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1961 European Social Charter

European Committee of Social Rights

Conclusions XXI-1 (2016)

UNITED KINGDOM

This text may be subject to editorial revision.

The role of the European Committee of Social Rights (the Committee) is to rule on the conformity of the situation in States Parties with the 1961 European Social Charter (the 1961 Charter) and the 1988 Additional Protocol (the Additional Protocol). The Committee adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure

The following chapter concerns the United Kingdom which ratified the 1961 Charter on 11 July 1962. The deadline for submitting the 35th report was 31 October 2015 and the United Kingdom submitted it on 28 May 2015. On 31 August 2016, a request for additional information regarding Articles 1§2 and 18§3 was sent to the Government which did not submit a reply.

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 concerns the following provisions of the thematic group "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 of men and women to equal opportunities (Article 1 of the Additional Protocol).

17The United Kingdom has accepted all provisions from the above-mentioned group except Article 1 of the 1988 Additional Protocol.

The reference period was 1 January 2011 to 31 December 2014.

In addition, the report contains also information requested by the Committee in Conclusions 2014 in respect of its findings of non-conformity due to a repeated lack of information:

- the right to just conditions of work – elimination of risks in dangerous or unhealthy occupations (Article 2§4),
- the right to a fair remuneration – limits to deduction from wages (Article 4§5).

The conclusions relating to United Kingdom concern 17 situations and are as follows:

- 9 conclusions of conformity: Articles 1§1, 1§2, 1§3, 9, 10§1, 10§2, 15§2, 18§1 and 18§4;
- 3 conclusion of non-conformity: Articles 2§4, 4§4 and 18§2.

In respect of the other 5 situations related to Articles 1§4, 10§3, 10§4, 15§1 and 18§4 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by The United Kindgom under the Charter. The Committee requests the Government to remedy this situation by providing the information in the next report.

During the current examination, the Committee noted the following positive developments:

Article 15

- the Children and Families Act 2014 received Royal Assent on 13 March 2014. Part 3 of the Act applies to England only and sets out a new framework for children and young people who have special educational needs and disabilities.

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

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),

- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 4 of the Additional Protocol).

The deadline for submitting that report was 31 October 2016.

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 United Kingdom.

Employment situation

The Committee notes from Eurostat that the GDP growth rate in the United Kingdom rose from 1.6% in 2011 to 2.6% in 2014, which was well above the EU-28 average (1.4% in 2014).

The employment rate increased from 73.6% in 2011 to 76.1% in 2014 thus being well beyond the EU-28 average of 64.9%.

The employment rate for older workers (aged between 55 and 64) increased from 57.5% in 2009 to 60.9% in 2014 which is significantly higher compared to the EU-28 level (51.8% in 2014). The female employment rate stood in 2014 at 70.5%, for men the employment rate stood at 81.8%.

The unemployment rate decreased from 8.1% in 2011 to 6.3% in 2014 thus being considerably lower than the EU-28 average of 9.8%. The youth unemployment rate decreased from 21.3% in 2011 to 17.2% in 2014. The long term unemployment rate (as a percentage of the active population) decreased from 2.7% in 2011 to 2.3% in 2014.

The Committee notes that the United Kingdom labour market is performing well in comparison with other States Parties. The Committee notes in particular the progress made in tackling the youth unemployment.

Employment policy

According to the report, the Government's overarching goal is to promote strong, sustainable and balanced growth. In order to do so, the Government took the approach to shift power away from central government to local communities, citizens and independent providers.

One government initiative of 2011 ('Unlocking Growth in Cities,') brought new support for cities allowing them to develop new interventions to tackle long term youth unemployment. Another initiative 'Local Enterprise Partnerships' brought businesses and local authorities together in order to create business development opportunities. Additional initiatives included the 'New Enterprise Allowance' which gives help to unemployed people who want to start their own business or the development of a strategy for increasing ethnic minority employment and participation in the labour market or 'The disability and health employment strategy'.

The Committee requests information in the report on any targeted programmes aimed at reducing the high youth unemployment rate.

As in the previous Conclusion, the Committee requests that information is to be provided on the number of participants in the different labour market programmes or the overall activation rate. The Committee asks information on the next report to be provided on how the employment policies in place are monitored and how their effectiveness is evaluated

Conclusion

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

Article 1 - Right to work

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

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

1. Prohibition of discrimination in employment

The Committee has previously examined the legal framework prohibiting discrimination in employment in its Conclusions XX-1 (2012). It noted that the Equality Act 2010 harmonised the legislation on equality, including the definition of indirect discrimination.

As with other states that have accepted Article 15§2 of the Charter, the Committee will examine the United Kingdom's legislation prohibiting discrimination based on disability under this provision.

The Committee notes from the ILO that the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 introduced a requirement to pay a fee to initiate proceedings in employment tribunals and that according to the statistics compiled by the Ministry of Justice since the introduction of these fees the number of discrimination claims has dropped considerably (Observation (CEACR)-adopted 2014, published 104th ILC session (2015)).

The Committee also takes note of the information provided by the European Equality Law Network reports that according to the above mentioned Fees Order, individuals must pay either £160 or £250 depending on the nature of the claim for issue, followed by £230 or £950 prior to hearing (a total of EUR 500 and 1400 respectively). Discrimination claims are subject to the higher level of charges and remission of fees depends on the disposable capital and income of the claimant. The same reports indicate that since their introduction, tribunal fees have been the subject of repeated judicial proceedings both in England and Wales, as well as in Scotland, but none of these challenges have been successful. The Committee notes that on 11 June 2015 the Lord Chancellor announced a post-implementation review which would "consider how effective the introduction of fees has been in meeting the original financial and behavioural objectives while maintaining access to justice". The Government has indicated that the review will be completed by the end of 2015 ("Employment Tribunal Fees Post Implementation Review", Gov.uk, 11 June 2015). The Committee asks information on the results of such review and any developments on this matter.

The Committee recalls that domestic law must provide appropriate and effective remedies in the event of an allegation of discrimination. Employees who consider that they have suffered discrimination must be able to take their case to an independent body. Since the right to appeal should be fully effective, there should be no obstacles in accessing the courts. The Committee notes that the official statistics show that Tribunal applications fell by 79% in the first six months after fees were imposed (European Equality Law Network), which means that the number of discrimination claims has dropped considerably. In order to assess whether the effectiveness of the right to file a complaint on alleged cases of discrimination as well as to appeal before the employment tribunals is affected by the requirement to pay court fees in employment disputes, the Committee asks information on the nature of the discrimination claims and the amount of fees paid by the claimants (with examples of actual cases) and statistical information on trends in the number of discrimination claims before the employment tribunals. It also asks whether expenses are remitted to those who cannot afford to pay the court fees and in what proportion. Meanwhile, the Committee reserves its decision on this point.

The Committee further notes from the ILO that Section 66 of the Enterprise and Regulatory Reform Act 2013 (ERRA), repealed Section 138 of the Equality Act 2010, which allowed a potential victim of discrimination to submit a list of questions to the potential respondent in order to overcome the difficulties in identifying whether discrimination has occurred. The

same source indicates that the Government expressed its intention to repeal Section 124 of the Equality Act 2010 pursuant to which employment tribunals are able to make recommendations in discrimination cases to benefit the wider workforce and prevent similar discrimination from occurring in future (Observation (CEACR)-adopted 2014, published 104th ILC session (2015)). The Committee asks the next report to provide further information on the reasons for the repeal of Section 138 and the possible repeal of Section 124 of the Equality Act 2010. The Committee asks how such changes have affected the procedure in discrimination cases.

The Committee takes note from the ILO that the Enterprise and Regulatory Reform Act 2013 (ERRA) Section 97 amended Section 9 (5) of the Equality Act 2010 in the sense that the Minister must by order provide for caste to be an aspect of race. According to the same source, the Government indicated that preparatory independent research on a possible definition of caste has been concluded and will be submitted to full consultation (Direct Request (CEACR) – adopted 2014, published 104th ILC session (2015)). The Committee asks the next report to provide information on any development concerning the inclusion of caste-based discrimination as an aspect of race in Section 9 of the Equality Act 2010. It also asks for examples of cases involving caste discrimination dealt by the employment tribunals. The Committee notes from the reports of European Equality Law Network that in one case brought by a domestic servant who complained, inter alia, that she had been discriminated against because of her race, religion and caste by her employers, the employment tribunal accepted that the claimant had been treated in the manner in which she was treated by the respondents in part because of her caste position. The Employment Appeal Tribunal did not rule that caste was a form of race for the purposes of the Equality Act 2010, rather that aspects of caste overlapped with aspects of race and so the facts of a particular caste-related case may be caught within the Act.

The Committee notes the initiatives taken to promote equality of opportunity and treatment of ethnic minority groups – the programme “Equal Rights, Equal Respect” which also addresses stereotypes regarding ethnic minorities (Government Equalities Office). However, the Committee notes from the progress report on the “Equality Strategy Building a Fairer Britain” that ethnic minorities face greater difficulty to access financial institutions and that measures have been adopted in this respect. The Committee asks the next report to provide information on the measures taken to promote equality of opportunity and treatment of ethnic minority groups in employment.

The Committee previously took note of the recommendations of the Women and Work Commission and asked information on the results of such recommendations (Conclusions XX-1 (2012)). The report indicates that although the Women and Work Commission is no longer in operation, the Government has taken a range of measures to improve women’s position in the labour market, among which ensuring transparency on pay. A voluntary initiative “Think, Act, Report” was launched in 2011 to help improve gender equality in the workforce. It sets out a simple, step-by-step framework to help companies think about key issues such as recruitment, retention, promotion and pay. The report indicates that large companies signed up to this initiative and over 2 million employees are covered by the Think Act Report initiative.

The Committee notes the information provided in the Appendix 1D to the report concerning the role of the Government Equalities Office, the Equality and Human Rights Commission and the Equality Advisory Support Service in the implementation of the Equality Act 2010. The Committee notes that the Equality and Human Rights Commission, which now brings together the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission, monitors and assesses how public bodies comply with the Public Service Equality Duty (PSED) provided for in section 149 of the Equality Act 2010 and has published two reports on this respect. The Committee notes, in particular, that the effectiveness of the PSED is currently under review. It asks the next report to provide information on the results of such review.

The Committee asks that the next report provide information on the activities and measures taken by Government Equalities Office, the Equality and Human Rights Commission and the Equality Advisory Support Service with a view to eliminate discrimination in employment and to promote equality of opportunities and equal treatment including for specific minority groups. It requests that the next report provide information on any claims related to discrimination in employment, including the grounds of discrimination addressed as well as any remedies provided or sanctions imposed.

The Committee notes that the Equality Act 2010 is not applicable in Northern Ireland. It further notes that a formal consultation on a new revised Racial Equality Strategy for Northern Ireland (entitled “A Sense of Belonging – Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014–24”) was launched between 19 June and 10 October 2014. The consultation seeks views on, among other matters, the need for reform of race legislation in Northern Ireland and the proposals put forward by the Equality Commission, including the provision of increased protection against discrimination and harassment on the grounds of colour and nationality across the scope of the race equality legislation (Observation (CEACR) – adopted 2014, published 104th ILC session (2015)). The Committee requests the next report to provide information on the results of the consultation launched in 2014 concerning the Racial Equality Strategy for Northern Ireland, as well as on the specific legislative measures adopted by the Office of the First Minister and deputy First Minister to address discrimination and the promotion of equality of opportunity and treatment in employment.

As for the Isle of Man, the report indicates that in 2014 the Government’s Cabinet Office brought forward a new Equality Bill which is based, with some modifications, on the United Kingdom’s Equality Act 2010. The Bill is intended to provide comprehensive protection against any discrimination in both employment and the provision of goods and services on the following grounds: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Committee notes that the consultation process has already taken place, but the new Equality Bill has not been adopted yet. It asks information on any developments on this matter in the next report.

As regards discrimination on grounds of nationality, the Committee recalls that States Parties cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article G of the Charter, namely when the jobs at issue are inherently connected with the protection of the public interest or national security and involve the exercise of public authority (Conclusions 2006, Albania). In light thereof, the Committee asks the next report to provide detailed information on the restrictions applicable, if any, to foreign nationals’ employment rights. It reserves in the meantime its position on this point.

The Committee asks that the next report provide information on positive measures/actions for combating all forms of discrimination in employment.

2. Prohibition of forced labour

Work of prisoners

The report states that, according to the most recent statistics, 9 900 inmates are currently working in prison in industrial workshops run by the National Offender Management Service (NOMS), with around 2 000 more employed by subcontractor enterprises. These figures do not include the considerable number of inmates performing other activities to ensure the proper functioning of the prison, such as cooking and serving meals, maintenance and cleaning. Inmates are also paid for their participation in purposeful activity, defined as any activity organised as part of work, integration, education, training or offending behaviour programmes.

Around 500 inmates are currently engaged in paid employment outside prison, mostly in small local businesses. In principle, persons authorised to work for outside enterprises have

to receive the same salary for similar work and be employed under the same conditions as their non-inmate co-workers, and must pay National Insurance (social security) contributions and tax.

The government continues to implement a series of regulations to prevent abuse against inmates. By applying these regulations, it ensures that inmates' work, in both the public and private sectors, is subject to rigorous and independent inspection by national and international bodies.

Under the Management of Offenders Act 2007, unpaid work in the community undertaken by offenders can be managed by the private sector. The work is subject to the mandatory instructions and guidelines issued by NOMS, which ensures that the personal integrity of offenders is respected. Unpaid work is supervised by Her Majesty's Inspectorate of Probation, an independent service funded by the Ministry of Justice, which reports directly to the Secretary of State as regards the effectiveness of work carried out with adult and juvenile offenders.

The Committee requests that the next report contain relevant information on the pay, conditions of employment and social protection of inmates working within prisons.

Domestic work

In England and Wales the Modern Slavery Act 2015 completes the existing legislation presented in the previous report. This law, adopted outside the reference period, regroups offences relating to trafficking and slavery. It creates two new Civil Protection Orders for the prevention of modern slavery and a Commissioner in charge of combating this phenomenon. It also deals with the protection of victims. In addition, the government is also introducing non-legislative measures, such as the adoption of a strategy to fight against modern slavery and evaluation of the support offered to victims. It has also instructed the National Crime Agency (NCA) to prioritise actions aimed at countering this problem. In November 2014 a review of the National Referral Mechanism for victims of human trafficking (NRM) led to a recommendation to revise the victim identification and support system. The report states that in 2014 there were 2 340 potential victims of trafficking made known to the NRM, of whom 234 were victims of domestic slavery (200 women and 34 men). In addition, 71 children (48 girls and 23 boys) were referred to the NRM on the same ground.

The United Kingdom Government is taking steps to strengthen protection for vulnerable domestic workers. This entails specific training for immigration and border control staff, measures to ensure that foreign national domestic workers are given information concerning their rights, and how to get help, before and after they enter the United Kingdom, and awareness-raising targeting employers. The government is also testing a pocket card scheme. These cards, summarising employment rights and offering telephone assistance in case of emergency, are to be issued to foreign national domestic workers when entering the country. This is in addition to the brochure setting out their rights (in several languages) that is already provided at the time of visa applications. The brochure also contains information on access to telephone support and on relevant organisations that provide advice and assistance.

In the United Kingdom foreign national domestic workers are entitled to change employers in the event of abuse. If they notify the competent authorities, victim assistance and support will be granted to them. The government also plans to undertake a study to find ways to prevent modern slavery among this group of workers.

In March 2011 the Welsh Government created an Anti-Slavery Coordinator and, in January 2013, the Anti-Slavery Leadership Group was put in place with a view to implementing preventive measures against the exploitation of workers.

In Northern Ireland the Human Trafficking and Exploitation Act 2015 applies in this area. This law defines slavery, servitude and forced or compulsory labour as a criminal offence.

Such offences are prosecuted on indictment only and are liable to a maximum penalty of life imprisonment.

The report mainly provides information on legislative and practical measures taken outside the reference period. The Committee requests that the next report provide information on the results of these measures, particularly with reference to the General Questions about the existence of forced labour within the family (Conclusions XX-1/2012).

3. Other aspects of the right to earn one's living in an occupation freely entered upon

Minimum periods of service in the Armed Forces

The Committee examined the legislation on respect for minimum period of service in the Armed Forces in the United-Kingdom in Conclusions XX-1(2012). It asks that the next report include updated information on this issue.

Requirement to accept the offer of a job or training

According to the report, the situation in the United Kingdom corresponds to the conditions laid down in the Council of Europe's "Guide to the concept of suitable employment in the context of unemployment benefits". The recipient of unemployment benefit is, in principle, entitled to reject a job offer that does not correspond to his or her customary occupation during an initial 13-week period ("permitted period"). This is not an absolute guarantee, as decisions are made on a case-by-case basis, depending on circumstances.

The Committee recalls that, each time the relevant authorities decide on the permanent withdrawal or temporary suspension of unemployment benefit because the recipient has rejected a job offer, this decision must be open to review by the courts in accordance with the rules and procedures established under the legislation of the state which took the decision (Statement of Interpretation of Article 1§2, Conclusions XX-1/2012). It is requested that the next report provide updated information on this point.

Privacy and work

According to the report, workers' privacy is protected by the Data Protection Act 1998. The Information Commissioner's Office has published guidance and advice on issues related to employment on its website.

The Committee recalls that the right to freely undertaken work includes the right to be protected against invasion of privacy. The report does not provide information on this point. The Committee requests that the next report contain information about measures taken by the state to ensure that employers give due consideration to workers' private lives in the organisation of work and that all interferences are prohibited and where necessary sanctioned (Statement of Interpretation of Article 1§2, Conclusions XX-1/2012).

Pending receipt of the information requested, the Committee considers that, as regards the prohibition of forced labour and other aspects of the requirement to accept the offer of a job or training, the situation in the United Kingdom is in conformity with Article 1§2 of the 1961 Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the United Kingdom is in conformity with Article 1§2 of the 1961 Charter.

Article 1 - Right to work

Paragraph 3 - Free placement services

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

In its previous conclusion (Conclusions 2012), while finding the situation in the United Kingdom in conformity with Article 1§3 of the 1961 Charter, the Committee asked for the next report to provide a number of clarifications in respect of the work of Jobcentre Plus, namely: (i) the number of placements made as a percentage of the vacancies notified to it, (ii) the number of staff concerned with placement activities, and the ratio of placement staff to registered jobseekers, and (iii) how it co-ordinates work with the private employment services.

Concerning Great Britain, the report indicates that Jobcentre Plus ceased to have legal status as an agency from October 2011 and is now an integral part of Department for Work and Pensions (DWP). DWP is continuing to modernise the way Jobcentre Plus delivers its services and has given more responsibility to Jobcentre Plus advisers to assess the individual needs of people and offer the support they think is best. Jobcentre Plus has been delivering a personalised service to best meet the needs of the claimant and the local labour market through different programmes targeting in particular long-term unemployed and young unemployed persons.

The report further indicates that, the Universal Jobmatch went live in November 2012. This is the Department's online job posting and matching service for jobseekers and employers, and it has revolutionised the way jobseekers find suitable job vacancies. Between its launch in November 2012 and 31 March 2014, around 390,000 employers opened a Universal Jobmatch account. On average, there are up to 1 million live vacancies at any one time and an average of 4,5 million daily job searches. Jobseekers who wish to return to work through self-employment are helped by the New Enterprise Allowance. Between April 2011 and December 2013, over 40,000 new businesses were supported by the Allowance.

From the Vacancies Dataset, source of the Office for National Statistics (<http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/november-2014/dataset--claimant-count-and-vacancies.html>), it is to be noted, that in December 2011, there were 465,000 vacancies for 2,684,000 jobseekers, with a number of unemployed person for vacancy of 5,8; in December 2012 there were 502,000 vacancies for 2,536,000 jobseekers, with a number of unemployed person for vacancy of 5,1; in December 2013 there were 573,000 vacancies for 2,359,000 jobseekers, with a number of unemployed person for vacancy of 4,1; in December 2014 there were 709,000 vacancies for 1,875,000 jobseekers, with a number of unemployed person for vacancy of 2,6. However, the report does not provide the placement rate, that is placements made by the public employment services as a share of notified vacancies to the public employment services, thereby the Committee asks again the next report to provide it for every year of the reference period.

As regards to the services staff, in Great Britain there are 714 Jobcentres and 29,715 Jobcentre Plus Work Services front line staff concerned with placement activities. The report does not indicate the ratio of placement staff to registered jobseekers and the Committee reiterates its request.

In the previous conclusion, the Committee also asked how Jobcentre Plus co-ordinates work with the private employment services. In this respect, the report indicates that the Universal Jobmatch service, is a free service available to all employers and recruiters in the UK, including private employment and recruitment services. An important indicator of this coordination to be provided in the next report is the respective market shares of public and private services (market share is measured as the number of placements effected as a proportion of total hirings in the labour market).

As the [Department for Work and Pensions](#) doesn't cover Northern Ireland, the report indicates that the Department for Employment and Learning's Employment Service in Northern Ireland delivers many of its programmes and initiatives through a network of 35 Jobs and Benefits offices and JobCentres. The Committee asks the next report to provide the following information concerning Northern Ireland: (i) the placement rate (i.e. placements made by the employment services as a share of notified vacancies), the number of employment services staff in relation to the number of job seekers, and the respective market shares of public and private employment services.

The Committee also notes from the report that ministers and officials continue to meet regularly with union representatives, employers' organisations and other stakeholders, and their views are sought in formal consultations.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in United Kingdom is in conformity with Article 1§3 of the 1961 Charter.

Article 1 - Right to work*Paragraph 4 - Vocational guidance, training and rehabilitation*

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

As the United Kingdom has accepted Article 9, 10§3 and 15§1 of the 1961 Charter, measures relating to vocational guidance, to vocational training and retraining of workers, and to vocational guidance and training for persons with disabilities are examined under these provisions.

The Committee considered the situation to be in conformity with the 1961 Charter as regards measures relating to vocational guidance (Article 9).

It deferred however its conclusion as regards measures concerning vocational training and retraining of workers (Article 10§3) and as regards training for persons with disabilities (Article 15§1). For the same reasons, the Committee defers its conclusion on Article 1§4.

Conclusion

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

Article 2 - Right to just conditions of work

Paragraph 4 - Elimination of risks in dangerous or unhealthy occupations

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions XX-3 (2014).

The Committee takes note of the information submitted by the United Kingdom in response to the conclusion that it had not been established that workers exposed to occupational health risks, despite the existing risk elimination policy, were entitled to appropriate compensatory measures (Conclusions XX-3 (2014), United Kingdom).

Article 2§4 requires States Parties to ensure some form of compensation for workers exposed to residual risks that cannot be or have not yet been eliminated or sufficiently reduced either in spite of the effective application of the preventive measures referred to above or because they have not yet been applied (Conclusions 2005, Statement of Interpretation on Article 2§4). Article 2§4 mentions two forms of compensation: reduced working hours and additional paid holidays. In view of the emphasis in this provision on health and safety objectives, however, other measures of reducing exposure time may also ensure conformity with the Charter. The relevance and adequacy of such measures are assessed on a case by case basis (Conclusions XX-3 (2014), Germany).

The report states that the Government continues to disagree with the Committee's conclusions on Article 2§4. The approach taken by the United Kingdom is explicitly focused on reducing exposure to occupational health risks in line with a set of principles enshrined in legislation. In the Government's view, the approach adopted by the United Kingdom presents the potential for higher levels of risk control than simply focusing on reducing the time of exposure to the risk or by providing additional leave once the workers have been exposed to risks to their safety or health at work.

The Committee previously noted the approach adopted by the United Kingdom and the absence of specific rules that create an obligation to protect workers who are exposed to residual risk (Conclusions XX-3). On this basis it considers that the situation is in breach of the Charter.

Conclusion

The Committee concludes that the situation in United Kingdom is not in conformity with Article 2§4 of the 1961 Charter on the ground that workers exposed to residual occupational health risks, despite the existing risk elimination policy, are not entitled to appropriate compensatory measures.

Article 4 - Right to a fair remuneration

Paragraph 5 - Limits to deduction from wages

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions XX-3 (2014).

The Committee takes note of the information submitted by United Kingdom in response to the conclusion that it had not been established that the limits on deductions from wages equivalent to the National Minimum Wage are reasonable (Conclusions XX-3 (2014), United Kingdom).

Article 4§5 guarantees workers the right to their wage being subject to deductions only in circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award). Any such deductions must be subject to reasonable limits and should not *per se* result in depriving workers and their dependents of their means of subsistence (Conclusions XI-1 (1991), Greece).

The report states that under the applicable law, there are limited circumstances in which deductions can be made which would bring wages below the level of the minimum wage. The main exception to this is where an employer provides accommodation to a worker. From 1 October 2014, the amount which can be deducted for accommodation provided by the employer is £5.08 per day or £35.56 a week. Under the National Minimum Wage Regulations 1999, there are certain other limited situations where deductions from wages can be made even where these would bring wages below the level of the minimum wage. Unlike the accommodation offset these deductions do not have a limit for how much can be deducted. According to the report it would be very difficult for a central body to set limits for these areas.

While acknowledging that the situations are restricted in scope and notwithstanding the Government's claim that limits are difficult to set, the Committee considers that the absence of adequate limits to deductions that may be made to wages paid at the level of the national minimum wage (deductions related to penalties, advance of wages, purchase of shares or securities, accidental overpayment, etc.) is contrary to the Charter as it may result in depriving workers and their dependents of their means of subsistence.

Conclusion

The Committee concludes that the situation in United Kingdom is not in conformity with Article 4§5 of the 1961 Charter on the ground that the absence of adequate limits on deductions from wages equivalent to the National Minimum Wage may result in depriving workers and their dependents of their means of subsistence.

Article 9 - Right to vocational guidance

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

The Committee previously noted (Conclusions XVI-2 (2004)) that vocational guidance is provided free of charge without discrimination to the nationals of other Contracting Parties to the 1961 European Social Charter and the Revised Charter who are lawfully resident or regularly working in the United Kingdom. Any differential treatment of foreigners in this respect would contravene the Equality Act 2010.

As regards measures concerning vocational guidance of people with disabilities, both within the education system and the labour market, the Committee refers to its assessment under Article 15 of the Charter.

Vocational guidance within the education system

The Committee previously noted that vocational guidance is organised differently in England, Scotland, Wales, Northern Ireland and the Isle of Man. In particular:

- In England, under the Education Act 1997 (as amended in 2011), schools are required to provide independent careers guidance for pupils (aged 13 to 16) in years 9-11 on the full range of options, including apprenticeship. From September 2013, this duty was extended to pupils (aged 12 to 18) in years 8-13 to help more young people get the advice they need at key transition points. The Department for Education has issued statutory guidance and good practice for schools and, in December 2014, has announced the creation of a new, employer-led, independent, careers and enterprise company, which is expected to forge strong partnerships between schools, colleges, employers and other organisations to ensure the best advice and inspirational opportunities are being offered. The report furthermore mentions a series of initiatives taken in England by the Department for Education and the Department for Business, Innovation and Skills in favour of people aged more than 16 years old, including as regards careers guidance.
- In Northern Ireland, the Careers Service delivers careers information, advice and guidance in all post-primary schools through formal partnership arrangements.
- In the Isle of Man, the Department of Education and Children (DEC) works closely with the Department of Economic Development (DED) in respect of providing careers guidance to young people by allowing access to secondary schools and Isle of Man College for the careers advisers' service. The DEC organizes, on behalf of the DED, the annual Employment and Skills Event held each November. This event is open to all secondary schools and the Isle of Man College as well as members of the public. The event brings together a range of Isle of Man employers and enables the young people to find out the opportunities for training which are available.
- The report does not provide information as regards vocational guidance provided within the education system in Scotland and Wales. The Committee asks whether careers guidance is provided within the educational system by Skills Development Scotland and Careers Wales respectively (see below) and what specific guidance initiatives are taken in this respect. It also asks the next report to describe the legal basis, functioning, expenditure, staffing and number of beneficiaries respectively involved in the provision of careers guidance within the education system in Scotland and Wales.

The Committee asks that updated information be regularly provided in each report on the measures taken in respect of vocational guidance within the education system throughout the United Kingdom, in particular the financial and human resources involved, the number

of beneficiaries covered and the measures taken to ensure dissemination of information as regards vocational guidance within the education system.

Vocational guidance in the labour market

As noted above, the provision of vocational guidance is organised differently in England, Scotland, Wales, Northern Ireland and the Isle of Man:

- In England, the National Careers Service, set up in 2012, provides advice on learning, training and employment for young people and adults in one place. Information is available online, but is also offered face-to face and by phone. In 96% of Jobcentres the National Careers Service is co-located. A National Careers Council (NCC) composed of ten members and 3 associate leading experts from business, education and careers sectors was established in 2012 by the Skills Minister to advise government on improving careers provision for young people and adults in England. The report also refers to schemes available to jobseekers during the reference period under the Jobseekers Act 1995 and the Employment and Training Act 1973, in particular the "Work Programme", a Government's scheme addressed in particular to individuals at risk of long-term unemployment.
- In Scotland, information and guidance on courses and careers are provided by Skills Development Scotland (SDS) since 2008; the Committee takes note of the information provided in the report about the Scottish Government's career information, advice and guidance strategy published in 2011 and the "Opportunities for All" commitment introduced in 2012.
- In Wales, vocational guidance in the labour market is provided by Careers Wales.
- In Northern Ireland, careers guidance services are delivered by the Careers Service Northern Ireland; the Committee takes note of the information provided in the report about the ongoing review of the "Preparing for Success" strategy published in 2009 in Northern Ireland. It also notes that Careers information and support, delivered by professionally qualified careers advisers, is available online, as well as in Careers Resource Centres/Offices, Jobs and Benefits Offices and Job Centres throughout Northern Ireland.
- In the Isle of Man, the Employment & Skills Group, which is part of the Department of Economic Development, provides an all age vocational guidance service. Careers and Employment advisors provide a range of impartial information, advice and guidance with regard to education or employment options. They facilitate referrals to other agencies as appropriate and can access support from both Government and external agencies. According to the report, Careers advisors are professionally qualified. Guidance is provided both within the JobCentre and around the Island at secondary schools and the Isle of Man College. Advice and guidance is also provided in the Isle of Man Prison.

The Committee asks the next report to provide updated information on the initiatives taken throughout the country to ensure access to vocational guidance in the labour market, including the respective legal basis for the provision of such guidance and the means deployed to disseminate information on vocational guidance.

As regards expenditure, staffing and number of beneficiaries, the Committee notes from the report that:

- In Scotland, as of 31 December 2014, the number of Full Time Equivalent careers staff working with SDS was 689.87; SDS delivered 171,324 Career Information, Advice and Guidance engagements for 80,283 individuals through a mix of groups and one-to-one support in 2013-2014.
- In Northern Ireland, the expenditure was £ 5,524,011 (6,750,100€) in 2011-2012, £5,788,069 (€6,931,990) in 2012-2013 and £5,410,450 (€6,912,990) in 2013-

2014; the number of Full Time Equivalent staff within the Department for Employment and Learning's Careers Service was 158.61 (January 2015); the number of interventions (initial and subsequent careers guidance interviews with young people and adults, workshops, group sessions, telephone calls etc.) was 628,261 between 1/04/2010 and 26/09/2014 (approximately 157,000 per year).

- In the Isle of Man, vocational guidance is provided by a team of 4 full-time equivalent staff. Direct spending in this area is approximately £250,000 (€319,428) per annum.
- No information is provided as regards the situation in England and Wales.

The Committee asks that updated information be regularly provided in each report on the measures taken in respect of vocational guidance in the labour market throughout the United Kingdom, in particular the financial and human resources involved and the number of beneficiaries covered.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in the United Kingdom is in conformity with Article 9 of the 1961 Charter.

Article 10 - Right to vocational training

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

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

Secondary and higher education

The Committee recalls that under Article 10§1 of the Charter the States Parties must:

- ensure general and vocational secondary education, university and non-university higher education and other forms of vocational training;
- build bridges between secondary vocational education and university and non-university higher education;
- introduce mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market.

According to the report the age of compulsory participation in education or training was raised and pupils who left year 11 in 2014 were the first cohort required to continue until at least their 18th birthday. Young people can choose vocational or academic options and they can participate through full-time education, a job or volunteering combined with part-time study or by undertaking an apprenticeship or traineeship.

The Committee takes note of an independent review of vocational education, commissioned by King's College and carried out in 2011. As a result of the recommendations issued, a number of measures were implemented. All 16-19 years olds in education are now offered a study programme based on their prior attainment, education and employment goals. Sixth Forms and Further Education Colleges are funded on a per student basis, giving education providers the freedom to design programmes which best meet student's ambitions. Students studying vocational subjects can take substantial technical and applied qualifications and other activities including work experience.

According to the report, since 2013 all 16-19 olds have been following a study programme with clear study and/or employment goals. Study programmes include substantial qualifications, a traineeship or extended period of work experience and employment preparation. The study programme principles are intended to enable all students to take a programme that helps them progress to their next stage whether it be employment, training or further study, including entry into higher education. Traineeships for 16-18 year olds include a high quality work placement and are at heart of the Government's drive to tackle youth unemployment. Traineeships had 10,400 young people aged 16-23 participating in the first year. From March 2014 young people on benefits have been able to study for more than 16 hours per week on a traineeship and from August 2014 traineeships became available to 24 year olds.

As regards vocational qualifications, students aged 14-16 can choose from a variety of high quality, vocational and technical qualifications. Lists of technical qualifications for key stage 4 education were published in 2012, 2013 and 2014.

In Scotland the Scottish Executive Employability Framework recognises the need to ensure that the skills of people are matched with current and future employment opportunities. Skills Development Scotland's Careers Service also plays a key role in vocational programmes.

The Committee asks what measures are taken to make vocational education qualifications relevant from the perspective of professional integration in the job market.

Measures to facilitate access to education and their effectiveness

According to the report, in order to support the introduction of study programmes, funding is allocated per student rather than per qualification. The number of 16 year olds participating in full-time programmes increased from 373,100 to 477,900 in 2014. Overall proportion of students studying at least one A level rises with age, from 79% for 16 year olds to 96% for 18 year olds.

The Committee also takes note of the numbers of students studying English and mathematics aged 16-18 years at A levels. In 2013 the Government announced a £30 million two-year package of support for the further education to encourage improved teaching and learning. It includes bursaries to attract more graduate teachers into further education and professional development programmes.

The Committee wishes to know the total spending on vocational education as a percentage of the GDP.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in United Kingdom is in conformity with Article 10§1 of the 1961 Charter.

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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

The Committee notes that a number of changes were introduced to the apprenticeship programme. The pay arrangements have been strengthening by bringing them within the National Minimum Wage framework. New measures were introduced in 2011 focusing on three priorities to raise standards and safeguard quality, to simplify and speed up processes for employer and to increase focus where returns are greatest. The Government also introduced a new financial incentive to help SMEs take on a first apprentice aged 16-24.

The Committee takes note of the review of apprenticeships and the reform implementation plan aiming at, among others to reform apprenticeships to be more rigorous and responsive to the needs of employers.

According to the report over 1000 employers are involved in over 75 sectors with 73 standards approved and published and more than 100 new standards in development.

The Committee asks what is the length of the apprenticeship and division of time between practical and theoretical learning.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in United Kingdom is in conformity with Article 10§2 of the 1961 Charter.

Article 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

Employed persons

In its previous conclusion (Conclusions XX-1 (2012) the Committee asked for up-dated information on the organisation and implementation of continuing vocational training for employed persons, including relevant figures such as the percentage of employees participating in training. The Committee takes note of the provisional data for 2014-2015 academic year, which show that 1,396,100 adult learners aged 19 and over participated in Government-funded further education. 573,700 funded Apprentices participated on an Apprenticeship in the first quarter of the 2014/15 academic year.

According to the report, the Department for Business Innovation and Skills (BIS) contributed £ 210 million a year to support community learning (adult learning). In 2013/2014 657,200 learners participated in Community Learning courses. The budget is managed by the Skills Funding Agency. Courses are designed to help people of different ages and backgrounds acquire new skills, re-connect with learning, pursue an interest, prepare for progression to formal courses.

The overall 2013/14 education and training success rate for government funded adult learners was 87.6%. The overall 2013/14 apprenticeship success rate was 68.9% .

The Committee further notes from Cefedop (On the way to 2010: data for vocational education and training policies. Country statistical overview, 2015) that the percentage of adults participating in lifelong learning in 2013 was 16.1%, which is higher than the corresponding EU average. The UK also has a higher percentage of employees participating in on-the-job training (30% compared to the EU average of 20%) .

Unemployed persons

The Committee recalls that Article 10§3 requires the States to provide labour market training for the unemployed and provide information on the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures. 10§3 takes into consideration only those activation measures for unemployed people that strictly concern training.

The Committee notes from Cefedop (VET in Europe, Country Report) that following the Welfare Reform Act 2012, the UK Government began introducing changes to the benefit system in 2013 so that it pays more to work than to stay on benefits. Further initiatives include modernising the Jobcentre Plus services and creating closer links with local authorities, employers and providers. In England, Scotland and Wales the Youth Contract provides opportunities (such as apprenticeships, work experience and support) to young unemployed people as well as wage incentives to employers.

The Committee asks the next report to provide information about the labour market training and retraining measures specifically for unemployed persons, as well as the numbers participating and the activation rate. The Committee considers that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity.

The Committee asks the next report to provide information about the legislation on individual leave and its remuneration. It wishes to know how the the burden of the cost of vocational training is shared among public bodies, unemployment insurance systems, enterprises and households as regards continuing training.

Conclusion

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

Article 10 - Right to vocational training

Paragraph 4 - Encouragement for the full utilisation of available facilities

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

Fees and financial assistance

In its previous conclusion (Conclusions XX-1 (2012)) that Committee found that the situation was not in conformity with the Charter as nationals of other States Parties who are not EEA nationals, residing or working lawfully in the United Kingdom were not treated on an equal footing with the United Kingdom nationals with respect to fees and financial assistance for higher education.

The Committee notes from the report that students studying undergraduate courses who have been designated for student support may apply for tuition fee assistance in the form of a non-means tested loan. Additionally students can apply for a means-tested loan and grant to help with their living costs.

Eligibility for financial support for higher education courses is determined by Student Finance England (SFE) using the Education (Student Support) Regulations 2011.

From academic year 2012, eligible part-time undergraduate students and those studying by distance learning can apply for a subsidised loan to cover the cost of tuition.

As regards eligible categories for the regulated or home rate of fees, a tuition fee loan and maintenance support, students must have been ordinarily resident in the UK and Islands for the three years immediately preceding the first day of the first academic year of the course, other than wholly or mainly for the purpose of receiving full-time education.

There are exceptions to this as follows:

- In accordance with Article 24, paragraph 1 of Directive 2004/38/EC, all EU students pay the same tuition fee and can apply for the same tuition fee support as the nationals of the hosting EU country. Thus, EU nationals (or their family member) who have lived in the EEA, or Switzerland, throughout the three years immediately before the start of the first academic year of the course, can apply for a tuition fee loan and are charged the same regulated rate of fee as a national student. As regards maintenance support, following a judgment on the Bidar case (C-209/03) in 2005, the European Court of Justice (ECJ) concluded that maintenance support also falls within the scope of the EC treaty. The ECJ supported a residence condition as acceptable to establish a genuine link with another Member State and eligibility for maintenance support. Therefore, as with home students, EU nationals who have lived in the UK and Islands for three years prior to the start of their course can apply for all aspects of maintenance support.
- European Economic Area (EEA) workers, frontier workers, self-employed persons, persons who retain such status and members of their families are eligible to apply for the full support package if they have been ordinarily resident in the EEA and Switzerland throughout the three years immediately preceding the first day of the first academic year of the course.

“Visa” nationals, that is those who do not have the right of free movement and who require an entry visa and a work permit to stay for over six months, may be charged fees above the capped rate and may not be eligible for financial assistance for their studies. Non-EU/EEA Charter nationals do not have the right to freedom of movement as workers, as is guaranteed by Article 45 TFEU (ex Article 39 of the Treaty establishing the European Community).

The Committee also notes from the Governmental Committee Report (§§ 111-114) that to receive a student loan, tuition fee support and other supplementary grants, students must normally be able to satisfy three requirements relating to their residence and immigration status on the first day of the first academic year of their course. They must be settled in the UK, in other words ordinarily resident without being subject under the immigration laws to any restriction on the period for which they may stay. They must be ordinarily resident in the UK and they must have been ordinarily resident throughout the three-year period preceding that date, other than wholly or mainly for the purpose of receiving full-time education. This applies equally to UK nationals on return to the UK following a period of residence abroad.

The Committee recalls that under Article 10§4 of the Charter equality of treatment as regards access to financial assistance for studies shall be provided to nationals of other States Parties lawfully resident in any capacity, or having authority to reside by reason of their ties with persons lawfully residing, in the territory of the Party concerned. Students and trainees, who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training are not concerned by this provision of the Charter. Article 10§5 does not require the States Parties to grant financial aid to any foreign national who is not already resident in the State Party concerned, on an equal footing with its nationals. However, it requires that nationals of other States Parties who already have a resident status in the State Party concerned, receive equal treatment with nationals in the matters of both access to vocational education (Article 10§1) and financial aid for education (Article 10§4).

Those States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for them to apply for financial aid for vocational education and training are in breach of the Charter.

The Committee asks the next report to confirm that to be eligible for student loans and tuition fee support, both UK nationals and non-EEA nationals, who are legally entitled to enter and reside in the UK, must be ordinarily resident in the UK throughout the three-year period, on an equal footing. In the meantime, the Committee reserves its position on this issue.

Training during working hours

The Committee notes that there have been no changes to the situation as regards training during working hours.

Efficiency of training

The Committee asks what measures are taken to evaluate vocational training programmes for young workers, including the apprenticeships. In particular, it wishes to be informed of the participation of employers' and workers' organisations in the supervision process. The Committee notes that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Conclusion

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

Article 15 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Paragraph 1 - Education and training for persons with disabilities

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

According to the Department for Work and Pensions, the percentage of people in the United Kingdom with disabilities differs according to the age group: in 2013-2014, some 7% (0.9 million) of children under 18 years of age have disabilities compared to 16% of working age (18-64) adults and 42% of adults who have reached the legal age for retirement (since 6 April 2010, women are entitled to a state pension as from their 65th birthday). According to the UK Department for Work and Pensions, some 800 000 young people (6%) in the United Kingdom are born with a disability or become disabled during childhood. 2.1 million (11%) people under 25 years of age have a long-term illness.

The Committee notes that the United Kingdom ratified the UN Convention of 8 June 2009 on disability rights and its optional Protocol on 7 August 2009.

Definition of disability

The Committee refers to its previous conclusion (Conclusions XX-1 (2012)) for the definition of disability, which has not changed during the reference period.

Anti-discrimination legislation

The Committee refers to its previous conclusion (Conclusions XX-1 (2012)) for a description of the anti-discrimination laws in Great Britain and Northern Ireland, which remain unchanged.

In Scotland, since 18 March 2011, the Additional Support Needs Tribunal for Scotland, established in 2005, also examines appeals by parents or persons who have the capacity to lodge a complaint against a body responsible for discrimination on grounds of a disability. According to the Tribunal's annual reports, it received 6 requests in 2011/2012, 18 in 2012/2013 and 12 in 2013/2014. The Special Educational Needs and Disabilities Tribunal in Northern Ireland received 81 requests in 2011/2012, 102 in 2012/2013 and 121 in 2013/2014.

In its previous conclusion (Conclusions XX-1 (2012)), the Committee asked to be informed in the next report of any progress made in legislation to prevent discrimination on grounds of disability in the Isle of Man. The report explains that the Government of the Isle of Man no longer intends to bring the Disability Discrimination Act 2006 into operation as it would have dealt with discrimination on the grounds of disability in the provision of goods and services, but not in employment. In 2014, the Government of the Isle of Man presented a new equality act based on the UK Equality Act 2010 which will deal with discrimination in both employment and the provision of goods and services on various grounds including disability. This law should come into force in 2015. The Committee asks that the next report provide all the necessary information on this subject.

Education

The report states that in England, study programmes apply to all students aged 16-19 including learners with learning difficulties and/or disabilities. In January 2014 some 232 200 (2.8%) pupils across all schools in England had special educational needs. 46.3% were placed in mainstream schools while 44.4% were placed in special schools. The number of pupils with special educational needs but without the corresponding statement of needs had dropped from 1 470 900 in 2010 to 1 260 760 in 2014.

According to the report, Scotland there were 2,056 primary school, 364 secondary schools and 149 special schools in 2013. The total number of pupils was 673 530, 15 510 (approximately 2.3%) of whom were declared as disabled. 6 984 pupils were placed in special schools.

According to the report, in Northern Ireland, 73 435 pupils (at nursery, pre-school, primary and secondary level and in special schools) were registered as having special educational needs and 15 977 of them had a statement of such needs. Northern Ireland had 39 special schools, 1 hospital school and 87 primary and post primary schools (see the report for more details).

In Northern Ireland, a regional strategy entitled “Access to Success” was launched in September 2012 to widen access to higher education for persons with disabilities (among others). The report gives detailed information on disabled students’ allowances.

According to the UN Committee Rights of Persons with Disabilities (CRPD/C/GBR/1), in 2011 the Ministry of Education published the Green Paper “Support and aspiration: A new approach to special educational needs and disability – a consultation”. This consultation document provides for measures to improve the school results of children with disabilities and to give families more assistance. The document also contains a number of proposals for reforming the special educational needs system.

The report of the Academic Network of European Disability Experts (ANED) refers to a new strategy concerning people with disabilities entitled “Fulfilling Potential: making it happen”, which was published in 2011. It includes action plans and indicators which help gauge progress and show where work needs to be done. The national action plan contains 8 initiatives under the heading “education. It includes, among other things, teacher training in the field of special educational needs and disabilities, with several possibilities of training in special schools.

The report stipulates that in Scotland, the Curriculum for Excellence aims to ensure that all children and young people receive support to ensure that they have access to the curriculum regardless of their circumstances. In June 2014, the Commission for Developing Scotland’s Young Workforce published a report which made a number of key recommendations concerning the need to ensure equality of opportunity for all young people in education and employment, with a focus on disability (among other things). In December 2014, the Developing the Young Workforce Youth Employment Strategy setting out a number of actions and measures aimed at tackling inequalities, was published. The Committee asks that the next report provide information concerning the progress made thanks to this strategy.

The report also points out that the document entitled “Special educational needs and disability code of practice: 0 to 25 years” came into force on 1 September 2014 (the revised version came into force on 1 April 2015). This code subsumes the previous guidance document entitled “Inclusive Schooling – Children with Special Educational Needs”.

The report states that the new Children and Families Act 2014 received Royal Assent on 13 March 2014. This law modifies the support system in the health, education and social services sectors. Part 3 of the Act applies to England only and sets out a new framework for children and young people who have special educational needs and disabilities. However that legislation will continue to apply for young people with learning difficulty assessments until September 2016 and until April 2018 for children with special educational needs statements. The Committee asks that the next report provide information on the practical impact of this legislation on the integration of disabled pupils and students into mainstream education.

The Department of Education has set up team of National Advisers (SEND advisers) for people with special educational needs and a disability to help local authorities prepare for and implement the reforms. The Committee wishes to know the success rate of children with

disabilities as regards access to vocational training, further education and entry on to the mainstream labour market.

Vocational training

According to the official data provided by the Higher Education Statistics Authority covering all of the British population, for 2014-2015 the number of full-time students studying for a master's degree declaring that they were disabled was 161,805 out of a total of 1,391,705, students and 41,440 part-time students with disabilities out of a total of 336,190. According to the same statistics the number of full-time post-graduate students declaring that they had a disability was 18 560 out of a total of 305 445 students and 17 615 part-time students out of a total of 232 740.

The report states that in England there are study programmes tailored to meet the needs of learners with learning difficulties and/or disabilities according to their prior attainment and special educational needs. As the needs of this group are very wide ranging, the study programmes may include vocational experience, and mathematics and English at an appropriate level. On the other hand, an institution may decide that it may not be appropriate for students who have profound or complex learning difficulties to pursue English and mathematics with a view to obtaining GCSE qualifications.

The report states that in England the Residential Training Colleges currently support approximately 800 people with disabilities per year. In 2011/12 there were around 850 starts at Residential Training Colleges and 317 subsequent job outcomes. The Committee asks that the next report provide information on the conditions under which persons with disabilities can take advantage of this programme and whether this type of programme exist in Scotland, Wales and Northern Ireland and, if not, whether people from Scotland, Wales or Northern Ireland may follow such a programme of study in a college in England.

Conclusion

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

Article 15 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Paragraph 2 - Employment of persons with disabilities

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

Employment of persons with disabilities

According to the statistics for 2013 provided by the Department of Work and Pensions, there are 11.5 million working-age people in Great Britain with a long-term health condition. 6.5 million persons (more than half) are classified as disabled under the Equality Act 2010, because they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. According to the same report, the employment rate for working-age adults with a longstanding illness is only 58% compared to 77% for non-disabled working-age adults. The employment rate for people with disabilities is lower than 45%. The employment rate for all persons suffering from mental disorders is 37% compared to 71% of the working-age population as a whole.

Anti-discrimination legislation

The Committee notes from the report that there has been no change to the legislation examined in the Committee's previous conclusions (Conclusions XX-1 (2012)). The case-law with regard to discrimination in employment is presented in detail in the report (Appendix 1D).

In its previous conclusion (Conclusions XX-1 (2012)), the Committee asked that the next report provide information on any development in action taking to prevent discrimination on the grounds of disability in the Isle of Man. The report explains that the Government of the Isle of Man no longer intends to bring the Disability Discrimination Act 2006 into operation as it would have dealt with discrimination on the grounds of disability in the provision of goods and services, but not in employment. In 2014, the Government of the Isle of Man presented a new equality act based on the UK Equality Act 2010 which will deal with discrimination in both employment and the provision of goods and services on various grounds including disability. This law should come into force in 2015. The Committee asks that the next report provide all the necessary information on this subject.

Although the Isle of Man is still not covered by the anti-discrimination legislation, a number of initiatives exist to help persons with disabilities find employment; details of these are given in the report.

Measures to encourage the employment of persons with disabilities

The report of the Academic Network of European Disability Experts (ANED) refers to a new strategy concerning people with disabilities entitled "Fulfilling Potential: making it happen", which was published in 2011. It includes action plans and indicators which help gauge progress and show where work needs to be done. The national action plan contains 41 initiatives concerning employment with a focus on more personal types of job support.

The report describes the Work Programme rolled out nationally in June 2011. This programme proposes personalised support for those who in greater need of assistance in actively and effectively seeking employment, in particular people with disabilities. It supports a wide array of claimants who are receiving out of work benefits and who are at risk of long term unemployment. This includes both claimants on Jobseeker's Allowance and some claimants on Employment and Support Allowance.

The Department for Work and Pensions has responsibility for a range of specialist employment provision specifically aimed at people with disabilities, where the ordinary work

programme or other mainstream provision may not be suitable. The report mentions a number of initiatives:

- “Work Choice”, which was launched in October 2010, helps around 9,000 people with disabilities into work every year. It ensures that disabled people with complex employment barriers and more intensive support needs find employment, and have access to appropriate assistance in obtaining, taking up and keeping jobs. It runs alongside the Work Programme and Pre-Work Programme Jobcentre Plus Offer. It is accessible by any person with disabilities who volunteers. Access to the programme is usually arranged through a Disability Employment Adviser in a local Jobcentre Plus office (run by the Department of Work and Pensions).
- Other programmes are run by “Remploy”, a public body which is not answerable to the Department of Work and Pensions, which delivers employment support for people with disabilities and operates in a traditional manner in two sectors:
 - Remploy Employment Services offers the opportunity to follow the “Work Choice” programme in its national network of over 60 branches and offices, employing around 850 staff in England, Scotland and Wales.
 - Remploy Enterprise Businesses provided sheltered employment to 2,150 persons with disabilities in 54 factories in 2011-2012.
- The report states that in England the “Residential Training Colleges” support approximately 800 people with disabilities per year. In 2011/12 around 850 people started courses at Residential Training Colleges and 317 subsequently found employment. The Committee asks that the next report provide information on the conditions under which persons with disabilities can take advantage of this programme and whether this type of programme exist in Scotland, Wales and Northern Ireland and, if not, whether people from Scotland, Wales or Northern Ireland may follow such a programme of study at a college in England.
- The “Access to work” programme provides practical advice and financial support to employees with disabilities (see Conclusions XX-1 (2012)). In 2014 Access to Work was extended to include a variety of opportunities that help people with disabilities to prepare for employment, including supported internships, traineeships and self-directed work experience.
- The Committee takes note of the report on “The disability and health employment strategy: the discussion so far”, published by the Department of Work and Pensions in December 2013. This paper sets out a range of proposals for improving government-funded employment support for people with disabilities.
- According to the report, the “Disability Confident campaign” was launched in July 2014 by the Prime Minister to help employers to remove barriers, increase understanding and ensure that people with disabilities have the opportunity to fulfil their potential and realise their aspirations.

The report also contains information on the employment support programmes on offer in Northern Ireland, in particular “Workable” (between January 2011 and December 2014 the numbers participating in the programme rose from 341 to 560); “Access to work” (560 participants in 2009 and 685 in 2014); “New deal for disabled people” (between January 2009 and March 2011 NDDP succeeded in helping 619 people into work; the programme was replaced by “Work Connect” in September 2012); “Work Connect” (since September 2012, 271 clients have been helped into work); “Condition Management Programme” (over 1 108 persons took part in this programme in 2014); “Return to Work Credit” (some 11 500 persons received the return to work credit; this programme ended on 31 December 2014); and “Ulster Supported Employment Ltd” (a private company offering sheltered employment to 60 persons with disabilities).

In Wales, the “Lift Programme” was launched in March 2014 and focuses on people who have been out of work for more than six months and face employment barriers, in particular

persons with disabilities. The Committee asks that the next report contain information on the practical implementation of this programme and its impact in terms of helping persons with disabilities into both mainstream and sheltered employment.

The Committee takes note of the report of the Independent Advisory Panel set up by the Minister for Disabled People in August 2012 to review residential training provision. The report, which was published in July 2013, made a number of recommendations, which the Department is working to address. The Committee asks that the next report contain information on the progress made with regard to the application of the recommendations of the Independent Advisory Panel.

The Committee takes note of the report entitled “Getting in, staying in and getting on” on the examination of the “Access to employment” and “Remploi” and “Residential Training Colleges” programmes, which was published in June 2011. In March 2012, the Government accepted the report’s recommendations on how more people with disabilities could be supported into work within the available funding.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the United Kingdom is in conformity with Article 15§2 of the 1961 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 takes note of the information contained in the report submitted by the United Kingdom.

EEA nationals are entitled to live and work in the United Kingdom without a work visa. Croatian nationals are not subject to the Immigration Rules but require permission to take up employment in the UK under the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. Restrictions on Bulgarian and Romanian nationals' access to the labour market were lifted at the end of 2013.

Work permits

The Committee previously noted (Conclusions XX-1(2012)) the introduction in 2008 of a Tier System regulating immigration for non-EEA migrants and replacing the previous work permit system. The following categories apply:

- Tier 1 covers the sub-categories of Entrepreneurs, Investors and Exceptional Talents. The "Entrepreneur" sub-category applies to people wishing to set up or take over a business in the UK, with over £200,000 of funds; they are granted a 3-years permit which can be converted into an Indefinite Leave to Remain (ILR) in the UK if the business established has generated two full-time jobs or equivalent and has maintained tax and other financial records. Under the "Investor" sub-category, applicants become eligible to ILR in two to five years, depending on the amount they can invest in the UK (from £2,000,000 to £10,000,000). The "Exceptional Talent" sub-category concerns those who are recognised or have potential to be recognized as exceptionally talented leaders in the fields of science, the humanities, engineering, medicine, digital technology or the arts; this visa is issued for an initial maximum period of five years and four months.
- Tier 2 covers employees who are coming to the UK to fill a vacant position that cannot be filled by a EEA citizen and who have confirmed sponsorship from a licensed UK employer. There are 4 sub-categories of Tier 2 work permits: skilled workers (people with a specific skilled job offer in the UK who are needed to fill a temporary gap in the labour force), Intra-company transfer (people who are being transferred to a UK branch of their organisation), sports people (elite professional athletes and coaches) and Minister of religion (workers within a bona fide religion). Under the Tier 2 system, applicants must pass a points test, based on their qualifications, future expected earnings, sponsorship, English language skills and available maintenance. A successful applicant is given up to three years to live and work in the UK for that employer. This period can be extended and, after being in the UK for five years, it is possible to apply for ILR. Work permits are specific to the employers who obtained them, meaning that they are not transferable.
- Tier 3, originally designed for low-skilled workers filling specific temporary labour shortages, is not implemented.
- Tier 4 concerns students who have already been offered a position at an educational institution and the duration of the student visas depends on the duration of the studies.
- Tier 5 covers temporary workers and youth mobility, whether working under an International Agreement; Charity Workers; temporary workers in the Creative and Sporting field; Religious Workers or Temporary Workers under a Government Authorised Exchange. Applicants under Tier 5 system can come to the UK for a maximum of 12 months (except for the Youth Mobility and International Agreement Schemes where successful applicants will get 24 months) in order to

seek temporary and short-term work, after which they will be expected to leave. They also need to have a valid certificate of sponsorship from a licensed UK employer (except the Youth Mobility Scheme) registered with the UK Border Agency, and comply with the maintenance requirements, that is having enough funds to support themselves in the UK.

The Committee takes note of the changes introduced during the reference period as indicated in the report, in particular the closing of Tier 1 (General) and (Post-study work) in 2011-2012: these sub-categories concerned respectively highly skilled potential migrants looking for a job or wishing to become self-employed in the UK and people wishing to apply for work after completing a degree at a UK institution.

Relevant statistics

The report provides statistics concerning entry clearance visas issued by employment category as well as by country of origin: the number of work related entry clearance visas was 149,310 in 2011; 145,110 in 2012; 154,760 in 2013 and 167,202 in 2014.

According to the Immigration statistics report (October to December 2014), in 2014 there were 8% more work-related visas granted compared to 2013, largely accounted for by 13% higher skilled work grants (+10,743) and 87% higher grants of investor visas (+1,397). There was a 14% increase in skilled work visa applications (to 54,571 in 2014, main applicants).

On the other hand, the grants of extensions of work-related visas fell by 28% (-33,907), mainly due to the closing of Tier 1 (General and Post-Study) grants to new entrants. The number of permissions to stay permanently also fell of a third (-33%; -51,542), to 103,147 in 2014, the lowest figure since 1999 (97,115). This drop was accounted for by falls in family-related (-27,045), work-related (-20,499) and asylum-related grants (-4,075).

In the year ending September 2014, the UK Office of National Statistics estimates that there were 66,000 non-EU long-term immigrants for work, a 57% (+24,000) statistically significant increase. Over the same period long-term (1 year or more) work-related visas granted to main applicants also rose, by 10% (+5,749) to 63,543.

The Committee notes from the report, in response to its request, that the refusal rates between 2011 and 2014, according to the category of visas, remained low, except for the Entrepreneur category, where the refusal rate reached 44% in 2014. The report points out that this higher rate is due to the high number of abusive or speculative applications and that this category concerns a limited number of applications. As regards Tier 2, which concerns the greater number of applications, the refusal rate was in 2014 of 4% as regards skilled workers and of 1% as regards intra-company transfers. According to the report, the grounds for refusal of these applications vary and in some cases the applications were refused because the applicant did not have sufficient knowledge of the English language or had insufficient funds to meet maintenance requirements.

As regards the "priority workers" rules, the report indicates that while the operation of these rules do not typically result in refusal of applications, employers are nevertheless required to confirm that they have advertised the vacancy in an appropriate manner. The Committee requests the next report to specify the refusal rates of work-related applications introduced by nationals of non-EEA states which are parties to the Charter, compared to other non-EEA nationals. In the meantime, in light of the global low rate of refusals indicated above, it considers that the situation of the United Kingdom complies with Article 18§1 of the Charter.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in the United Kingdom is in conformity with Article 18§1 of the 1961 Charter.

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

Paragraph 2 - Simplifying existing formalities and reducing dues and taxes

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

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

The Committee refers to its conclusion under Article 18§1 for a description of the Immigration Tier System, which applies to non-EEA migrants wishing to work in the UK. As it previously noted (Conclusions XIX-1(2008) and XX-1 (2012)), different conditions apply to each Tier. In particular, applicants are required to score a sufficient number of points (based for example on their abilities, experience and age) to gain entry clearance or to extend their leave to remain in the United Kingdom.

The Committee notes from the report that non-EEA migrants wishing to access the UK labour market as employed workers must apply under the Tier 2 and Tier 5 schemes. In response to the Committee's question, the report confirms that an entry clearance issued to a Points based system will confer permission both to work and reside. In this respect, the system has been simplified: the migrant makes only one application, after obtaining a certificate of Sponsorship by an employer licenced by the Home Office for that purpose. Employers need to obtain authorisation from the Home Office to issue a Certificate where the annual limit on the number of such Certificates issued applies.

The Committee previously noted (Conclusions XIX-1(2008)) that the majority of applications were dealt in one to five weeks. It asks the next report to provide updated information in this respect.

The authorities clarify in their report that, while Tier 1 partially covers the situation of self-employed workers, it only applies to those coming to establish a business, with a minimum financial investment and the requirement to have created at least two jobs after three years. It does not cover on the other hand people who would be seeking to hire out their personal labour on a contract basis.

Chancery dues and other charges

In its previous conclusion (Conclusions XX-I (2012)), the Committee found that the fees charged for work permits were excessive. It notes from the report that the situation in this respect has not changed: the current fees for applications under the Points-Based System range from £208 (€266 at the rate of 31/12/2014) for Tier 5 (Temporary Work and Youth mobility) to a maximum of £1 093 (€1 397) for in-country applications under Tier 1 (Entrepreneur, Investor and Exceptional Talent). The fees under Tier 2, which concerns the majority of applications, range between £428 (€547) and £1 202 (€1 536) in certain cases.

Although nationals of states party to the Charter enjoy certain benefits (they are entitled to a fee reduction of £55 (€70) and there is no fee at all for a "certificate of sponsorship"), the Committee considers that the fees are still high and that this is not in conformity with the states' undertaking to reduce or abolish chancery dues and other charges payable by foreign workers or their employers. The Committee notes the justification given in the report for the level of the fees charged. It asks whether this amount, which is based on the need to strike a balance between the resources required to control migration and to ensure that the United Kingdom continues to attract migrants, is calculated according to any other criteria laid down in the regulations. Pending receipt of this information, the Committee considers that the situation is not in conformity with Article 18§2 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 18§2 of the 1961 Charter on the ground that the fees charged for work permits are excessive.

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

Paragraph 3 - Liberalising regulations

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

Access to the national labour market

The authorities state in the report that the Government policy aims at reducing the overall level of net migration and does not favour a liberalisation of non-EEA nationals' access to the UK labour market.

The Committee refers to its conclusion under Article 18§1 for a description of the Immigration Tier System, which applies to non-EEA migrants wishing to work in the UK. As it previously noted (Conclusions XIX-1(2008) and XX-1 (2012)), different conditions apply to each Tier. In particular, applicants are required to score a sufficient number of points (based for example on their abilities, experience and age) to gain entry clearance or to extend their leave to remain in the United Kingdom. Migrants wishing to establish in the UK as self-employed workers are only allowed to do so upon condition of investing at least £200,000 (€255 542 at the rate of 31/12/2014) and to create two additional jobs in three years, unless they are recognized as being "exceptional talent" leaders in the fields of science, the humanities, engineering, medicine, digital technology or the arts. As regards employed workers, they can only access the labour market to fill a vacant position that cannot be filled by a EEA citizen and as long as they have a confirmed sponsorship from a licensed UK employer.

The Committee recalls that the implementation of policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market. Such a situation, deriving from the implementation of "priority rules", i.e. rules giving priority in the access to the national labour market to foreign workers from other European States members of the same economic area, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter (Conclusions XX-1 (2012), Statement of Interpretation of Article 18§§ 1 and 3).

In this respect, the report indicates that the operation of "priority workers" rules does not typically result in refusal of applications. The information provided does not allow however the Committee to assess whether these rules excessively restrict access to the national labour market for nationals of non-EEA states which are parties to the Charter. The Committee refers in this respect to the question raised under 18§1 and asks the next report to provide evidence that nationals of Contracting Parties to the Charter which are not members of the EEA are not unduly restricted from access to the UK labour market (as employed or self-employed workers). It reserves in the meantime its position on this point.

In response to the Committee's question concerning the measures adopted to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, with a view to facilitating the access to national labour market, the report states that the UK's procedures for regulating the admission of overseas workers do not typically involve any consideration of whether the overseas worker's qualifications are ones that are recognised in the UK. Visa procedures generally assume that it is properly for the hiring employer to satisfy themselves that the worker is sufficiently qualified for the employment in question. Furthermore, the UK is a signatory to the Lisbon Convention on the Recognition of Qualifications concerning Higher Education in the European Region. In accordance with this Convention, immigrants, can apply to UK NARIC (National Recognition Information Centre)

for a Statement of Comparability, to use when applying for jobs, educational courses and for other purposes.

The Committee recalls that the restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must be gradually lifted after a person has been legally resident for a given length of time on the territory of another party. In this connection, according to the report, most migrants admitted under Tiers 1 and 2 of the Points Based System do so on terms which allow them to qualify for removal of the time limit on their stay and any restrictions on their access to the labour market after five years. The Committee asks the next report to provide information on the criteria applying to the renewal of work permits.

Consequences of loss of employment

In its previous conclusion (Conclusions XX-1(2012)) the Committee held that the situation in the UK was not in conformity with Article 18§3 of the Charter as foreign workers' residence permits might be revoked if they lost their job, and they might be then obliged to leave the country as soon as possible.

In this respect, the authorities point out in their report that workers are not automatically deprived of the possibility of remaining in the UK, if the employment for which they were admitted is prematurely ended. In such cases, the UK's practice is to curtail any unexpired permission to remain for the purpose of the original employment and to then grant a new extension of stay of 60 days during which the worker may seek alternative employment and apply for authorisation of the new employment. These arrangements, according to the report, also constitute a liberalisation of the position which existed before the Points Based System was introduced (when a period of grace of 28 days applied, as opposed to the current 60 day period).

Conclusion

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

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

Paragraph 4 - Right of nationals to leave the country

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

It notes that the situation, previously considered to be in conformity with the Charter (Conclusions XX-1 (2012)), remains unchanged: no regulations prevent British citizens from leaving the United Kingdom to work in another member state, except pursuant to a court order or as a bail condition (Criminal Justice and Public Order Act 1994).

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 18§4 of the 1961 Charter.