation in the workplace. Having regard to the comments of the relevant NGOs, the Committee asks the next report to clarify whether persons with disabilities have to bear the cost of technical and/or personal support (social services) which they need to overcome barriers which apply to different aspects of their daily life, including employment.

As regards the difference between sheltered workshops and sheltered workplaces, the regulations on working conditions and pay in sheltered employment and the role of trade unions in respect of persons with disabilities, the Committee refers to its previous conclusion (Conclusions 2016).

Access of persons with disabilities to employment

The report states that during the reference period the number of sheltered workshops and sheltered workplaces decreased from 7243 in 2015 to 6083 in 2018, and so did the number of persons with disabilities employed there, who went from 12 790 in 2015 to 10 584 in 2018. It does not provide however information on the total number of persons with disabilities

employed and, in particular, on the number of persons with disabilities employed in the open labour market.

On these points, the Committee notes from the Academic Network of European Disability Experts (ANED), referring to data of the Social Insurance Agency, that the number of employed persons with disabilities has kept growing from 75 445 in 2014 to 95 359 in 2017. ANED also indicates that the gap in the employment rate of persons with disabilities and the general population was narrower than in most of other EU states, but that efforts were needed in respect of people with severe disabilities. The Committee asks the next report to provide updated data on the total number of persons with disabilities employed (on the open market and in sheltered employment), those benefiting from employment promotion measures and those seeking employment.

Measures to promote and support the employment of persons with disabilities

With regard to measures taken to promote the integration of persons with disabilities into the ordinary labour market, the report refers to the types of financial benefits set out in Act 5/2004 Coll. on Employment Services, i.e.:

- contribution for the establishment of a sheltered workshop or sheltered workplace, provided to the employer by the local labour, social affairs and family office (357 beneficiaries in 2015, 155 in 2017);
- contribution paid to employers for keeping a person with disabilities in employment (29 beneficiaries in 2015, 21 in 2017);
- contribution paid to a person with disabilities engaging in self-employment (90 beneficiaries in 2015, 77 in 2017);
- contribution for the activities of a work assistant (831 beneficiaries in 2015, 1077 in 2017);
- contribution towards the operating costs of a sheltered workshop or a sheltered workplace and towards the cost of employee transport (9808 beneficiaries in 2015, 9763 in 2017).

The Committee notes that the overall number of beneficiaries of these measures has remained stable over the reference period and that it is not clear whether these figures indicate a shift in the employment pattern of persons with disabilities, from sheltered to open labour market. The Committee asks the next report to provide updated information and to clarify how these data are relevant to the Charter's requirements under Article 15§2.

The report also reiterates that, under the Employment Service Act, a 3.2% quota of persons with disabilities applies to employers with at least 20 employees, but continues not to provide the clarifications repeatedly requested on this point (Conclusions XV-2(2001), XVI-2(2003), XVIII-2(2007), XIX-1(2008), 2012, 2016). According to the country report issued by the European Equality Law Network about discrimination: in 2018, 8 370 employers met their legal obligation in this regard by ensuring that at least 3.2% of their workforce be made up of persons with disabilities; 1 556 employers met the obligation by buying goods or services from a sheltered workshop or a sheltered workplace or a self-employed persons with disabilities; 698 employers met the obligation by paying a levy to the labour office; and 1 284 employers met the obligation by combining the options. The percentage of employers meeting the legal obligation by ensuring that at least 3.2% of their workforce is made up of people with disabilities accounted for approximately 70% and remained at the same level as in 2017. The Committee asks the next report to provide updated information on these points.

Remedies

According to the report, the failure to comply with the obligation to take appropriate measures for persons with disabilities is considered as indirect discrimination against the person within the meaning of the Anti-Discrimination Act. However, the report does not provide the requested information concerning the relevant case-law. The Committee accordingly asks the

next report to provide further information on the remedies available in case of discrimination, in the light of relevant case-law examples. It recalls that legislation must confer an effective remedy on those who have been found to be discriminated against on grounds of disability and denied reasonable accommodation It reserves in the meantime its position on this issue and holds that if the information requested is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

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 2 - Simplifying existing formalities and reducing dues and taxes

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

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 report states that there was a restructuring of the various types of work permit during the reference period. According to the report an employer may employ a foreign national who:

- holds an EU Blue Card;
- has been granted a temporary residence permit for employment purposes on confirmation of the possibility of filling a vacancy (a “single permit”);
- has been granted a work permit and a temporary residence permit for employment purposes;
- has been granted a work permit and a temporary residence permit for family reunion purposes;
- has been granted a work permit and a temporary residence permit for a foreign national with the status of long-term resident in an EU member state, save where stipulated otherwise in a special regulation; or
- does not require confirmation of the possibility of filling a vacancy that equates to a highly qualified job, confirmation of the possibility of filling a vacancy or a work permit.

The report specifies that the EU Blue Card is a form of temporary residence permit which enables a third-country national to enter and reside and work on the territory of the Slovak Republic for the purpose of a highly qualified job. The Card is issued by the police department. One of the requirements for such a card to be issued is the submission of a job offer or an employment contract (contract for the performance of a highly qualified job for a period of at least one year from the date on which the Card is issued and a monthly salary of at least one and a half times the average monthly salary of an employee in the Slovak Republic in the sector concerned). Blue Cards are issued for a three-year period or, if the duration of employment is shorter than three years, they are issued for this duration plus 90 days. When examining applications for Blue Cards, the police department asks the Central Labour Office for confirmation that it is possible to fill a vacancy corresponding to a highly qualified job, in accordance with the Employment Services Act.

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

In its previous conclusion (Conclusions 2016), the Committee concluded that the situation was not in conformity with Article 18§2 of the Charter on the ground that it had not been established that the formalities for issuing work and residence permits had been simplified during the reference period.

The report states that a foreign national who intends to be employed in the Slovak Republic must submit an application for a “single permit” (for “temporary residence for the purpose of employment upon confirmation of the possibility of filling a vacancy”) to the police department (which is required to accept all such applications even if they are incomplete). This type of permit authorises a foreign national to reside in Slovakia for the purposes of employment. When examining applications, the police department asks the relevant Labour Office for confirmation that it is possible to fill the vacancy (Employment Services Act). The potential employer must report a job vacancy to the relevant Labour Office at least 20 working days before applying for a temporary permit for the purpose of employment. If, within this time limit, the post has not been filled by a person on the jobseekers register, the employer may issue a

written employment pledge or enter into an employment contract with a foreign national. The latter may only apply for a single permit after expiry of this time limit. The single residence and work permit may only be granted for a maximum period of two years. In the light of the foregoing, the Committee notes that it is possible to obtain a residence and a work permit through one and the same procedure if the application is for a "single permit" (and the EU Blue Card).

The report also states that at the written request of a third-country national, employer or a natural or legal person to whom the third-country national has been seconded to perform work, the relevant Labour Office may grant a work permit within 12 months of the date of issue:

- a) of a temporary residence permit for the purpose of family reunion; or
- b) of a temporary residence permit for a third-country national with the status of long-term resident in an EU member state.
  According to the report, both of these types of temporary residence permit for employment purposes are granted by the police department if there are no reasons for refusal. The Committee understands that in both cases, the obligation to issue a residence and a work permit through one and the same procedure is not met and asks for confirmation of this interpretation in the next report. In the meantime it reserves its position on this point.

The Committee notes that the report does not state whether the formalities can be completed in the country of origin as well as in the country of destination. Nor does the report contain any information on the rules that apply to self-employed workers applying for a work permit. It asks for this information to be included in the next report and points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in the Slovak Republic is in conformity with Article 18§2 of the Charter in this respect.

Chancery dues and other charges

In its previous conclusion (Conclusions 2016), the Committee reserved its position on fees and other charges because the report did not provide any information on this point.

The Committee takes note of the fees for the issue and renewal of temporary residence permits on the following grounds:

- entrepreneurship – €232 (€132.50 for renewal)
- employment – €165.50 (€99.50 for renewal)
- seasonal work – €33.00 (€16.50 for renewal)
- special activities – €99.50 (€33 for renewal)
- family reunion – €132.50 (€66 for renewal)
- performing professional duties in the civilian services of the armed forces – €66 (€33 for renewal)
- EU Blue Card – €165.50 (€99.50 for renewal)
- third-country national with the status of long-term resident in an EU member state, conducting business activities in the Slovak Republic – €232 (€132.50 for renewal)
- third-country national with the status of long-term resident in another EU member state, working in the Slovak Republic – €165.50 (€99.50 for renewal)
- third-country national with the status of long-term resident in another EU member state, performing special activities or research and development in the Slovak Republic – €99.50 (€33 for renewal).

The Committee recalls that under Article 18§2 of the Charter, the States Parties undertake to reduce or abolish chancery dues and other charges payable by foreign workers or their employers. Consequently, it asks for information in the next report on whether measures are planned to reduce costs for workers or employers.

Conclusion

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

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

Paragraph 4 - Right of nationals to leave the country

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

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 the Slovak Republic.

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

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

Legal framework

In its previous conclusion (Conclusions 2016), the Committee noted that the principle of equal pay for women and men for equal work or work of equal value was reflected in the specific provisions of Article 119a of the Labour Code which stipulates that wage conditions must be agreed without any gender discrimination. Under Article 119a(2) of the Labour Code, women and men have the right to equal pay for the same work or work of equal value.

The Committee notes from the reports on gender equality in Europe (2016) and in Slovakia (2019) drawn up by the European Network of Legal Experts in Gender Equality and Non-Discrimination that the concept of pay excludes severance pay and packages, non-mandatory travel reimbursements, and contributions to social security schemes, supplementary health insurance schemes and supplementary pension funds.

In this respect, the Committee points out that under Articles 4§3 and 20 of the Charter (and Article 1 (c) of the 1988 Additional Protocol), the right of women and men to equal pay for work of equal value must be expressly provided for in legislation. The concept of remuneration must cover all elements of pay, i.e. basic pay and all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment (University Women of Europe (UWE) v. France, Complaint No. 130/2016, decision on the merits adopted on 5 December 2019, §163). The Committee therefore finds that the situation is not in conformity with the Charter on the ground that the legislation explicitly includes only certain types of pay under the principle of equal pay.

Effective remedies

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

the employer must pay compensation, which must be sufficient to compensate the worker (i.e. cover pecuniary and non-pecuniary damage) and to deter the employer (see in this respect collective complaints Nos. 124 to 138, University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden, 5-6 December 2019).

The Committee refers to its previous conclusions on Article 4§3 and 20 (Conclusions 2016 and 2018) and notes that the situation is in conformity with the Charter regarding the shift in the burden of proof, effective remedies for gender-based pay discrimination and the rules that apply in the event of retaliatory discharge. Nevertheless, it asks for the next report to clarify how the principle of shifting the burden of proof is applied in practice, for example, whether it is systematically applied in the case of pay discrimination. It also asks for information on the number of cases specifically related to gender pay discrimination brought before the courts, with details on their outcomes and the penalties imposed on employers.

As regards the rules on *compensation* in the event of a violation of the principle of equal pay, the report states that the victim may obtain compensation in the form of a return to a discrimination-free situation or appropriate compensation. If non-compliance with the principle of equal treatment significantly reduced the dignity, social respect or social status of the injured party and if the appropriate redress was not sufficient, the injured party may also claim compensation for non-pecuniary damage (the amount of compensation shall be determined by the court, taking into account the extent of the non-pecuniary damage incurred and all the circumstances under which it occurred). The Committee asks whether the obligation to compensate the difference of pay is limited in time or is awarded for entire period of unequal pay.

Pay transparency and job comparisons

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

The report contains no information regarding *pay transparency* in the labour market. However, the Committee notes from the 2019 report on gender equality in the Slovak Republic by the European Network of Legal Experts in Gender Equality and Non-Discrimination that Article 119a(3) of the Labour Code stipulates that if a system of job evaluation is used, it must be based on the same criteria for men and women, without any gender-based discrimination. When employers evaluate the work of men and women, they may use other objectively measurable criteria providing these preclude any gender-based discrimination. The Committee asks for more information on these criteria in the next report.

The Committee takes note of the information published in the European Commission staff working document entitled “Evaluation of the relevant provisions in the Directive 2006/54/EC

implementing the Treaty principle on 'equal pay for equal work or work of equal value'" (SWD(2020) 51 final, 5.3.2020), according to which none of the necessary measures has as yet been taken to ensure the application of the European Commission's Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, particularly through the requirement that employers regularly provide reports on remuneration with gender-disaggregated data.

As regards the *parameters for establishing the equal value of the work performed*, the Committee notes that Article 119a(2) of the Labour Code defined "work of equal value" as being "work of the same or comparable complexity, responsibility and urgency, which is carried out in the same or comparable working conditions and produces the same or comparable capacity and results of work in an employment relationship for the same employer." The Committee notes that job comparisons can be made only within the same company. On this point, it also notes the information provided in the above-mentioned report on gender equality (2019) and in the observations made by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) published in 2020 (109th session of the International Labour Conference) concerning Convention No. 100 on Equal Remuneration (1951) indicating that Article 119a(2) of the Labour Code limits the scope of comparison to jobs performed for the same employer.

The report also states that an analysis based on a "jobcell system" is used to examine pay differences between men and women. According to the report, this analysis makes it possible to compare pay differences between men and women working in the same position in the same company, based on the organisation's job classification system. The Committee asks the next report to provide more information on this analysis, in particular on the body responsible for this analysis, the frequency of such an analysis and the measures taken to remedy the pay gap established by it.

The Committee recalls that it examines the right to equal pay under Article 20 and Article 4§3 of the Charter, and does so therefore every two years (under thematic group 1 "Employment, training and equal opportunities", and thematic group 3 "Labour rights"). Articles 20 and 4§3 of the Charter require the possibility to make *job comparisons across companies* (see in this respect Complaints Nos. 124 to 138, UWE, op. cit.). The Committee repeats the question, already asked in its conclusion regarding Article 4§3 (Conclusions 2018), as to whether it is possible to make pay comparisons across companies in equal pay litigation cases. In order to clarify this issue, the Committee considers that provision should be made for the right to challenge unequal remuneration resulting from legal regulation and collective agreements. In addition, there also should be the possibility to challenge unequal remuneration resulting from internal pay system within a company or a holding company, if remuneration is set centrally for several companies belonging to such holding company.

The Committee asks again for information in the next report on the job classification and promotion systems in place as well as the strategies adopted to guarantee wage transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), specifying in particular what time limits are set to make the progress demanded and the criteria applied to measure progress. In the meantime, it reserves its position on this point.

Enforcement

The report states that in 2016, the National Labour Inspectorate ordered regional labour inspectorates to carry out systematic inspection visits focusing on equal treatment in labour-law relations (pursuant to the Labour Code and the Antidiscrimination Act). Accordingly, 157 violations were found, including 39 violations relating to equal treatment. The most common violation (22 cases) was the failure to inform employees about the legal provisions relating to equal treatment. The report notes that in 2015, the Labour Inspectorate received 143 complaints regarding employers' violations of equal treatment provisions.

The Committee also notes that victims of discrimination may contact the Slovak National Centre for Human Rights which is responsible for investigating discrimination complaints, providing assistance and legal advice, issuing opinions, (non-binding) recommendations and warnings, seeking amicable settlements and instituting legal proceedings, etc.

The Committee asks for the next report to provide further information on the way in which equal pay is ensured, and in particular, on the monitoring activities conducted in this respect by the Labour Inspectorate and other competent bodies. More specifically, it asks for information to be provided about the activities undertaken in this respect by the National Centre for Human Rights and the Labour Inspectorate and about the number, nature and outcome of cases of equal pay discrimination in the public and private sectors.

Obligations to promote the right to equal pay

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

The Committee takes note of the adoption of the new Strategy for Gender Equality (2014-2019) and of its Action Plan. The new strategy identifies six key areas in which additional measures must be adopted, including institutional and legislative provisions ensuring gender equality.

Regarding the gender pay gap, the report states that it stood at 18% and had stagnated at this level for the last five years.

The Committee notes from Eurostat data that the gender pay gap was 19.7% in 2015, 19.2% in 2016, 20.1% in 2017 and 19.8% in 2018 (compared with 20.9% in 2008 and 19.6% in 2010). It notes that this gap was higher than the average of the 28 European Union countries, i.e. 15% in 2018 (data as of 29 October 2020).

While the Committee takes note of the government's efforts, particularly in implementing a strategy and action plan, it nevertheless observes that the gender pay gap remains high during the reference period. The Committee accordingly considers that the situation is not in conformity with Article 20 of the Charter on the ground that the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

The Committee asks for the next report to provide updated information on the specific measures and activities implemented to promote gender equality, overcome gender segregation in the labour market and reduce the gender pay gap, together with information on the results achieved. It also asks that the next report provide information on the employment rate for both men and women and the gender wage gap for each year in the reference period.

Conclusion

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

- the legislation explicitly includes only certain elements of pay under the principle of equal pay;
- the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

Article 24 - Right to protection in case of dismissal

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

Scope

The Committee addressed specific targeted questions to the States (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Employment, training and equal opportunities") concerning strategies and measures that exist or are being introduced to ensure dismissal protection for workers (labour providers), such as "false self-employed workers" in the "gig economy" or "platform" economy. The Committee notes that the report does not provide information in this respect. It asks what safeguards exist to ensure that employers hiring workers in 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 a valid reason for dismissal

In reply to the Committee's question regarding termination of employment and pensionable age, the report states that pensionable age does not constitute a valid reason for the termination of employment, in accordance with Section 63 of the Labour Code.

The Committee recalls that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter (e.g.those connected with capacity or conduct of the employee or the operational requirement of the enterprise).

The Committee asks whether the employer would need to also invoke one of the valid reasons to justify the termination of employment upon the employee's reaching the pensionable age.

Prohibited dismissals

In its previous conclusion (Conclusions 2016), the Committee noted that protection against dismissal in case of illness was granted to every worker and that there was no upper limit in the length of time during which a person was considered ill. An examination of the health condition of the person was carried out after one year, in the premises of the Social Insurance Company. The Committee asks what rules apply in case of termination of employment on the ground of long-term or permanent disability, such as the procedure for establishing long-term disability and the level of compensation paid in such cases.

Remedies and sanctions

In its previous conclusion (Conclusions 2012), the Committee noted that the amendment of the Labour Code changed the maximum amount of wage compensation paid in case of unlawful dismissal, which has been increased from 12 to 36 months. It asked whether non-pecuniary damage could be claimed in the event of unlawful dismissal. It notes from the report in this regard that the ceiling of 36 months does not mean that a victim will not get higher compensation. There is no limit to the compensation of damages. No matter how high the compensation is, in addition to the damages decided on by the court, the victim shall also be provided with wage compensation up to 36 months. Therefore, the limit only relates to additional wage compensation, not the compensation/reparation for damages decided by the court.

The Committee recalls that, under the Charter, workers dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation systems are considered to comply with the Charter when they provide for:

- reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body;
- the possibility of reinstatement of the worker; and/or
- compensation of a high enough level to dissuade the employer and make good the damage suffered by the victim (Finnish Society of Social Rights v. Finland, Complaint No. 106/2014, decision on admissibility and the merits of 8 September 2016, §45; Conclusions 2016, Bulgaria).

The Committee further recalls that (Statement of interpretation on Article 8§2 and 27§3, Conclusions 2011) compensation for unlawful dismissal must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed. If there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues, and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time. The Committee asks whether the legislation complies with this approach.

In its previous conclusion, the Committee considered that it had not established that the law provided a shift of the burden of proof between employee and employer in proceedings relating to dismissal. It notes in this respect that disputes resulting from individual labour-law relations and anti-discrimination disputes belong to the group of the so-called "disputes related to the protection of the weaker side", in accordance with Act No. 160/2015 on the Civil Dispute Procedure. According to the report, this implies thatthe burden of proof is shifted from the victim to the employer or entity which caused the discrimination. The Committee asks whether there is a shift of the burden of proof in unlawful dismissal proceedings, not related to discrimination.

Conclusion

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

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.