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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2020

SWEDEN

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 Sweden, which ratified the Revised European Social Charter on 29 May 1998. The deadline for submitting the 19th report was 31 December 2019 and Sweden submitted it on 21 January 2020.

The Committee recalls that Sweden 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 2012).

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

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

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of 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).

Sweden has accepted all provisions from the above-mentioned group except Article 24.

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

The conclusions relating to Sweden concern 11 situations and are as follows:

- 9 conclusions of conformity: Articles 1§1, 1§4, 10§1, 10§3, 10§4, 15§1, 15§2, 15§3 and 20.
- 1 conclusion of non-conformity: Article 10§5.

In respect of the situation related to Article 1§2, the Committee needs further information in order to examine the situation.

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

The next report from Sweden 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 Sweden.

Employment situation

According to Eurostat, the GDP growth rate fell from 4.5% in 2015 to 2% in 2018, a rate equal to the average for the 28 European Union (EU) member States in 2018.

The overall employment rate (persons aged 15 to 64 years) increased from 75.5% in 2015 to 77.4% in 2018, a rate above the EU 28 average (68.6% in 2018).

The employment rate for men increased from 77% in 2015 to 78.8% in 2018, a rate above the EU 28 average (73.8% in 2018). The employment rate for women rose from 74% in 2015 to 75.9% in 2018, a rate well above the EU 28 average (63.3% in 2018). The employment rate for older workers (55 to 64-year-olds) increased from 74.5% in 2015 to 78% in 2018, a rate that is nearly 20 percentage points higher than the EU 28 average (58.7% in 2018). Youth employment (15 to 24-year-olds) increased from 43.9% in 2015 to 44.7% in 2018, a rate well above the EU 28 average (35.3% in 2018).

The overall unemployment rate (persons aged 15 to 64 years) fell from 7.6% in 2015 to 6.5% in 2018, a rate below the EU 28 average (7% in 2018).

The unemployment rate for men dropped from 7.8% in 2015 to 6.7% in 2018, a rate equal to the EU 28 average in 2018. The unemployment rate for women dropped from 7.4% in 2015 to 6.3% in 2018, a rate below the EU 28 average (7.2% in 2018). Youth unemployment (15 to 24-year-olds) dropped from 20.4% in 2015 to 17.4% in 2018, a rate which is higher than 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 20.8% in 2015 to 18.3% in 2018, a rate well below the EU 28 average (43.4% in 2018).

The proportion of 15 to 24-year-olds “outside the system” (not in employment, education or training, i.e. NEET) fell from 6.7% in 2015 to 6% in 2018 (as a percentage of the 15 to 24-year-old age group), a rate which is below the EU 28 average (10.5% in 2018).

The Committee notes that the labour market in Sweden continues to exhibit positive features, including comparably high employment rates (that are also rising) and low (and declining) unemployment rates – except in the area of youth unemployment.

Employment policy

The Government’s report provides information on the measures taken during the reference period to tackle youth and long-term unemployment and to help recently arrived immigrants (particularly refugees and persons in need of protection) to find work (again).

For example, from 2015 to 2018, nearly 76,250 young jobseekers (of whom approximately 39.5% were women) participated in the Youth Guarantee scheme (introduced in 2007 for those aged 16 to 24). This scheme was expanded in 2015-2016 by two further measures: the “90-Day Guarantee” and the “Education Contract”. The “90-Day Guarantee” requires all young jobseekers to receive an offer (for a job, training course or opportunity that leads to work) within 90 days. It led to a reduction in the number of young people who had not started work or studies or been offered another opportunity within three months (on average fewer than 500 young people per month in 2018). The “Education Contract” aims to enable jobseekers aged between 20 and 24 to acquire upper secondary school level skills. The Government also implemented a strategy for young NEETs, which included different measures aiming to improve the opportunities for such young people to enter the job market. The Government reports that the strategy’s success was evident; however, it is too early to assess its impact, and see the long-term effects and effects on a structural level. The Committee wishes to be

kept informed of any assessment of the government's NEET youth strategy and of any follow-up measures taken.

According to the report, nearly 397,200 long-term unemployed persons (of whom approximately 45.6% were women) participated in the "Job and Development Guarantee" programme created for their benefit. The programme was reformed in 2016 to include more individualised measures, for example, vocational training or support while starting a business, based on the needs and circumstances of individual jobseekers. At the same time, the Government increased opportunities for job training and introduced a new programme of vocational courses at adult education centres (*Folkhögskola*) for occupations experiencing labour shortages. In addition, subsidised employment were created.

The Government highlights that it also accelerated its efforts to help newly arrived immigrants into the labour market. For example, "Fast Tracks" were put in place in 2015 for refugees with education, training or work experience in areas in which there is a labour shortage, and the "Introduction Programme" was reformed and expanded in 2018 to ensure quicker and more effective job market integration by helping refugees and persons in need of protection (and their close relatives) to learn Swedish and find work. Approximately 246,300 people (of whom roughly 44% were women) participated in the "Introduction Programme" during the reference period, and around 8,000 went on a "Fast Track" between 2016 and 2018. As migrant women often have more difficulties entering the job market, the Public Employment Service developed an action plan specifically designed to increase employment rates of migrant women – particularly among those with little formal education and limited work experience. The Committee wishes to be kept informed of any assessment of this action plan and of any follow-up measures taken.

As regards the activation rate, the report indicates that during the reference period, approximately 47% of all jobseekers registered with the Public Employment Service participated in active labour market measures.

According to European Commission data, public expenditure on labour market policies (as a percentage of GDP) decreased from 1.78% in 2015 to 1.63% in 2017 (of which approximately 1.01% and 0.86% respectively was allocated to active measures).

The Committee considers that the labour market policies implemented in Sweden satisfy the obligations under Article 1§1 of the Charter.

Conclusion

The Committee concludes that the situation in Sweden 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 Sweden.

1. Prohibition of discrimination in employment

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

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

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

As regards the legislation prohibiting discrimination in general terms, the legal framework previously found to be in conformity with the Charter (see Conclusions 2012) has further been strengthened in 2017. The amendment to the Discrimination Act included the obligation for employers to undertake prevention and promotion measures aimed at preventing discrimination and encouraging other ways to promote equal rights and opportunities regardless of the grounds of discrimination. The Committee also notes from the 2019 country report on Sweden of the European network of legal experts in gender equality and non-discrimination (Equality Network) that general active measures or duties were harmonised, so as to cover all grounds and that in 2018, there were two important cases decided by the Labour Court concerning indirect discrimination.

In reply to the Committee's request for information on legislation targeted at combating discrimination on grounds of race, ethnic background, sexual orientation, age, political opinion or religion, the report states that there are no changes to be reported. The Committee notes that it addressed the legal framework and the situation in practice relating to these issues and found it to be in conformity with the requirements of the Charter (see in particular, Conclusions 2008 as regards age, Conclusions 2006 – sexual orientation, political opinion and Conclusions 2002 – race and ethnic background). Considering the fact that, according to the report, there have been no substantial changes, the Committee renews its positive conclusion on these aspects. However, in the light of the fact that the latest comprehensive assessment of the situation dates back to more than 10 years, it still requests that the next report provide a full and up-to-date description of the situation in law and practice.

In particular with regard to the prohibition of discrimination on grounds of ethnic origin, the Committee refers to the 2018 report of the European Commission against Racism and Intolerance (ECRI) which indicated that there have been positive developments in Sweden, such as a policy of integration of refugees and migrants to facilitate their access to the labour market. Targeted programmes include Swedish language and civic education courses, as well as pre-employment training activities, such as work placements and internships. Furthermore, in 2012, the Swedish government adopted the national strategy for Roma inclusion 2012-2032, with the overall objective of providing members of the Roma community the same opportunities in society as non-Roma. The strategy covers, among others, the area of employment. The Committee notes, however, that, according to ECRI, despite the progress achieved, some issues give rise to concern, namely the country's criminal, civil and

administrative law provisions which are still not entirely in line with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. The Committee asks that the next report comment on this observation. It further requests that comprehensive information is provided on specific measures taken to counteract discrimination in the employment of migrants and refugees, since the report does not address this issue.

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

The Committee has comprehensively addressed various aspects of the remedies available for victims of discrimination in its previous conclusions and systematically found them to be in conformity with the Charter (see Conclusions 2008, 2006 and 2002). The report states that there have been further developments in this respect, in that the Equality Ombudsman was given special assignments in 2018 and 2019 to raise awareness of the requirements in the Discrimination Act for active measures so as to give employers better knowledge and thereby better compliance with the law. The Committee asks whether the increased focus of the Ombudsman lies now on awareness raising as a means of promoting non-discriminatory attitudes and whether, as a result, it will decrease in other fields, such as in the investigation of complaints.

The report further provides that an inquiry has been conducted to analyse whether the current provisions regarding supervision of active measures are appropriate for effective compliance with the law. A report on the results of this inquiry is expected to be submitted in 2020. The Committee asks that the next report provide information on the outcomes of the inquiry, as well as on any measures adopted or envisaged in its follow-up.

The Committee also notes from the abovementioned 2019 Equality Network report that a more restrictive application of the burden of proof by the Labour Court as compared to ordinary courts, impacts access to justice and that, in the long run, a system where it is easier to prove discrimination in the general or ordinary courts, rather than in the Labour Court, is unsustainable. The Equality Network also finds that compensation in discrimination cases is still relatively low and thus cannot be considered as proportionate, effective and dissuasive sanctions. The Committee asks that the next report comment on these observations. Since the latest comprehensive assessment dates back to more than 10 years, it also requests a full and up-to-date description in practice of the situation in law and in respect of remedies in cases of alleged discrimination, which should include information on the procedures available, the burden of proof, penalties, the level of compensation, as well as statistics on the number of discrimination cases lodged and won before various courts and/or equality bodies.

Pending receipt of the information requested, the Committee concludes that the situation with respect to prohibition of discrimination in employment is in conformity with the Charter.

2. Forced labour and labour exploitation

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

concept of « servitude », also prohibited under Article 4§2 of the Convention (*Siliadin*, § 123; *C.N. and V. v. France*, § 91, 11 October 2012).

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

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

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

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

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

The Committee notes that the national authorities have replied partially to the specific, targeted questions for this provision on the exploitation of vulnerability, forced labour and modern slavery (questions included in the appendix to the letter of 27 May 2019 whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Employment, training and equal opportunities”).

Criminalisation and effective prosecution

The report states that in Swedish law, forced labour is defined and criminalised mainly under the provision on trafficking in human beings (Chapter 4, Section 1(a) of the Criminal Code). The provision was introduced into the Criminal Code in 2002, and the most recent amendments to the provision entered into force on 1 July 2018. The list of the forms of exploitation includes forced labour or “some other activity in a situation that involves distress” for the person. According to the report, such activities in a situation that involve distress may concern cases where the victim is induced to work under exceptionally difficult conditions for a very low salary, without necessarily being a question of forced labour. The penalty for trafficking is imprisonment for at least two and at most ten years. If the offence is less serious, the sentence is imprisonment for at least six months and at most four years. The Government also proposed that a new criminal provision on the exploitation of human beings (*människoexploatering*) be introduced: Chapter 4, Section 1(b) of the Criminal Code criminalises, in cases other than trafficking in human beings, the exploitation of a person for forced labour, labour under clearly unreasonable conditions, or begging by the use of improper means. The penalty for this offence is imprisonment of up to four years or, if the offence is aggravated, imprisonment for a term of two to ten years. In assessing whether the offence is aggravated, particular consideration is given to whether the act concerned large-scale activities, resulted in substantial gain, or entailed particularly ruthless exploitation of another person (Section 1(b)).

The report also refers to the ratification by Sweden of the 2014 Protocol to the ILO Forced Labour Convention in June 2017.

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 that GRETA, in its 2018 Report on Sweden (adopted before the 2018 amendments to the Criminal Code came into force), expressed concerns over the quasi-absence of convictions for trafficking in human beings for the purpose of labour exploitation and accordingly, urged the Swedish authorities to take measures and strengthen their efforts to investigate and prosecute such cases (Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, second evaluation round, GRETA (2018)8, 8 June 2018, para. 198).

The Committee therefore asks that the next report provide information on the application of Chapter 4, Section 1(a) and (b) of the Criminal Law in practice, particularly with regard 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 traffickers/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 current report states that since January 2018, the Swedish Gender Equality Agency has had the authority to coordinate and strengthen the work of combatting trafficking in human beings for all purposes, i.e., including forced labour. This coordination role was transferred from the County Administrative Board of Stockholm. In December 2017, eight authorities were given a government assignment covering 2018-2020 to develop their methods for joint control to counter fraud, regulatory violations and crime in working life. The health and safety inspectors involved in this work have received training in indicators of human trafficking. The idea is that all health and safety inspectors will take part in a training programme that the Gender Equality Agency is preparing. The Swedish Work Environment Authority (WEA) considers it important for inspectors to be able to identify the phenomenon and then send signals of suspected trafficking in human beings and labour exploitation to the relevant judicial authorities.

The Committee requests that the next report provide detailed information on specific actions carried out by labour inspectors (i.e., WEA inspectors) or other inspection services 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. The Committee notes in this regard that GRETA asked the Swedish authorities to ensure that on-going training is provided to WEA inspectors, thus enabling them to proactively detect human trafficking cases, and that labour inspections are properly resourced, frequent, unannounced and targeted at sectors which show a high potential for human trafficking (para. 76 of the 2018 Report).

The Committee notes from the 2018 GRETA Report that the various national action plans adopted by the Swedish authorities have focused on sexual exploitation. GRETA recommended that the national action plan should address all forms of exploitation, taking into account the particular vulnerability of irregular migrants and asylum seekers (para. 37). The Committee asks that the next report indicate whether a comprehensive national action plan against all forms of exploitation and trafficking has been adopted and if so, provide information on its implementation and the results achieved with regard to labour exploitation, including in respect of migrants and asylum seekers.

No information has been provided in the report on whether Swedish 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 report does not provide any relevant information on this point. The Committee accordingly asks for information in the next report on the number of presumed or formally identified victims of forced labour and labour exploitation and the number of such victims benefiting from protection and assistance measures. It also asks for general information on the type of assistance provided by the authorities (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.

The Committee 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. The Committee also asks for statistics on the number of victims awarded compensation and examples of the sums granted. In this context, the Committee refers to the 2014 Protocol to the 1930 ILO Forced Labour Convention (ratified by Sweden on 14 June 2017), which requires Parties to provide access to appropriate and effective remedies to victims, such as compensation, irrespective of their presence or legal status in the national territory.

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 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 2012), the Committee asked about the role of the labour inspectorate in monitoring domestic workers (see also Conclusions 2013, Article 3§2, and the related question on how WEA monitors the compliance with health and safety regulations in the workplace in respect of domestic workers). Since the current report does not contain any information on this point, the Committee reiterates its request. It notes in this connection from the abovementioned GRETA Report that inspections of private households are possible, but in practice rarely take place (para. 70). GRETA also considered that Sweden should take steps to prevent possible trafficking for the purpose of labour exploitation in diplomatic households, including through interviews with household staff whose terms and conditions of employment are to be checked (para. 76). The Committee also notes that on 4 April 2019 (outside the reference period) Sweden ratified the ILO Domestic Workers Convention (No. 189). Article 17§2 of this Convention stipulates that each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy (Article 17§3). The Committee asks to be informed in the next report on any measures taken in this regard, including on how domestic workers are protected from labour exploitation and abuse in terms of detection of such exploitation and access to remedies.

Should the information requested not appear in the next report, nothing will allow to show that the situation is in conformity with Article 1§2 with regard to labour exploitation of domestic workers.

“Gig economy” or “platform economy” workers

The Committee takes note of the information provided in the report concerning several measures that have been taken regarding the protection of workers in the “gig economy” or “platform economy”:

- A Governmental Inquiry in 2017 aimed at mapping out the new trends and forms of work that exist in Sweden today, and analysing whether the existing regulations on work environment are appropriate given the challenges of modern working life.
- The Swedish WEA was tasked with developing a compilation of present knowledge about potential work environment risks related to the new ways of

organising work (e.g., the so-called crowd work). These documents were produced in 2018.

- The Government has commissioned the WEA to carry out a pilot scheme focusing on new ways of organising work. The final report will be submitted in February 2021.

The Committee asks for more detailed information on the results of the Governmental Inquiry of 2017 and on whether specific regulations covering this category of workers have been envisaged or adopted. It asks in particular whether these workers are regarded as employees or self-employed workers according to the law, whether the powers of the competent labour inspection services (i.e., WEA) 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 these workers have access to remedies, particularly to challenge their employment status and/or unfair practices.

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

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

The Committee refers to its previous conclusion (Conclusions 2012), in which it considered that the situation in Sweden was in accordance with Article 1§2 of the Charter.

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

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 Sweden 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 guidance and vocational 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 guidance (Article 9) (Conclusions 2012) as well as to vocational training for persons with disabilities (Article 15§1) (Conclusions 2012).

The Committee considered the situation also to be in conformity with the Charter as regards measures concerning vocational training and retraining of workers (Article 10§3) (Conclusions 2020).

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 1§4 of the Charter.

Article 9 - Right to vocational guidance

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

Article 10 - Right to vocational training

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

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

The Committee refers to its previous conclusions for a description of the situation that it deemed to be in conformity with the Charter (see Conclusions 2012).

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

The report states that the system of vocational training is co-ordinated by the Ministry of Education and Research, although the number of state-regulated occupations in Sweden is low. The training programmes are regularly updated by the authorities, and in particular by the Swedish National Agency for Education (Skolverket), in close collaboration with industry representatives and stakeholder groups, to bridge the gap between education and work.

The Committee takes note of the information provided on the role and the functioning of the National Agency for Education's "Vocational Education and Training Councils" and of the co-operation put in place at national and local level between schools and industry representatives, which is partly funded by the state.

The report states that students must meet some predefined conditions (e.g. have pass grades in several subjects) in order to be admitted to vocational training and higher technical and university education. However, the authorities emphasise that children, both nationals and non-nationals, not yet eligible for a specific national programme, for instance because of insufficient language skills, may attend an "introductory programme" to remedy this. These programmes offer students access to education that is individually adapted to their different learning needs. The Council for Higher Education is the authority responsible for the evaluation of foreign credentials in the admission process.

Since 2007, the authorities have introduced several initiatives aiming to reduce unemployment in the 16-24 age group, particularly for young people who are "NEET", through various measures for employment, education and training. Some of these measures are directly linked to the 2014-2020 European Social Fund programme and the Youth Employment Initiative. In 2014, the authorities set up the "Delegation for the Employment of Youth", which promotes collaboration between municipalities and employment services (for example, by concluding local agreements). Since 2015, young people aged 20 to 24 who are seeking work but need to acquire more skills have been able to follow training programmes at municipal adult education centres or secondary schools thanks to "education contracts" (Utbildningskontrakt). These are agreements between the Swedish Public Employment Service, municipalities and young persons, who can also apply for education grants.

The Committee notes that in 2015, the authorities introduced a "National Delegation" responsible for drawing up a National Strategy for the Validation of Skills (acquired through education, training or work experience) and that it presented its work at the end of 2019. The Committee asks for more information in the next report on the implementation of the strategy adopted by the authorities for skills validation.

Measures taken to integrate migrants and refugees

Adult education centres (Folkhögskola) and a number of associations have been granted government funding to provide classes for asylum seekers to learn the Swedish language and more about society in Sweden. With 180 000 participants between 2015 and 2018, this initiative provides meaningful support to new arrivals during their asylum period and helps to get them into the job market.

The report points out that the authorities have adopted several measures designed to encourage the integration of migrants through work. For example, a new legal framework for

the Swedish Public Employment Service's Introduction Programme was introduced in 2018 in order to offer participants (men and women aged between 20 and 64 who have recently been granted residence permits) training courses more regularly and over a period of several years. The aim is to achieve the sustainable integration of migrants into the Swedish labour market.

Owing to its experience working with the different authorities involved in the labour market (municipalities, public employment services, governmental agencies, etc.), the Delegation for Youth Employment is also responsible for promoting co-operation between stakeholders who are important for the integration of recently arrived immigrants in working life.

With effect from 1 January 2018, the Government introduced an "Education and Training Obligation" for all immigrants benefiting from the Swedish Public Employment Service's Introduction Programme and who are considered to be in need of education or training to get a job. The report states that the authorities now plan to focus their work on reducing unemployment among women from migrant families. Several of the programmes already in place (Extra Jobs, Introduction Jobs) are also suitable for use with migrants and refugees.

A fast-track procedure was set up for refugees with training or work experience in areas in which there is a labour shortage in Sweden. Developed in close collaboration with the business sector, it enables quicker validation of skills and the provision of language training.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 10§1 of the Charter.

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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

Article 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

In its previous conclusion (Conclusions 2012), the Committee held that the situation in Sweden was in conformity with Article 10§3 of the Charter.

The Committee notes that Sweden 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 takes note of the information included in the report concerning adult vocational education and training, in particular with respect to the implementation of the adult VET initiative (Yrkesvux) for the years 2015 – 2017. The adult VET initiative aims to assist adults with a low level of education and either employed or at risk of unemployed to improve their skills or re skill. Yrkesvux is not a new form of vocational education and training but, instead, a national government initiative to stimulate municipalities to provide more vocational training. The initiative consists of governmental grants to municipalities to provide more VET for adults within the municipal adult education system.

During 2015 the Government allocated targeted grants amounting to SEK 50 000 SEK (appr. EUR 4 500) per single full-time position in adult vocational education. In 2015, a total of 317019 applications were received and 76902 individuals took a course in adult vocational education. The most common training was Nursing followed by Social Care. In 2017 86,117 individuals took a course in adult education.

The Committee takes note of the new vocational training initiative (Regional Yrkesvux) introduced in 2017 and the vocational training offered in the context of its implementation in particular for migrants.

According to the report the new system for the vocational education for adults (Regional yrkesvux) has a bigger focus on the demands of the labour market and on the skilling needs of non-nationals compared to the first model launched in 2009. A closer cooperation with employers, branches’ representatives and within municipalities ensures that competences needed by the labour market are provided by the right range of vocational education offered in the regional area of interest.

The Committee notes the information provided on the numbers of participants and the total spending. Finally, it takes note of the initiative of apprenticeship training within municipal adult education. The report, however, does not contain information on strategies and measures in place to ensure skilling and re-skilling of workers in particular as regards digital literacy, new technologies, human-machine interaction and new working environment, use and operation of new tools and machines. The Committee, therefore, reiterates its targeted question and request for information on this point.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Sweden is in conformity with Article 10§3 of the Charter .

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 Sweden.

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”).

It notes that during the reference period the rate of the long-term unemployed, those with more than 53 weeks out of work, among the overall number of unemployed have been relatively stable at around 20%. The Committee notes from its conclusion under Article 1.1 long-term unemployment (12 months or more, as a percentage of overall unemployment for persons aged 15 to 64 years) dropped from 20.8% in 2015 to 18.3% in 2018, a rate well below the EU 28 average (43.4% in 2018).

The report refers to the information provided by the Government in its previous report on measures taken to combat long-term unemployment. According to the report, the authorities have set up several programmes for the long-term unemployed, sometimes under the European Social Fund programme. These programmes may offer individualised training pathways (« Job and Development Guarantee ») allowing full-time study for one year while retaining some support, training of up to 24 months in connection with adult training centres (*Folkhögskola*) in areas of activity where there is a shortage of qualified staff, or pathways to employment (« Introduction Jobs », « Extra Jobs »), which make it possible to combine education and training or to enter the labour market.

The Committee takes note in particular of the following measures:

- Job and Development Guarantee: in 2015, an average of about 103,300 persons per month participated in this programme, compared to an average of about 78,000 persons per month in 2010. In 2015, the programme represented about 54% of the average number of participants in all programmes benefiting from activity grants under the Public Employment Service (PES). In 2016, the average number of participants in the programme fell to an average of 101,400 persons per month and this trend continued in 2017 (an average of 99,100 persons per month) and 2018 (an average of 93,400 persons per month).
- Vocational education at folk high schools in occupations with shortages: between 2016 and 2019, the PES, the Swedish National Council for Adult Education and the adult training centres have been commissioned by the government to provide certain groups of unemployed with vocational education in occupations where there is a shortage. The target group consisted of long-term unemployed who participated in the PES Job and Development Guarantee Programme and newly arrived persons who participated in the PES Introduction Programme.
- Extra Jobs: In November 2015, the Government introduced Extra Jobs to strengthen the competitiveness of the long-term unemployed in the labour market. Extra Jobs were introduced in certain sectors of the social protection system, such as health care or schools. The aim of the programme is to give the long-term unemployed persons meaningful tasks and wages in accordance with collective agreements while improving their chances of obtaining unsubsidised employment. In 2017, an average of 5,200 persons per month participated in Extra Jobs. This increased to an average of 15,600 persons per month in 2018, of whom 58% were long-term unemployed.
- New Start Jobs: On 1 February 2017 the rules for New Start Jobs were revised to make the support scheme more precise and effective. The changes include increasing subsidy levels according to the length of absence from the labour market. In 2017, an average of 41,100 persons per month participated in New Start

Jobs. In 2018, these figures decreased to an average of 32,600 persons per month, of whom 66% were long-term unemployed.

- Introduction Jobs: As of 1 May 2018, the Introduction Jobs programme replaces five other types of subsidised employment, making the system for subsidised employment simplified and stronger. Introduction Jobs target the long-term unemployed or newly-arrived immigrants. They can be flexibly combined with education and training, both to empower the individual and to meet employers' skill requirements. In 2018, as this type of subsidy was new, the number of persons having an Introduction Job increased from 700 in May to 6,100 in December, with an average of 3,900 persons per month, 57% of whom were long-term unemployed persons. The Committee requests that the next report contain detailed information on the implementation of this programme and its results.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 10§4 of the Charter.

Article 10 - Right to vocational training
Paragraph 5 - Full use of facilities available

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

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

In its previous conclusion (Conclusions 2012), the Committee held that the situation in Sweden was not in conformity with Article 10§5 as foreign students were subject to a permanent residence requirement for entitlement to financial assistance for education and training. Having noted that the Study Support Act provides for the possibility of granting study support even when the requirement of a permanent residence permit is not fulfilled, if there are particular reasons to do so, the Committee asked that the next report contain information on what those reasons might be and how frequently exceptions are made.

In response, the report states that according to the Swedish Board of Student Finance (CSN), which is the central government agency responsible for approving and paying study support, special grounds for foreign citizens could be, for example, situations where the citizen:

- is a refugee or a person in need of protection or has obtained a residence permit due to particularly difficult circumstances, or is a close relative of such a person;
- has children and is the cohabitation partner of a Swedish citizen, and holds a valid residence permit based on family ties with that partner;
- is under 20 years of age and holds, together with a parent, a residence permit based on family ties with a person resident in Sweden; or
- is under 20 years of age and has a parent who is a Swedish citizen and holds a residence permit or a right of residence based on family ties.

According to the report, in 2018, nearly 22,800 foreign citizens were granted the right to study support. From this number, about 15,600 had permanent residence permits and about 2,100 had the right of residence and sustainable ties. About 1,900 foreign citizens were granted the right to study support for special reasons. The report underlines that nearly 89% of all foreign citizens who applied for the right to study support in 2018 were granted this right. In addition, the number of foreign citizens who have received Swedish study support has increased by 103% since 2013.

In addition, the report indicates that since 1 August 2017, study support may also be granted to a foreign citizen who holds a temporary residence permit in accordance with the Temporary Act (Lagen (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige). However, no further information is provided. In this respect, the Committee notes from another source (<https://www.loc.gov/law/foreign-news/article/sweden-parliament-votes-to-grant-migrants-extended-residence-permits-to-complete-high-school/>) that on 3 May 2017, the Swedish Parliament voted the amendment to the Act on Temporary Restrictions on the Right to Obtain Residence Permits in Sweden, to allow students aged 17-25 to remain in Sweden while they complete their high school education. The Committee requests that the next report provide information on the implementation of this Act and the results in terms of financial support given to foreign students.

The Committee refers to its established case law, according to which equality of treatment shall be guaranteed to nationals of States Parties to the Charter and the 1961 Charter who are lawfully resident in the territory, with the proviso that this principle does not apply to students who have entered the country for the sole purpose of study or training. The Committee considers that the rules applicable in Sweden are equivalent to imposing a condition of length of residence which affects

those who reside legally on its territory for purposes other than education and training but have not (yet) obtained a permanent residence permit. The situation is therefore in breach of the Charter.

Conclusion

The Committee concludes that the situation in Sweden is not in conformity with Article 10§5 of the Charter on the ground that equal treatment of nationals of other States Parties residing or working lawfully in Sweden is not guaranteed with regard to fees and to financial assistance for training.

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 Sweden.

The Committee previously found the situation to be in conformity with Article 15§1 of the Charter (Conclusions 2012).

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 recalls from previous conclusions (Conclusions 2012) that according to the Discrimination Act of 2009, a disability refers to permanent physical, mental or intellectual limitation of a person’s functional capacity that, as a consequence of injury or illness, or existed at birth, has arisen since then or can be expected to arise.

According to the Education Act (2010:800), all children and young people shall have equal access to education. According to the report the education system is based on the principle of inclusion.

The report states that according to the preparatory works to the Education Act the choice of the pupil’s guardian and proximity to home should, as far as possible, guide a pupil’s school placement and that the education provider is obliged to take extensive measures to meet a pupil’s need for support. Exceptions to this principle are only permitted where the barriers to the child attending the school of their guardian choice are significant such as when the school does not have enough places for everyone who wants to go there. Another example of significant organisational or financial difficulties mentioned in the preparatory work is that the school would require rebuilding or an extension. Exceptions to the principle may also be permitted where support measures would involve significant organisational or financial difficulties for a municipality to provide this support at the desired school when the support can be provided more easily at another school.

The Committee, while noting that the report states these exceptions are not specifically aimed at children with disabilities, considers that they are more likely to impact children with disabilities and asks whether refusals to admit a child to a school of their choice on the grounds of organizational and economic hardship are monitored.

The Committee recalls from previous conclusions that denial of reasonable accommodation is classified as discrimination (Conclusions 2016). Further, the current report states that the Discrimination Act has been further strengthened through the expansion of protection against discrimination on the grounds of inadequate accessibility.

According to the Education Act (2010:800) special support shall be given to pupils who have difficulties in completing their education successfully. A pupil’s needs are assessed and an action plan drawn up containing information regarding needs, the measures to be put in place and how these measures will be followed up and evaluated.

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

Article 1 of the UN Convention on the Rights of Persons with Disabilities (CRPD) crystallizes 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 report most children and pupils with disabilities receive their education within mainstream facilities.

However, there are three national and five regional special schools that are run by the State through the National Agency for Special Needs Education and Schools. Special schools offer education corresponding to compulsory nine-year comprehensive school to pupils with deafness or impaired hearing, visual impairment and additional disabilities, deafness or impaired hearing combined with severe intellectual disabilities or congenital deaf-blindness, and pupils with severe speech and language disabilities.

According to the report it is not possible to provide statistics based on disability for compulsory school and upper secondary school. However the report further states that during the academic year 2017/18, 1,049,490 pupils attended compulsory education, 10,612 pupils were in regional schools for children with learning disabilities and 650 pupils in national special schools.

The report notes that in the academic year of 2017/18, only 1.1% of all pupils in compulsory education received their education outside mainstream facilities, i.e. in special schools for children with disabilities.

However, according to the report the number of pupils in special schools has increased in recent years. During the academic year 2014/15, a total of 502 pupils attended national special schools, in the academic year 2017/18 the figure was 650 pupils. The increase is mainly related to the group of pupils with severe language impairment. The Committee asks what steps have been taken to address this increase and to provide support to these pupils in mainstream facilities.

The proportion of pupils in compulsory school for pupils with learning disabilities who have been integrated into mainstream schools has remained constant since the 1990s. In the 2017/18 academic year, 1,305 pupils were integrated into compulsory mainstream schools for at least half the school time.

During the academic year 2017/18, 5.2% of pupils in compulsory school were covered by an action programme, which corresponds to almost 53,800 pupils. In total, 1.1% of pupils in school received support in a special teaching group, which corresponds to about 12,000 pupils. The percentage has decreased by 0.1 percentage points compared to the previous

academic year. The proportion of pupils in compulsory school who received support through individual teaching was 1.0% for the academic year 2017/18. This corresponds to about 10,900 pupils.

In order to assess the effective equal access of children with disabilities to education and vocational training, 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 complete compulsory school
- the number of children with disabilities who do not complete compulsory school, as compared to the total number of children who complete compulsory school
- the number and proportion of children with disabilities under other types of educational settings, including
 - home-schooled children
 - attending school on a part time basis
 - in residential care institutions, whether on a temporary or long-term basis
- the drop-out rates of children with disabilities compared to the entire school population

As regards measures in place to address costs associated with education the Committee asks whether children with disabilities are entitled to financial support to cover any additional costs that arise due to their disability.

Measures aimed at promoting inclusion and ensuring quality education

The report provides information on the National Agency for Special Needs Education and Schools which works to ensure that all children with disabilities have access to equal education in a secure environment. Support includes special needs education advice, special needs education investigations, information about teaching aids, competence development and special needs education development activities. The Agency also devises various support materials to support the work involved in creating an accessible education and learning environment.

The National Agency for Special Needs Education and Schools actively involves children in its operations. The Agency has a child panel to ensure that the voices of children and young people are heard within its area of operations. The aim is that children's opinions and experiences should be taken into account in the Agency's work.

The Government has carried out several initiatives to increase access to special educational needs teachers, such as the opportunity for teachers to carry out special teacher training specialising in deafness or hearing impairment, visual impairment or learning disabilities. In 2016 the Government decided on a new state grant to enable schools to employ more special educational needs teachers and to offer further training. In 2016, the Swedish National Agency for Education launched a training programme to raise teachers' special educational skills. The programme is structured around collaborative learning – teachers learn by working together and by sharing experiences. Since the start, 18,676 teachers and 1,814 special educators have participated, and the geographical spread has been good.

The disability policy strategy 2011-2016, had three general objectives regarding education: every child should have the prerequisites to develop their knowledge as far as possible; to improve accessibility for children with disabilities and to improve the knowledge about disabilities and how teaching can be designed according to the pupils' needs. An evaluation of the strategy noted that there had been improvements, however further efforts were required.

In 2017, the Swedish Parliament decided on a new national goal for disability policy. The new goal states that: "The national goal for disability policy, taking the UN Convention on the Rights of Persons with Disabilities as a starting point, is to achieve equal living conditions and full participation in society for persons with disabilities in a society based on diversity. This goal shall contribute towards greater gender equality and consideration of the children's rights perspective. The Committee asks for information on the outcome of the disability goal as it concerns education. In particular it asks whether the policy has led to a reduction in the number of children attending special schools and of more children with disabilities being included into mainstream schools.

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 notes that the UN Committee on the Rights of Persons with Disabilities, (General Comment No. 4, (2016), 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

According to the report a decision to place a child at a school unit other than the one requested or decisions concerning special support can be appealed to the Board of Appeal for Education.

The School Inspectorate have a supervisory responsibility to ensure that the rules to prevent children and students from being subjected to violations are followed. The Equality Ombudsman exercises supervision in accordance with the Discrimination Act, while the School Inspectorate exercises supervision in accordance with the Education Act.

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

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 15§1 of the Charter.

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 Sweden.

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 found the situation to be in conformity with the Charter (Conclusions 2012).

Legal framework

There has been no change to the legal framework regarding the employment of persons with disabilities. The Committee refers to its previous conclusion in this respect (Conclusions 2012).

Access of persons with disabilities to employment

According to the report persons with disabilities with reduced working capacity continue to be unemployed to a greater extent than the rest of the population. At the same time, there has been an increase in the number of persons with disabilities registered with the Public Employment Service. The proportion of persons with disabilities transitioning to work has increased, as has the number of those who have left their subsidised employment and moved to other employment.

The employment rate among the population aged 16–64 was 82% in 2018. Among persons with disabilities overall, the corresponding figure was 64%.

In recent years, unemployment among persons with disabilities has been a few percentage points higher than for the general population. In 2018 unemployment for persons with disabilities was around 11%, and around 6% for the population.

The Committee asks to systematically be provided with up-to-date figures concerning 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

The Public Employment Service (PES) is responsible for labour market policies concerning people with disabilities (Law 2000:628). PES offers various types of wage subsidised employment for people with disabilities. There also exists Protected Employment with public sector employers within the municipality and Sheltered Employment with *Samhall AB* (a Swedish state-owned company).

PES offers grants for aids in the workplace, grants for personal assistance, interpreters for persons with visual or hearing impairments and special support when starting a business as an alternative or in addition to subsidised employment. It can also offer support through the provision of a consultant for support at a new workplace. The consultant helps during an initial phase to ensure the employee receiving the necessary support.

The report provides information on other initiatives to promote the employment of persons with disabilities such as:

- gradually raising the ceiling for certain types of wage subsidies;
- increased funding for *Samhall AB* (sheltered employment);
- reviewing the regulations for subsidised employment;

- work experience places with government agencies;
- information campaigns to encourage employers to focus on people skills and abilities rather than barriers and disabilities, and
- a review of regulations for specific initiatives for persons with disabilities.

Remedies

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

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 15§2 of the Charter.

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

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

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

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 previous conclusion found that the situation was in conformity with the Charter (Conclusions 2012).

Relevant legal Framework and remedies

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

The Committee refers to its previous conclusions for a description of the legal framework governing discrimination (Conclusions 2008 and 2012).

The Committee notes from the report of the Commissioner for Human Rights of the Council of Europe, following his visit to Sweden in October 2017, that following an amendment to the Discrimination Act which took effect from 1 January 2015, the denial of reasonable accommodation to persons with disabilities also constitutes a form of discrimination. Furthermore, another amendment in November 2017, which entered into force in 2018, provides that private enterprises in the goods and services sector which have less than ten employees will no longer be exempted from the requirement of reasonable accommodation and will therefore have to comply with the obligation of accessibility for people with disabilities.

The Committee previously asked the next report to provide information about the number of complaints and the outcome of certain of them referred to the Equality Ombudsman since the entry into force of the Discrimination Act (Conclusions 2012). The report provides no information on this point. However, the Committee notes from the above-mentioned report of the Commissioner for Human Rights that in 2017, out of 2158 complaints received by the Equality Ombudsman 681 related to discrimination on the ground of disability, making it the first ground of reported discrimination. Among these complaints, only 2 cases were brought to courts in 2017, compared to 4 cases in 2016. The Commissioner was informed that the Equality Ombudsman is implementing a strategic litigation policy and that as a result only a small number of complaints are being taken to courts, as test cases.

The Committee asks the next report to provide updated information on the legislation prohibiting discrimination as well on the number complaints made to the Equality Ombudsman.

Consultation

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

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

Financial and personal assistance

According to the report the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS), gives people with disabilities the right to personal assistance. Personal assistance provided under the LSS is granted to people with extensive and long-term disabilities who need support in their daily life. The purpose of personal assistance is to enable people with disabilities to remain in the community.

Persons with major functional impairments and extensive needs may be entitled to personal assistance for one or more personal assistants for support and help in their everyday lives and a range of activities, including outdoor activities, culture activities and work. Certain conditions of need for help with specific or basic needs must be met to be eligible for personal assistance.

The individual chooses how to organize the personal assistance, if it should be provided by an assistance company, the municipality or a cooperative. A limited number of persons choose to be their own assistance provider and employ the personal assistants themselves.

The financial responsibility for personal assistance is divided between the municipality and the state. Persons who need less than 20 hours of assistance per week can obtain personal assistance from their local municipality. Persons who need 20 or more hours of assistance per week are entitled to state-funded personal assistance.

People with personal assistance receive, on an average, 130 hours of assistance per week.

The report states that in 2018 19,696 persons were in receipt of either state funded or municipal assistance compared to 20,115 in 2014. In 2018 persons 5,117 were in receipt of municipal assistance and 14,596 in receipt of state assistance, the corresponding figures for 2014 were 4,779 and 16,015.

The Committee notes from the above-mentioned report of the Commissioner for Human Rights of the Council of Europe that there has been a decrease in the expenditure on state assistance, that a number of persons who were entitled to personal assistance under the LSS had lost support in recent years, and the proportion of first-time applicants being denied personal assistance had increased. The Commissioner expressed concern that Sweden was implementing retrogressive measures in the area of state-funded personal assistance. However, the Commissioner welcomed the announcement made by the Minister for Children and the Elderly that some provisions of the LSS will be suspended pending the outcome of a review of that law.

The Committee asks for the Government's comments on this. It also asks for information on the outcome of the review of the LSS.

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

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

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

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

Technical aids

The Committee asks for updated information on the provision of technical aids.

Housing

The Committee notes from the report and from ANED (2018-2019 Living independently and being included in the community, Country report Sweden) that the LSS makes provision for accommodation with special services for people with disabilities, who need more extensive support than what can be provided in ordinary housing. Municipalities are obliged to provide housing with special services for those in need.

Group residences and service housing are the most common forms of housing with special services. A group residence is small-scale home for three to five persons with staffing around the clock. Service housing consists of a number of apartments where the residents have access to shared services and permanent staff.

In addition to housing with special services, several other measures are available live in their own accommodation, such as home care services and day activities.

The report states that the Health and Social Care Inspectorate inspects and issues licences for housing with special services. If a municipality does not provide housing with special services when required to do so, the Inspectorate can ask the administrative court to impose a fine.

According to the National Board of Health and Welfare's status report (2019) the number of people living in housing with special services in accordance with the LSS rose by approximately 25 per cent from 21 600 to 27 800 during the period 2007–2017.

According to ANED (see above) special accommodation for adults is also provided under the Social Service Act (SoL), in group residences with staff around the clock, similar to group residences provided under LSS. Special accommodation provided under SoL is foremost provided to people with psychiatric disabilities with extensive care and supervision needs.

Housing support provided under SoL is a personalized support to cope with daily life in the home, in the community or in contacts with authorities. The purpose of housing support is to give people with mental disabilities a better quality of life and security in everyday life and an independent life.

According to the report the number of people requiring special housing initiatives in accordance with SoL has remained steady, at around 4 000 for several years, with a slight increase in 2017.

The Committee asks the next report to provide update information on housing for persons with disabilities and well as information on the proportion of housing that is accessible.

Mobility and transport

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

It also asks for updated information on the accessibility of the public transport system.

Communication

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

Culture and leisure

The Committee asks the next report to provide updated information on measures taken to ensure access of persons with disabilities to culture and leisure activities including sporting activities.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Sweden is in conformity with Article 15§3 of the Charter.

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

Paragraph 1 - Applying existing regulations in a spirit of liberality

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

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

Paragraph 2 - Simplifying existing formalities and reducing dues and taxes

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

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

Paragraph 3 - Liberalising regulations

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

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

Paragraph 4 - Right of nationals to leave the country

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

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

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

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

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

Legal framework

The report points to the Discrimination Act (2008:567), which regulates the prohibition on discrimination on all grounds, i.e. including on the ground of sex. Discrimination includes direct discrimination, indirect discrimination, inadequate accessibility, harassment, sexual harassment and instruction to discriminate. The Act covers discrimination e.g. working life. The Act includes the obligation for employers to work on active measures. Active measures are such as prevention and promotion measures aimed at preventing discrimination and serving in other ways to promote equal rights and opportunities regardless of e.g. sex.

The Committee also notes that under Section 2 of the Discrimination Act (2008:567), employers are required to equalise and prevent differences in pay for work that is regarded as equal or of equal value. Work is to be regarded as of equal value to other work if it can be deemed to be equal in value to the other work. The assessment of the work requirements takes into account criteria such as knowledge and skills, responsibility and effort.

The Committee therefore considers the legislation to be in conformity with the Charter on this point.

Effective remedies

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

The report highlights, as regards the shift in the burden of proof, that the above-mentioned Act states that if a person who consider that he or she has been discriminated against or subjected to reprisals demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to reprisals, the defendant is required to show that discrimination or reprisals have not occurred. There is no explicit reference to the rules applicable to compensation in case of pay discrimination- However, there are no ceilings to compensation in case of discrimination.

The Committee recalls that it has previously considered that the situation was in conformity as regards the remedies and adequate compensation in equal pay claims (Conclusions 2012 on Article 20, Sweden: Complaint No. 138/2016, decision on the merits, *UWE v. Sweden*, 6 December 2019). The Committee requests that the next report include information about existing national case law relating to breaches of the right to equal pay, as well as on sanctions imposed including levels of compensation for non-pecuniary damage awarded. It considers the situation to be in conformity with the Charter.

Pay transparency and job comparisons

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

As regards *pay transparency* in the labour market and notably the possibility for workers to receive information on pay levels of other workers and available information on pay, the report refers to the Co-determination Act, which contains provisions concerning the right to information. It states that the employer has a duty in relation to established trade unions to keep them continuously informed of the development of the production and economy of the enterprise and guidelines for personnel policy. The employers must also give the established trade unions the opportunity to examine books, accounts and other documents to the extent that the unions need this for safeguarding the interests of their members in relation to the employer.

The report further notes that employers and employees are to cooperate in work on active measures. The employer is to provide an employee organization to which the employer is bound by collective agreement with the information required for the organization to be able to cooperate on work on active measures. Work on active measures is to be conducted continuously. Measures are to be scheduled and implemented as soon as possible. Also, employers' work on active measures is to encompass for example provisions and practices regarding pay and other terms of employment. In order to discover, remedy and prevent unfair gender difference in pay and other term of employment, the employer is to annually survey and analyse provisions and practices regarding pay and other terms of employment that are used by the employer, and pay differences between women and men performing work that is to be regarded as equal or of equal value.

The employer is also to assess whether existing pay differences are directly or indirectly associated with gender. The analysis is to refer in particular to differences between: – women and men performing work that is to be regarded as equal; – groups of employees performing work that is or is generally considered to be dominated by women and group of employees performing work that is to be regarded as of equal value to such work but is not or is not generally considered to be dominated by women; – groups of employees performing work that is or is generally considered to be dominated by women and groups of employees performing work that is not or is generally not considered to be dominated by women but that gives high

pay despite the requirement of the work being regarded as less. Where pay differences are found to exist, the employer is under an obligation to take the measures that are necessary to rectify the situation.

The Committee further notes as regards the application of the European Commission's Recommendation of 7 March 2014 on strengthening the principle of equal pay through transparency, that according to the European network of legal experts in gender equality and non-discrimination, Country Report on gender equality: Sweden, 2019, this is addressed to some extent. The Committee considers therefore that the obligation to ensure pay transparency, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender, is respected and the situation in conformity with the Charter.

The Committee also recalls that it examines the right to equal pay under Article 20 and Article 4§3 of the Charter and does so therefore every two years (under thematic group 1 "Employment, training and equal opportunities", and thematic group 3 "Labour rights"). Articles 20 and 4§3 of the Charter require the possibility to make *job comparisons across companies* (see in this respect Complaints Nos. 124 to 138, University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden, 5-6 December 2019).

As regards *comparisons across companies*, the Committee had previously concluded that in equal pay litigation it was possible to make comparisons outside the company directly concerned (Article 4§3, Conclusions 2014).

Enforcement

The report states that the Equality Ombudsman (DO), as part of its mandate, is tasked with monitoring compliance with the Discrimination Act. This includes both the Act's provisions on the prohibition of discrimination and its provisions imposing an obligation on employers to take active measures. In the latter area the DO may, if it considers that an employer has failed to meet its obligations, apply to the Board against Discrimination for an order for fulfilment to be directed to the employer. Such an order by the Board shall be combined with a conditional financial penalty.

With respect to violations of the prohibition of discrimination, the DO may bring a court action on behalf of a victim of discrimination for financial compensation to be paid to the individual concerned.

The Committee asks that the next report provide further information about how equal pay is ensured, notably, about the inspections conducted by the Labour Inspectorate in this respect. It considers the situation to be in conformity with the Charter.

Obligations to promote the right to equal pay

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

The report does not detail the specific measures taken by the State in this regard. However, the Committee notes from the 'Concluding observations' concerning the combined eighth and

ninth report of Sweden, that the Committee on the Elimination of Discrimination against Women (CEDAW) has welcomed the generally high rate of labour force participation of women in Sweden. CEDAW has also welcomed the various measures taken to facilitate the reconciliation of family and work life, including the establishment of a parental insurance scheme, combined with an extensive system of public child and elderly care and improved rules on parental benefits.

Concerning the gender pay gap, the report states that according to a comparison between women's and men's average pay for the entire labour market in 2018, women had 89,3% of men's pay, i.e. a pay gap of 10,7%. In 2018, the pay gap decreased with 0,6 percent units compared to 2017. The major reason for the pay gap between women and men is that women and men work in different professions and sectors. In the period 2005-2018, the pay gap has decreased with 5,6 percent units.

The Committee further notes from Eurostat that the unadjusted gender pay gap in 2018 was 12.1% and in 2017 was 12.5%, having decreased from 13.3% in 2016 and 14% in 2015. By comparison the corresponding figure in 2010 was 15.4%. The EU-28 average was 15% in 2018 (data published on 29 October 2020). The overall earnings gap in 2014 stood at 26.2%. The adjusted or "unexplained" gender pay gap is relatively low at 7.1% compared to an EU-28 average of 11.5% (2014 data, see the Eurostat study "A decomposition of the unadjusted gender pay gap using Structure of Earnings Survey data, 2018).

The Committee notes that the Government has made efforts to reduce the gender pay gap, which has decreased in almost two points only in the years covered by the current cycle. Therefore, the situation in this respect is in conformity with Article 20)c) of the Charter.

Conclusion

The Committee concludes that the situation in Sweden is in conformity with Article 20(c) of the Charter.

Partly dissenting opinion of Barbara KRESAL relating to Article 20 (Sweden)

I cannot agree with the conclusion that the situation in Sweden is in conformity with Article 20 of the Charter. In my opinion, the situation is not in conformity with Article 20 on the ground that the obligation to make sufficient measurable progress in reducing the gender pay gap has not been fulfilled. My dissent is therefore limited only to the last part of the assessment which appears in the Section ‘Obligations to promote the right to equal pay’.

The State Party must adequately promote the right to equal pay with a view to ensure its effective realisation in practice, and it must accordingly demonstrate adequate ‘results’ in terms of the relevant indicators. These indicators are used to assess the effectiveness of the policies and measures adopted. As regards the gender pay gap indicator, I consider that it is of course necessary to demonstrate a positive trend, i.e. that the gender pay gap has been decreasing, however, this does not suffice (even if it has changed in a significant manner over a period of time), the gender pay gap must also be sufficiently low, minimal. Furthermore, it should not be relevant for the assessment whether the gender pay gap is below the EU average. Non-discrimination is one of the cornerstones of international human rights law and at the very heart of the Charter, explicitly enshrined in Article E of the Charter. It is the essential substance of all human rights, including the right to fair remuneration, and it is explicitly guaranteed in relation to pay/remuneration by Article 4§3 and Article 20.c of the Charter. The right to equal pay for equal work or work of equal value must be guaranteed here and now.

In its decisions on the UWE collective complaints (*University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden*, Collective Complaints Nos. 124-138/2016, Decisions on the merits 5.-6.12.2019; see, in particular, the preliminary considerations and the assessment parts), the Committee developed strict assessment criteria with respect to the right to equal pay. It is important that these criteria are also applied in a strict and consistent manner, either in the collective complaints procedure or in the reporting procedure when assessing the situation in the States Parties as regards the right to equal pay. The fact that actual realisation in practice of gender equality in general, and equal pay as one of its aspects, is a persistent, long-standing problem in all States Parties should not result in loose criteria or loose application of strict criteria when assessing the state compliance with their obligations stemming from Article 4§3 and Article 20.c of the Charter.

Considering the importance of the right to equal pay and if the criteria developed by the Committee as regards the promotion of equal pay are applied in a strict and consistent manner, the gender pay gap in Sweden is, in my opinion, too high, indicating that the measures taken in this respect and the progress made are – despite positive trends – still insufficient.

An important emphasis of the Committee is 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” and that “it is necessary to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it” (see Complaints Nos. 124 to 138, UWE, *op. cit.*). Without identifying and understanding the causes of gender pay differences it is impossible to design adequate measures that could effectively address this problem.

It is also true that the gender pay gap is not *per se* evidence of pay discrimination. However, it is one of the most widely accepted indicators of the differences in pay which, together with other relevant indicators, reveals pay inequalities that exist in practice and, to a certain extent, also the causes of those inequalities. Unequal pay is a complex problem. Only a combination of various indicators can give a better picture and allow for a better assessment (for example, if the employment rate of women is high (as in Sweden), the gender pay gap is usually also higher and *vice versa*, therefore, the relative gender pay gap in correlation with the female employment rate is probably more relevant than absolute figures; in addition to the unadjusted

gender pay gap, the adjusted gender pay gap has been taken into account, but other aspects can also be relevant, such as the decomposition and more detailed analysis of the explained and unexplained gender pay gap, as well as differences between the sectors of activity, occupations, age groups and similar).

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.

