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1961 European Social Charter

European Committee of Social Rights

Conclusions XXI-1 (2016)

ICELAND

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 Iceland which ratified the 1961 Charter on 15 January 1976. The deadline for submitting the 29th report was 31 October 2015 and Iceland submitted it on 22 September 2016.

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).

Iceland has accepted all provisions from the above-mentioned group except Articles 9, 10 and Article 1 of the 1988 Additional Protocol.

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

The conclusions relating to Iceland concern 10 situations and are as follows:

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

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 Iceland.

Employment situation

According to Eurostat, the GDP growth rate stabilised during the reference period at relatively high level. It was 2% in 2011, 1.2% in 2012, 3.9% in 2014 and 1.8% in 2014.

In 2011, the overall employment rate stood at 78.5% and at 81.5% in 2014. This rate was well above the EU 28 employment rate which stood at 64.9% in 2014.

The male employment rate stood at 80.0% in 2009 and at 84.0% in 2014. This rate was significantly above the EU 28 rate of 70.1%. The female employment stood at 76.5% in 2009 and at 79.3% in 2014. This rate was also well above the EU 28 rate of 59.9%.

The unemployment rate stood at 7.6% in 2011 and at 4.6% in 2014. This rate was well below the EU 28 rate of 10.2%.

The youth unemployment rate decreased considerably during the reference period, namely from 14.6% in 2011 to 9.2% in 2014. The long term unemployment rate (as a percentage of active population aged 15-74) also dropped sharply from 1.7% in 2011 to 0.6% in 2014.

The Committee notes from the statistical information given above, that Iceland recovered well from the recession which followed the financial crisis of 2008 and the related collapse of its main banks.

Employment policy

The labour market measures in Iceland were governed by the same legislation as prescribed in the previous report, namely the Labour Market Measures Act No 55 from 2006. The main goal of this legislation was the continued assessment of job-seekers' competence and the structure of remedial measures designed to enhance job-seekers' capacity for work and thus to return to the labour market as soon as possible.

The legislation was complemented by a number of campaigns such as the YOUTH IN ACTION or the DARE – Knowledge and Experience projects. The YOUTH IN ACTION project aimed at minimising the effects of long-term unemployment for the youth whereas the DARE had the same objective for older workers.

In Conclusions XX-1 of 2012, the Committee asked for the overall activation rate. In its reply, Iceland gave the information that the proportion of those registered as unemployed and who participated in labour-market measures attained the range of 33 to 39%.

Another question in the last Conclusions was the issue that measures should be targeted, effective and regularly monitored. In its reply, Iceland confirmed that its labour-market measures are systematically 'targeted, effective and regularly monitored'. However, qualitative evaluation of individual courses would be carried out based on interviews which counsellors take with job-seekers and the information revealed there about job-seekers' participation in the remedial measures.

Conclusion

The Committee concludes that the situation in Iceland 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 Iceland .

1. Prohibition of discrimination in employment

The Committee previously found that the situation was not in conformity with the 1961 Charter in this respect on the grounds that the legislation prohibiting discrimination in employment on grounds other than sex was inadequate and access for nationals of states parties, non-EU/EEA nationals, to the profession of pharmacists was restricted during the reference period.

The report indicates that as regards legislation prohibiting discrimination in employment on grounds other than sex, there was no change to the situation in 2011-2014 as compared with the situation described in the previous report as the Ministry of Welfare was still working, in co-operation with the social partners, on two bills to give effect to Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. The Committee repeats its request to be informed about any development on this issue and reiterates its finding that the situation is not in conformity with the 1961 Charter.

As regards restrictions on access to the profession of pharmacist, the Committee noted in its previous conclusions that a new Act No. 34/2012 on Healthcare Workers, in force since 1 January 2013, had replaced the Pharmacists Act No. 35/1978. Since this new law does not require pharmacists to be Icelandic nationals, the situation is now in conformity with the 1961 Charter in this respect.

As regards the prohibition of discrimination based on sex, the Committee notes that there have been improvements in the implementation of legislative and institutional measures adopted to ensure that women and men have equal status and rights. It notes in particular the decisions handed down by the Supreme Court in equality cases, the narrowing of the gender pay gap (16.3% in 2008 compared with 7.6% on average during the reference period) on the labour market as a whole and the signing on 27 May 2014 by the Icelandic Government of a declaration of intent to comply with the UN Global Compact and UN Women Empowerment Principles (WEP).

The Committee notes from the report that under Article 20 of the Constitution, only persons who hold Icelandic citizenship may be appointed to public office. The report states that under the terms of the Civil Servants' Rights and Obligations Act No. 70/1996, only Icelandic nationals and citizens of other EEA Member States or Member States of the European Free Trade Association (EFTA), or the Faroe Islands may be appointed or recruited to civil service posts, but that exceptions may be made for other foreign nationals in special circumstances. The Committee previously asked on what grounds exceptions were permitted and how many exceptions had in fact been made. In reply, the report states that neither in the Civil Servants' Rights and Obligations Act nor in the relevant commentary is there any explanation of the type of circumstances that may be considered as special circumstances for the purposes of item 4 of Section 6 of the Act. The competent bodies thus have some room for interpretation when filling civil service posts. According to the report, this provision might be expected to apply when an applicant for a position who is neither an Icelandic citizen nor a citizen of another EEA Member State, EFTA Member State or the Faroe Islands is better qualified for the position than other applicants. According to information provided by the Personnel Policy Department of the Ministry of Finance and Economic Affairs, in total 318 persons from 42 countries were on the payroll of the Icelandic state in the period 2011-2014.

2. Prohibition of forced labour

Work of prisoners

The Committee notes from the report that work of prisoners is governed by the Execution of Sentences Act No. 49/2005 and the Regulation on the Execution of Sentences No. 961/2005 which it examined in its Conclusions XIX-1/2008. The report further states that under Section 47 of the Execution of Sentences Act, the Prisons and Probation Agency may grant a prisoner who is serving a sentence permission to dwell outside the prison in order to pursue studies, employment or vocational training if this is considered appropriate from a resocialisation perspective or in order to prepare the prisoner for when his prison term ends.

Again with reference to its Statement of Interpretation on Article 1§2 with regard to prison work (Conclusions XX-1/2012), the Committee asks for up-to-date information in the next report on prisoners' social protection (covering employment injury, unemployment, health care and old age pensions). It underlines that if the necessary information is not provided in the next report, there will be nothing to show that the situation is in conformity with Article 1§2 of the 1961 Charter as regards work of prisoners.

Domestic work

The Committee notes from the report that Act No 46/1980, on Working Environment, Health and Safety in Workplaces, applies to all activities in which one or more persons work, irrespective of whether they are company owners or employees, except for maritime transport and aviation. Chapter IX of the Act deals with rest time, holidays and maximum working hours of workers in family undertakings. The Administration of Occupational Safety and Health monitors the application of the Act. Under Section 58, employers are obliged to provide the administration with all information necessary in connection with monitoring compliance with the Act regarding working hours. Under Section 82 of the Act, the Administration is required to monitor to ensure that employers take steps to ensure good working conditions, including hygienic practices and safety. Staff of the Administration are required to make inspection visits to companies. In the event of infringements of the Act, or failure to comply with decisions taken by the Administration, per diem fines may be imposed, except where more severe punishment is prescribed in other statutes. The Administration may also order operations to be suspended or closed down if they pose a particular risk to the lives or health of employees or other persons. Minimum wages in Iceland, including those paid in family undertakings, are determined in collective agreements under the Employees' Wages and Terms and Obligatory Pension Rights Insurance Act No. 55/1980.

The report states that the same Act applies to work done by domestic workers in private homes, enabling the Administration to make inspection visits to individuals' homes. Staff of the Administration may call on the police for assistance where necessary.

Forced labour is prohibited under the General Penal Code (Act No. 19/1940).

The Committee notes that it is a basic principle of Icelandic Contract Law that oral agreements have the same binding force as written agreements, including in the case of employment contracts. All hires, however, must be confirmed in writing under Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship. This Directive has been incorporated into Iceland's domestic legislation through collective agreements. In the event of a dispute as to whether an employment contract has been concluded, the Icelandic Supreme Court has repeatedly established that the employer generally bears the burden of proof. Regarding foreign domestic workers who wish to change employers in the event of abuse, such persons may be granted residence permits as victims of human trafficking under the Foreign Nationals Act No. 96/2002. Citizens of EEA Member States, however, may continue to reside in Iceland and, for example, make use of the services of the Directorate of Labour in finding new employment in Iceland.

The Committee asks that the next report provide information on the rules and procedures for granting residence permits to migrant domestic workers who are victims of abuse and who are not EEA nationals, along with information on the scale of this phenomenon.

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

Requirement to accept the offer of a job or training

The Committee notes from the report that Section 14 of the Unemployment Insurance Act No. 54/2006 seeks to guarantee persons who lose their employment temporary financial assistance for up to 36 months provided that they are actively seeking work during this time. Any refusal to accept a job offer must be duly justified. In particular, under Section 57 of the Act, persons in receipt of unemployment benefit may not refuse a job offer after the first four weeks from the time when the Directorate of Labour received their application. They have four weeks within which to find a preferred job. Claimants are not entitled to receive benefits until 40 days, for which they would otherwise have received benefit payments, have elapsed from the date on which they are notified of a decision by the Directorate of Labour to impose a penalty. When deciding whether to impose a penalty, the Directorate of Labour is required to take account of any social and/or personal circumstances that may have led the person to refuse a job offer or to resign from a position without having another job lined up. In addition, the Directorate must take account of general rules and relevant considerations when deciding whether applicants for unemployment benefit are to be subject to a waiting period before receiving benefits. Appeals may be lodged with the Welfare Appeals Committee against decisions taken by the Directorate of Labour on the basis of the Unemployment Insurance Act. The committee's rulings are final at the administrative level and no appeal may be lodged against them with a higher executive authority. Disputes concerning rights and obligations under the Unemployment Insurance Act may be brought before the courts, however.

Privacy and work

The report refers to the information provided in the last evaluation cycle, and explains that Regulation No. 837/2006 on electronic surveillance has been amended by Regulation No. 475/2011 under which the following additions have been made: ban preventing employers from checking employees' emails and requirement to set up, for at least two weeks, an automatic reply from the employee's electronic mailbox, indicating that the employee has left the employer's service.

The Committee takes note of the information provided on electronic surveillance and employees' personal data protection. It points out that the emergence of new technologies has made it possible for employees to work for their employers at all times and in all places, including at home, with the result that there is no longer a clear dividing line between work and private life. There is therefore an increased risk of work encroaching on employees' private lives, including outside working hours and the workplace. The Committee considers that the right to earn one's living in an occupation freely entered upon includes the right to be protected against such interference. Again with reference to its Statement of Interpretation on Article 1§2 (Conclusions XIX-1/2012), it asks for up-to-date information on this point in the next report.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 1§2 of the 1961 Charter on the ground that that the legislation prohibiting discrimination in employment on grounds other than sex is inadequate.

Article 1 - Right to work

Paragraph 3 - Free placement services

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

The report points out that no amendments were made to the Labour Market Measures Act, No 55/2006, during the reference period. It specifies that under the Unemployment Insurance Act, No. 54/2006, an application for unemployment benefit includes registration in the Directorate of Labour's labour-exchange system and a request for the assistance of a counsellor of the directorate in seeking employment.

The Directorate of Labour's regional service offices maintain labour-exchange services all over the country which are open to job-seekers irrespective of whether or not they are registered with the directorate as being unemployed, and to employers. Employment counsellors assist companies in the staff engagement process and give job-seekers guidance and advice on looking for employment. The report also indicates that the labour exchange service handles the structure of labour market measures in collaboration with the organisations of the social partners and the local authorities, and that this arrangement proved to be successful.

According to the report, the total number of those who registered with the public regional labour-exchanges was as follow: 26,855 in 2011; 22,828 in 2012; 19,310 in 2013 and 16,862 in 2014. In 2011, a total of 3,001 vacancies were reported to the public labour exchanges; the figure was 2,522 in 2012, 2,543 in 2013, 2,837 in 2014. The number of placements in the private sector which took place through the public labour exchanges was 815 in 2011, 495 in 2012, 370 in 2013 and 446 in 2014. The Committee asks that the next report specify the placement rate (i.e. percentage of placements compared to the number of notified vacancies).

In reply to Committee's request, the report indicates that the Labour Market Measures Act provides for private labour exchanges. On this basis, enterprises, individuals and non-governmental organisations may act as intermediaries, providing that this is done at the employer's expense. No special supervision is maintained over the activities of private labour exchanges; however, in case of violation of relevant legal provisions, courts can sanction infringements by fines.

Conclusion

The Committee concludes that the situation in Iceland 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 Iceland.

Article 1§4 guarantees the right to vocational guidance, continuing vocational training for employed and unemployed persons and specialised guidance and training for persons with disabilities. It is complemented by Articles 9 (right to vocational guidance), 10§3 (right of adult workers to vocational training) and 15§1 (right of persons with disabilities to vocational guidance and training), which contain more specific rights to vocational guidance and training.

As Iceland has not accepted Articles 9 and 10§3, the Committee assesses under Article 1§4 the conformity of the situation relating to the right of adult workers to vocational guidance and training.

Equal treatment

The Committee previously noted (Conclusions XVIII-2 (2007)) that nationals of other states party living and working lawfully in Iceland are guaranteed equal access to the various training courses and programmes. It asks the next report to clarify whether this also applies to vocational guidance services and what is the legal basis ensuring equal treatment.

Vocational guidance

The Committee takes note of the information provided in the report in response to its request for information on vocational guidance services provided respectively in the education system and in the labour market (Conclusions XX-1 (2012)).

In the education system, pursuant to Section 13 of the Compulsory Schools Act, No. 91/2008, and Section 37 of the Upper Secondary Education Act, No. 92/2008, free vocational guidance is provided to pupils by professional counsellors. The qualifications required to be a counsellor are set by the law and their number in each school varies between 1 and 5. The Committee notes that, although a survey carried out in October 2014 revealed some shortcomings in the effective access of pupils to educational and vocational counselling, notably in Junior schools, the authorities took measures in order to strengthen the implementation of the law for the future. Furthermore, the report indicates that a task force was set up in 2014 with a view to making proposals on future vision, policy and measures regarding educational and vocational counselling in Iceland. The Committee asks the next report to provide information on the follow-up given to these initiatives.

Under Section 8 of the Adult Education Act, No. 27/2010, vocational guidance is also provided free of charge to adults in the education system by the Education and Training Service Centre and the lifelong learning centres (during the reference period, such guidance was provided by 24-28 counsellors). Between 2011 and 2014, the number of counselling interviews given by educational and vocation counsellors was of the order of 10-11 thousand each year. The Education and Training Fund provides funding for educational and vocational counselling as part of the adult education system. The Committee notes that the funding that has been allocated to counselling during the reference period decreased from ISK 147 801 084 in 2011 (€927 896) to ISK 132 928 326 in 2014 (€857 911), and that the number of educational and vocational counselling sessions passed from 10 868 in 2011 to 9 467 in 2014. It asks the next report to explain the reasons of this decrease.

In the labour market, vocational guidance is provided free of charge to all job-seekers by the Directorate of Labour, pursuant to the Labour Market Measures Act, No. 55/2006. The Committee takes note of the services provided, as described in the report, and notes that the number of counsellors passed from 45.97 in 2011 to 36.83 in 2014; the funding passed from ISK 21 267 606 in 2011 (€133 518) to ISK 19 359 763 in 2014 (€124 947); the number of beneficiaries decreased from 13 067 in 2011 to 6 675 in 2014; and the ratio of job-seekers

per counsellor went from 283 in 2011 to 181 in 2014. The Committee asks the next report to indicate whether the offer of vocational services is adequate to the demand and to clarify whether vocational guidance is available not only to job-seekers but also to workers in activity wishing, for example, to change job or to undertake further training.

Continuing vocational training

In its previous conclusion (Conclusions XX-1 (2012)), the Committee took note of the Adult Education Act No. 27/2010, which deals with the organisation of adult education by accredited education and training providers and lays the foundation for a comprehensive system of lifelong learning. In response to the Committee's request for further information, the authorities explain in the report that training for adults is available, since 1972, in the upper secondary divisions of schools, through distance learning programmes run by universities and through the 11 state funded lifelong learning centres spread all over the country, which offer distance learning programmes in collaboration with the universities and courses of adult education of many types (including Icelandic language for foreigners). On 29 November 2011, the Ministry of Education, Science and Culture issued Regulation No. 1163/2011, which makes further provisions covering various aspects of adult education, e.g. regarding the accreditation of education providers, the certification of syllabuses and real competence evaluation.

The report refers in particular to the Education and Training Service Centre, set up to promote adult education and vocational training in cooperation with other educational institutions. The Committee takes note of the detailed information provided on the centre's activities, which were further developed during the reference period. It also takes note of the information provided, in response to the Committee's request (Conclusions XX-1 (2012)) concerning the types of training provided. According to the report, at the end of 2014, fourteen entities had been certified as education-providers in collaboration with the Education and Training Service Centre and the Education Fund, of which 10 were traditional lifelong learning centres. From 2009 to 2013, 1 829 people benefited from evaluations of their real competence (validation of prior learning) and 13 398 took courses of various types. In 2012, a project was also started, which involved the development of real competence evaluation (validation of prior learning) and of a web portal (Myschool) on education and work. The number of courses provided in the framework of this project kept rising during the reference period, as well as the number of participants, according to the report: in 2011, 2 486 people (65% women and 35% men) participated in a total of 203 accredited courses held by the Education and Training Service Centre in various parts of Iceland; in 2014, the number of participants was 2 804 (67% women, 33% men) and the accredited courses were 227 in total. The Committee takes also note of the information provided in the report concerning the increase of the budget for adult education during the reference period. It also notes that the number of students on courses paid for by the Education Fund rose each year from 2010 to 2012, falling slightly between 2012 and 2013. As regards the students following continuing education courses at the University of Iceland, their number was 7 521 in 2011, 6 730 in 2012, 7 291 in 2013 and 7 202 in 2014.

The Committee takes note of the information provided and asks the next report to provide updated information on these issues and to clarify whether continuing vocational training is available both to adult jobseekers and people already working.

Guidance and vocational training for persons with disabilities

As regards measures related to vocational guidance and training of persons with disabilities, the Committee refers to its assessment under Article 15§1 (Conclusions 2016), in which it considers that the situation is not in conformity with the Charter of 1961 on the ground that there is no legislation explicitly prohibiting discrimination in training on the ground of disability. Accordingly, the Committee considers that the situation is not in conformity with Article 1§4 on the same ground.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 1§4 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in training on the ground of disability.

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 Iceland.

Iceland signed on 30 March 2007 the UN Convention on rights of Persons with Disabilities and its Optional Protocol. It ratified the Convention on 23 September 2016, out of the reference period. According to the report, the Optional Protocol shall be ratified by the end of 2017.

The report indicates that the proportion of persons with disabilities continued to grow throughout the reference period. Out of the 18-66 age group, the proportion of recipients of invalidity benefits, invalidity grants and rehabilitation grants, went from 8.3% in 2011 to 8.8% in 2014. These benefits cover individuals who have invalidity ratings of at least 50%. The number of beneficiaries of disabled child care benefits went from 2 758 in 2011 to 2 713 in 2014. According to Eurostat data, the proportion of persons with disabilities was 14.7% (corresponding to some 32 000 people aged between 15 and 64) in 2012.

As regards the number of children with disabilities attending respectively mainstream and special schools, the Committee notes from Statistics Iceland (the official national statistics body) that, out of the total number of pupils in compulsory schools (42 365 in 2011, 43 136 in 2014), the number of children with disabilities with an official diagnosis in compulsory school went from 6527 in school-year 2010-2011 (476 of them were in special education classes) to 6946 in 2013-2014 (383 of whom were in special education classes). In 2013-2014, 109 pupils were attending Klettaskoli, which is the only specialised public school at the junior (compulsory) level for the whole country.

Definition of disability

The report indicates that, during the reference period, a task force on the review of the Disabled Persons Act and the Local Authorities' Social Services Act worked inter alia on the definition of "disability", in the light of the definition adopted in the UN Convention on the Rights of Persons with Disabilities (UN-CRPD). The Committee asks the next report to clarify what is the current legal definition of disability.

Anti-discrimination legislation

In its previous conclusion, the Committee concluded that the situation in Iceland was not in conformity with Article 15§1 of the Charter on the ground that there was no legislation explicitly prohibiting discrimination in education and training on the ground of disability (see for details Conclusions XX-1 (2012)).

The report points out that, pursuant to Act No. 230/2012 on pupils with special needs in upper secondary schools, a Regulation was issued by the Minister of Education on 14 February 2012, which provides inter alia that such pupils should have "equal opportunities to pursue studies, without discrimination, to the extent possible". However, the report acknowledges that the bill which was expected to be submitted to Parliament in 2012 (see Conclusions XX-1 (2012)), has not been adopted yet. This bill aims at implementing Council Directive 2000/78/EC of 27 November 2000 and would prohibit discrimination, inter alia on grounds of disability. Although Icelandic law provides for equal rights for all citizens in general, the Committee notes that no legislation has been adopted as yet which would explicitly protect all people from discrimination on ground of disability in the field of education and training. Furthermore, no judgment was issued by the Supreme Court during the reference period on cases regarding the right to education of persons with disabilities. In light of this, the Committee holds that the situation which it previously found not to be in conformity with Article 15§1 of the 1961 Charter has not changed.

Education

The main legislation applicable in respect of education of pupils and students with special needs (Compulsory School Act No. 91/2008, regarding pupils with special needs; Regulation No. 585/2010, on pupils with special needs in junior schools; Upper Secondary Education Act, No. 92/2008) has not been amended during the reference period, apart from the issuing of Act No. 230/2012 on pupils with special needs in upper secondary schools and its implementing regulation (see above), which addresses in further detail the obligations of the upper secondary schools and the rights of pupils, needs for special support, the structure of teaching and the arrangements for educational support for pupils with special needs, courses of study for pupils with disabilities in upper-secondary schools, the registration of pupils with disabilities in vocational courses in upper-secondary schools and special services for chronically ill pupils. "Pupils with special needs" covers those who have difficulty in pursuing school studies due to particular learning difficulties, emotional or social difficulties and/or physical disabilities, pupils with reading difficulties, chronically ill pupils, pupils with developmental disorders, psychiatric disorders and others with health-related special needs.

As the Committee previously noted, most pupils receive education in a mainstream local compulsory school, most commonly in mainstream classes. However, there are also some special units within mainstream schools and there is one special school for pupils with severe disabilities. The needs of specific students are addressed on a case by case basis, at the local level, under the responsibility of municipal authorities. The Committee refers to its previous conclusion for a detailed description of the educational system in respect of persons with disabilities, and asks the next report to provide updated information on the applicable legislation, as well as on statistical data on the number of children with disabilities attending respectively mainstream schools facilities and special education institutions.

Vocational training

In addition to the adoption of the abovementioned legislation on pupils with special needs in upper secondary schools, the report refers to the amendment, in 2012, of the Higher Education Act No. 63/2006, whereby universities have now to provide students with disabilities, and students with emotional or social difficulties, with teaching and special support during their studies. Specialist assistance and the appropriate facilities are to be provided as necessary. Students with disabilities are to pursue studies side by side with other students to the extent possible. Universities are moreover to strive to provide special support students with special learning difficulties or illnesses. The Committee recalls that to have a comprehensive picture of the situation and assess its conformity under Article 15§1 of the Charter, it needs to be systematically provided with data on the number of persons with disabilities attending respectively mainstream or special training facilities. It asks the next report to provide such data, as well as information on the different forms of training opportunities available to persons with disabilities.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 15§1 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in education and training on the ground of disability.

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 Iceland.

Employment of persons with disabilities

According to the report, the proportion of recipients of disability benefits and rehabilitation grants continued to rise slightly between 2011 and 2014: in 2011, they were 8.3% (17,091 people) of the population aged 18-66 years and in 2014 they were 8.8% (18,614 people). In particular, the number of people with disability level of 75% or more increased from 15,197 in 2011 to 16,323 in 2014 (+7.4%); the number of people with disability level between 50 and 74% decreased from 770 in 2011 to 692 in 2014 (-10%); the number of people getting rehabilitation grants increased from 1124 in 2011 to 1599 in 2014 (+42.2%). In the same period (2011-2014), the public expense for people with disabilities (pensions insurance and benefits under the Social Assistance Act) increased by 29%. The persons with disabilities receiving no disability benefits on account of their employment-related earnings were 864 in 2011, 937 in 2012, 694 in 2013 and 745 in 2014. The Committee notes from the ANED shadow report on Iceland – European Semester 2015/2016 that the employment rate in Iceland for persons aged between 20 and 64 was estimated to be respectively 65.7% and 37.3% for persons with moderate and severe disabilities, against an employment rate of 80.6% for non-disabled people. It notes however from the same source that, as the beneficiaries of disability benefits are not eligible to unemployment benefits, there are no reliable data on the number of people with disabilities actively participating in the labour market.

Anti-discrimination legislation

The Committee has previously found that the situation in Iceland was not in conformity with the 1961 Charter on the ground that there was no legislation explicitly prohibiting discrimination in employment on the ground of disability (Conclusions XX-1 (2012), XIX-1 (2008), XVIII-2 (2007)). It notes from the report that this situation has not changed and that no obligation to ensure reasonable accommodation in the workplace applied during the reference period. A bill on equal treatment in employment, including a provision on reasonable accommodation, was presented in 2014 but was not adopted. The Committee asks the next report to provide updated information on any relevant development in this field. It maintains in the meantime its finding that the situation is not in conformity with Article 15§2 of the 1961 Charter.

Measures to encourage the employment of persons with disabilities

The report indicates that the competence on employment of people with disabilities was transferred as from 2011 to the local authorities, while the Directorate of Labour was in charge of centralising the treatment of both employment-related and rehabilitation-related issues. The new structure of employment issues for people with disabilities was to be defined by a specially appointed committee, which failed however to find an agreement during the reference period. The Committee notes that in 2015, out of the reference period, the repartition of competences between central and local government was being reassessed by a steering committee; it asks the next report to provide updated information in this respect.

The Committee takes note of the measures taken during the reference period:

- the *Employment with Support (AMS)* programme, which was aimed at assisting people with disabilities in getting training in ordinary workplaces – 270 people with disabilities took part to this programme in 2011, 221 in 2012, 291 in 2013 and 330 in 2014; they worked in different types of employment such as nursery

- schools, libraries, physical fitness centres, canteens, computer companies, sports clubs, offices, production companies and shops;
- the *Harnessing Abilities – All Abilities* project, launched in November 2014 by the Directorate of Labour, the Organisation of the Disabled in Iceland and the National Association of People with Intellectual Disabilities. This project is aimed at creating jobs for job-seekers with reduced working capacity, who do not receive substantial income apart from payments from the Social Insurance Administration. The project is coordinated by the Directorate of Labour, which is entitled to enter into agreements with private employers. Those who accept to employ people with disabilities receive incentives, namely up to 75% reimbursement of the person's wages and wage-related expenses for two years, falling by 10% per year until a level of 25% reimbursement is reached. This 25% reimbursement is then maintained indefinitely. The working agreements may concern part-time jobs, with 20% set as the minimum, or full-time jobs, under the same terms as defined by the applicable collective agreements, including as regards wages, definition of tasks etc.;
 - the rehabilitation activities carried out by the Icelandic Rehabilitation Fund (VIRK), particularly after the entry into force of the Act on Vocational Rehabilitation and the Operation of Vocational Rehabilitation Funds, No. 60/2012. From the setting up of VIRK in 2009 to end 2014, 7642 individuals have sought its services to reintegrate the labour market. The number of individuals involved for the first time increased from 1304 in 2011 to 1782 in 2014. Out of the 3765 individuals who had benefited from VIRK services by the end of 2014, about 72% were either in paid employment or actively seeking employment, or were pursuing studies that qualified for student loans at the time of completion.

The Disabled People Act No. 59/1992, which provides inter alia for sheltered employment, did not change during the reference period. The Committee asks the next report to provide updated information as to whether sheltered employment facilities still operate and how many people with disabilities work there.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 15§2 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in employment on the ground of disability.

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 Iceland .

It notes that all EEA citizens, as well as their family members, have free access to the labour market. During the reference period, a work permit was required for the nationals of the following states parties to the Social Charter: Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria (until 1 January 2012), Croatia, Georgia, Republic of Moldova, Montenegro, Romania (until 1 January 2012), Russian Federation, Serbia, "The former Yugoslav Republic of Macedonia", Turkey and Ukraine.

Work permits

The principal items of legislation with a bearing on immigration are the Foreign Nationals Act, No. 96/2002 (as amended in 2012 and 2014 to implement some EU directives) and Regulation No. 53/2003 on foreign nationals, the Foreign Nationals' Employment Rights Act, No. 97/2002, the Icelandic Nationality Act, No. 100/1952, the Act on the Schengen Information System in Iceland, 16/2000 and the Administrative Procedure Act, No. 37/1993. As from 2014, a Foreign Nationals' Appeal Committee is in charge of reviewing administrative decisions by the Immigration Agency. Moreover, all administrative decisions may be referred to the courts.

The Foreign Nationals' Right of Employment Act provides for the following types of temporary work permits:

- Temporary work permits for jobs which demand specialist skills;
- Temporary work permits due to a shortage of domestic workers;
- Temporary work permits for sportsmen;
- Temporary work permits in view of special circumstances;
- Temporary work permits on grounds of unification of families;
- Temporary work permits for specialist workers on the basis of a service contract;
- Temporary work permits covering work done by foreign nationals who are studying in Iceland (student's work permit).

The Committee asks whether the abovementioned types of permit apply both to employed and self-employed workers or whether the latter require a specific work permit. It also asks the next report to clarify the maximum length of each type of temporary work permit.

Relevant statistics

According to the report, the number of foreign residents raised from 21 143 in 2011, representing about 6.6% of Iceland's population, to 22 744 in 2014, or 7% of the population. 84% of the foreign residents in Iceland were from Europe, in particular from Poland (10 172 persons in 2014). The ratio of foreign nationals on the Icelandic labour market laid in the range of 8.2% – 8.9% during the reference period, that is from 14 796 foreign workers in 2011 (including 6198 Polish workers) to 16 558 in 2014 (including 7 157 Polish workers).

The Committee takes note of the data provided in the report on the number of the different types of permits which were granted. It notes that, between 2011 and 2014, there was in Iceland a significant decrease in the granting of permanent work permits (-36,5%), of extensions of temporary permits (-21,5%) and of specialised work permits (-91%). However, notwithstanding some fluctuations over the reference period, the number of temporary permits granted increased (by almost 12%), and so did the number of student workers permits, which more than doubled (+103%). The Committee asks that the next report provide updated data, as well as a more detailed explanation of the trends observed, in particular as regards any decrease in the number of permits granted.

The Committee notes that, during the reference period, the number of immigrants and foreign workers continued to increase, despite a decrease by 10% in the number of permits granted or renewed. In this respect, it notes from the report that the number of new or renewed work permits granted to nationals from non-EEA European countries, USA, Canada and Asia decreased by almost 16%, while the number of new or renewed work permits granted to nationals of other parts of the world increased by almost 34% in the same period. However, this information does not answer the Committee's request to specify the number of permits (first permits and renewals) granted or refused, against the number of applications, concerning specifically nationals of non-EEA States Parties to the Charter. The Committee accordingly reiterates its request and reserves in the meantime its position on this point.

Conclusion

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

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 as regards the relevant legislation and types of temporary work permits available. It previously noted (Conclusions XX-1 (2012)) that, in Iceland, applications for residence and work permits could not be processed through a single procedure and considered that this situation was not in conformity with Article 18§2 of the 1961 Charter.

The report confirms that this situation has not changed: under the Foreign Nationals Act, as amended, and Regulation No. 53/2003 on foreign nationals, as amended, the Directorate of Labour can issue work permits only after the Immigration Agency has issued a residence permit. Furthermore, the general rule is that applications for a first-time residence permit must be approved before the applicant comes to Iceland. Applicants who are in Iceland when applying for a residence permit for the first time must leave the country before their applications are accepted for examination. Exceptions may be made in exceptional cases, e.g. in connection with the uniting of family members or if there are cogent considerations of fairness for doing so. The processing time for a residence permit may be up to 90 days from the day on which all requisite documents have been submitted. When the Immigration Agency has confirmed that the basic requirements for the issue of a residence permit are met, the application is forwarded to the Directorate of Labour. In conformity with the Foreign Nationals' Right of Employment Act, No. 97/2002 and Regulation No. 339/2005 on foreign nationals' right of employment, the Directorate of Labour assesses whether the work to be done by the applicant meets the requirements set in the Act and whether the applicant has the qualifications and experience demanded. After the directorate has issued a work permit, the Immigration Agency is authorised to issue a residence permit on grounds of employment. On average, the Directorate of Labour takes three weeks to process an application.

The Committee recalls that conformity with Article 18§2 presupposes the possibility of completing the formalities concerning the issuance of work and residence permits in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application. It also implies that the documents required (residence/work permits) will be delivered within a reasonable time. As work and residence permits are still issued through two distinct procedures and foreign nationals are not allowed to file their application in Iceland, the Committee maintains that the formalities have not been simplified and that the situation remains therefore not in conformity with Article 18§2 of 1961 Charter.

The Committee asks the next report to indicate whether the same formalities apply in respect of self-employed workers. It furthermore asks what formalities apply to the renewal of work permits and what is the time-frame needed for it.

Chancery dues and other charges

In response to the Committee's question (Conclusions XX-1 (2012)), the report points out that there are no separate charges for the issuance of a work permit or the processing of an application for such a permit and that the fees related to the processing and issuance of a temporary or permanent residence permit, or to the extension of a temporary residence permit, have not changed during the reference period. Under the Additional Treasury Income Act No. 88/1991, such fees amount respectively to ISK 12 000 (about €77 at the rate of 31/12/2014) for the processing of applications for an initial temporary residence permit or a

permanent residence permit, and ISK 6000 (nearly €39) for an extension of a temporary residence permit.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 18§2 of the 1961 Charter on the ground that the formalities for issuing work and residence permits have not been simplified.

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 Iceland .

Access to the national labour market

The Committee refers to its conclusion under Article 18§1 as regards the relevant legislation and types of temporary work permits available.

The report states that the criteria for granting work permits covering work done by foreign nationals is determined by the government policy at any given time and that no amendments were made during the reference period to the Foreign Nationals' Right of Employment Act.

The Committee notes from the website of the Directorate of Immigration that, in order to apply for a temporary residence and work permit a foreign national must have a secure income (capability of support for at least one year in the amount of ISK 163 635 per month for an individual, or ISK 245 453 per month for a couple, that is respectively €1054 and €1584 at the rate of 31/12/2014), a health insurance for at least six months (at the minimum amount of ISK 2 000 000, that is €12 908), and secure housing. The applicant is also required to undergo a medical examination and to produce a criminal record certificate for the past five years.

The Committee asks the next report to clarify what are the specific requirements applying to the granting of work permits during the reference period, and in particular whether the access of foreign workers to the national labour market has been extended or restricted during such period. The Committee furthermore asks the next report to clarify under what conditions a foreign national from a non-EEA State party to the Charter can get access to the Icelandic labour market as self-employed worker.

The report indicates, in response to the Committee's question, that the recognition of foreign certificates, professional qualification and diplomas is provided for by Act No. 26/2010 on the Recognition of Professional Qualifications and Competence for Work in Iceland. In the framework of the implementation of the relevant EU rules (Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013), Iceland has introduced the European Professional Card for individual occupations, which is intended to facilitate mobility by employees and facilitate the recognition of professional qualifications.

As regards the number of applications for work permits submitted by nationals of non-EEA States parties to the Charter, the Committee refers to its finding, under Article 18§1, that the data provided do not allow to identify the number of permits (first permits and renewals) granted or refused, against the number of applications, concerning specifically nationals of non-EEA States Parties to the Charter. The Committee accordingly reiterates its request and considers that, if the next report does not provide information in this respect, there will be nothing to establish that the situation is in conformity with the Charter.

According to the report, applications for work permits are rejected by the Directorate of Labour mainly for the following reasons:

- Failure to demonstrate that there is a shortage of qualified workers in Iceland or in the EEA;
- The terms of engagement are not compatible with Icelandic collective agreements or Icelandic law;
- The job involved is not one that calls for expert qualifications, or the foreign applicant does not have expert qualifications;
- The company has previously been found to have foreign nationals in its service without work permits;
- The company has previously been found not paying tax deductions at source and social insurance tax in respect of work done by a foreign national;

- The company fails to comply with a request by the Directorate of Labour for further information and materials, with the result that the conditions for the issue of a work permit are not met;
- The foreign national is not in possession of the requisite operating licence, i.e. in the case of work in a regulated industrial trade, work in the health services or other positions where a licence is required according to law;
- The job proportion of a foreign national who is a student in Iceland is in excess of what is permitted (i.e. more than 40% of full-time employment) concurrent with studies.

The Committee asks the next report to provide more detailed information on the condition related to the shortage of qualified workers in the EEA, how such condition is assessed and what is the rate of refusal of applications based on this requirement, in respect of nationals of non-EEA states parties to the Charter. It recalls that should refusals always or in most cases derive from the application of rules – like the so called “priority workers” rule – would not be in conformity with Article 18§3, since the State would not comply with its obligation to liberalise regulations governing the access to national labour market with respect to nationals of non-EEA States Parties to the Charter. As the information provided in the report does not allow to assess this situation, despite the questions raised in the previous conclusions, the Committee considers that it has not been established that the existing regulations have been liberalised.

The Committee recalls that a person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted. As the report does not provide any information on this issue, the Committee asks the next report to indicate under what conditions a work permit can be renewed or changed, for instance in case of change of employer or occupation, including when the person wishes to change from employment to self-employment or the other way round. It furthermore asks under what conditions a foreign worker can obtain a permanent work permit.

Consequences of loss of employment

In response to the Committee’s question, the report indicates that, under Article 16, paragraph 1, of the Foreign Nationals Act, No. 96/2002, as amended, the Immigration Agency may revoke a foreign national’s residence permit if the person no longer meets the conditions for being granted it. In the case of a residence permit in connection with employment, the holding of a work permit is the basis on which the residence permit is granted, and the practice is that the Immigration Agency revokes the residence permit if the work permit is revoked. In such cases, the foreign national concerned should leave the country within 30 days. According to the report, however, such situations are very rare and the last occurrence was in 2013. In most cases where work permits are revoked, this is because the person concerned is changing jobs or has decided not to come to Iceland, etc.; in such cases it is not actually necessary to revoke the residence permit. When the persons involved lose their job, they nearly always succeed in finding a new one before the Immigration Agency revokes their residence permits, or else there is only a short time left before the residence permit expires in any case, so the agency does not need to intervene.

The Committee recalls that in case a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8 (i.e. where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive

threat to national security, the public interest or public morality). Insofar as the legislation in Iceland allows for a residence permit to be revoked in certain cases, following the revocation of a work permit, the situation is not in conformity with Article 18§3 of the Charter.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 18§3 of the 1961 Charter on the ground that it has not been established that the existing regulations have been liberalised.

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 Iceland.

The report indicates that there have been no changes to the situation which the Committee previously found to be in conformity with the 1961 Charter (Conclusions XX-1 (2012)).

Conclusion

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