



November 2008

## **European Social Charter**

European Committee of Social Rights

Conclusions XIX – 1 (LATVIA)

Articles 1 and 9 of the Charter

## Introduction

The function of the European Committee of Social Rights is to assess the conformity of national law and practice with the European Social Charter and the Revised Charter. In respect of national reports, it adopts “conclusions” and in respect of collective complaints, it adopts “decisions”.

A presentation of this treaty as well as statements of interpretation formulated by the Committee figure in the General Introduction to the Conclusions<sup>1</sup>.

*The European Social Charter was ratified by Latvia on 31 January 2002. The time limit for submitting the 3<sup>rd</sup> report on the application of this treaty to the Council of Europe was 31 October 2007 and Latvia submitted it on 9 November 2007. On 12 February 2008, a letter was addressed to the Government requesting supplementary information regarding Article 1§2. The Government submitted its reply on 19 March 2008.*

This report was the first under the new system for the submission of reports adopted by the Committee of Ministers.<sup>2</sup> It concerned the accepted provisions of the following articles belonging to 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 education, training and employment (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).

Latvia has accepted these articles, with the exception of Articles 10, 15, 18 and Article 1 of the Additional Protocol.

The applicable reference period was 1 January 2005 – 31 December 2006.

The present chapter on Latvia concerns 5 situations and contains:

- 3 conclusions of conformity: Articles 1§1, 1§4 and 9;
- no conclusions of non-conformity.

In respect of the 2 other situations concerning Articles 1§2 and 1§3, the Committee needs further information. The Government is therefore invited to provide this information in the next report on the provisions in question.

The next Latvian report deals with the accepted provisions of the following articles belonging to the second 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 the report was 31 October 2008.

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<sup>1</sup> The conclusions as well as state reports can be consulted on the Council of Europe’s Internet site ([www.coe.int/socialcharter](http://www.coe.int/socialcharter)).

<sup>2</sup> Decision adopted at the 963rd meeting of the Ministers’ Deputies on 3 May 2006.

## **Article 1 — Right to work**

### *Paragraph 1 – Policy of full employment*

The Committee takes note of the information provided in Latvia's report.

#### *Employment situation*

According to Eurostat, during the reference period, Latvia experienced still stronger growth than in the previous one, and was of 11.9% in 2006.

The employment rate rose significantly to 66.3% in 2006, whereas the EU-15 average was 66.2% in 2006.

Unemployment continued to fall rapidly, from 10.4% in 2004 to 6.8% in 2006. Similarly, female unemployment fell from 10.2% in 2004 to 6.2% in 2006 and unemployment among young persons (15-24) from 6.8% to 5%.

The Committee notes that long-term unemployment as a percentage of total unemployment also fell significantly during the reference period, from 43.8% in 2004 to 36.2% in 2006, whereas the EU-15 average was 42.1% in 2006. On the other hand, according to the report, the number of unemployed persons with disabilities rose during the reference period to 3404, compared with 3292 in 2003. The proportion of unemployed persons with disabilities as a percentage of total unemployment consequently rose from 2,8% in 2003 to 4,3% in 2006.

In the absence of a reply, the Committee again asks for information on the unemployment rate among foreign nationals.

#### *Employment policy*

The Committee notes from another source<sup>1</sup>, that in 2006 166,400 unemployed persons took part in active employment measures organised by the public employment services, compared with only 54,600 in 2003. It asks for confirmation of these figures in the next report. In particular, in 2006, 9,622 unemployed persons benefited from temporary paid employment in public bodies.

Special employment or reintegration programmes, such as training courses organised by employers and personalised interviews, were available for young persons, women returning to work after maternity leave, older unemployed persons and persons with mental disorders. In 2006, 8,587 unemployed persons took part in training sessions organised at the request of employers.

Once more, the information on the numbers of beneficiaries of active employment measures is incomplete. The next report should therefore include the following information:

- the average time between a person registering as unemployed and receiving an offer of participation in an active measure;
- the total number of participants in active measures and the activation rate (proportion of participants as a percentage of total unemployment).

The Committee notes that, according to Eurostat, total spending on active and passive employment policy measures amounted to more than 49 million Latvian lats (LVL, more than € 70 million) in 2006. This would represent 0.5% of GDP.

#### *Conclusion*

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

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

The Committee takes note of the information provided in Latvia's report.

It notes however that there are no answers in the report to any of the questions in its last conclusion, whether those directed specifically at Latvia under Article 1§2 (Conclusions XVIII-2) or the ones put to all the States Parties in the general introduction to Conclusions XVIII-1.

It asks that the questions below be answered. The Committee underlines that if the next report does not bring the necessary information, nothing will demonstrate that the situation of Latvia is in conformity with Article 1§2.

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<sup>1</sup> Progress report on the implementation of the Lisbon Strategy by Latvia, 2005-2008: [www.europa.eu.int](http://www.europa.eu.int)

## 1. Prohibition of discrimination in employment

The Committee recalls that it considers that under Article 1§2 of the Charter legislation should prohibit any discrimination in employment at least on grounds of sex, race, ethnic origin, religion, disability, age, sexual orientation and political opinion (Conclusions XVIII-1, Iceland).

The Committee has examined the general legislation on equal treatment in previous conclusions on Article 1§2 (see, in particular, Conclusions XVIII-2 and XVII-2).

It notes that since an amendment of 21 September 2006, sexual orientation has been explicitly specified in the Labour Code as one of the prohibited grounds for discrimination. This amendment also concerns the rights of disabled workers. The law now requires employers to promote equal treatment for persons with disabilities by adapting the work environment to their disability to enable them to carry out their functions, secure promotion to more senior positions or undertake vocational training, so long as such measures do not place an unreasonable burden on the employer concerned. The Committee asks what policies and measures are taken to fight, in practice, against discrimination in employment on the grounds of both sexual orientation and disability.

The Committee seeks again information on how discrimination on grounds of age has been interpreted.

The Committee recalls that under Article 1§2 of the Charter, while it is possible for states to make foreign nationals' access to employment on their territory subject to possession of a work permit, they cannot ban nationals of States Parties in general from occupying jobs for reasons other than those set out in Article 31; restrictions on the rights guaranteed by the Charter are admitted only if they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals. The only jobs from which foreigners may be banned are therefore these that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

According to another source<sup>1</sup>, posts in the public service are reserved for Latvian citizens and the law on the bar restricts access to the legal profession to Latvian citizens and EU nationals admitted to the bar in other EU member states. The Committee wishes to stress that these restrictions pose problems for a large number of residents, since non-citizens constitute some 20% of the population<sup>2</sup>, most of them pre-independence Soviet citizens who now have neither Latvian nor any other nationality. The Committee asks for confirmation of this information and the reasons for these restrictions.

According to another source<sup>3</sup>, the legislation governing the public service was amended on 2 November 2006. The changes, which came into force on 10 November, stipulate that the general ban on discrimination and victimisation in labour legislation now also applies to the public service. The Committee asks whether these changes affect access to public service employment for non-Latvian nationals.

Articles 29§5 and 29§6 of the Labour Code define direct and indirect discrimination and apply to all forms of discrimination, under Article 29§9. They cover discrimination in employment in all its aspects. The Committee again asks how the courts interpret the notion of indirect discrimination, as it appears in Article 29§6 of the Labour Code.

The Committee recalls that under Article 1§2 of the Charter remedies available to victims of discrimination must be adequate, proportionate and dissuasive. It therefore considers that the imposition of pre defined upper limits to compensation that may be awarded not to be in conformity with the Charter as in certain cases these may preclude damages from being awarded which are commensurate with the loss suffered and not sufficiently dissuasive.

The Committee notes that Article 29§8 of the Labour Code provides that where the prohibition on discrimination has been violated, the employee has the right to request compensation for damage and compensation for moral damage (Section 29(8)). The Committee however seeks again confirmation that there are no predefined upper limits to the amount of compensation that may be awarded in such cases.

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<sup>1</sup> Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report, Latvia, Gita Feldhune, state of affairs up to 8 January 2007, European Network of Legal Experts in the nondiscrimination field, p.31.

<sup>2</sup> *Idem*, p.2.

<sup>3</sup> European Anti-Discrimination Law Review, Issue No. 5, 2007, p. 84

According to another source<sup>1</sup>, the courts have awarded 2,000 Lats (about € 3,000) under the labour legislation in a case of discrimination based on sexual orientation and 1,000 Lats (about € 1,500) in another case where the discrimination was based on sex. The Committee notes that, in deciding how much to award, the courts concerned took account of the need for the sanction to act as a deterrent.

According to another source<sup>2</sup>, the legislation on associations and foundations was amended on 2 November 2006. As a result, organisations whose purpose is to protect human and personal rights may, with the agreement of those concerned, represent individuals before the courts. These changes came into force on 23 November 2006.

## 2. Prohibition on forced Labour

The report states that there has been no substantial change to the situation assessed in Conclusions XVII-2. However, it states that in 2006, Latvia ratified International Labour Organisation Convention No. 29 on Forced Labour.

### *Prison work*

The Committee notes the information provided in the report on prison labour and invites again the Government to reply to its question in the General Introduction to Conclusions XVIII-1 on this issue:

- Can a prisoner be required to work (irrespective of consent):
  - A. for a private undertaking/enterprise
    - i. within the prison?
    - ii. outside the prison?
  - B. for a public/state undertaking
    - i. within the prison?
    - ii. outside the prison?
- What types of work may a prisoner be obliged to perform?
- What are the conditions of employment and how are they determined?

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

### *Privacy at work*

The Committee notes that under Article 96 of the Constitution, private life and the privacy of the home and correspondence are inviolable. Under Article 33§2 of the Labour Code, job interviews must not comprise questions unconnected with the performance expected in the job on offer or the skills the candidate will require for the job, or questions which may be directly or indirectly discriminatory. On the latter point, the Committee points out that questions may infringe personal or private life even if they are not discriminatory. More generally, it asks for more detailed information than the government provides to enable it to determine how far human freedom and dignity are protected by legislation and the courts against intrusions into personal or private life that may be associated with or result from the employment relationship (see observations on Article 1§2, general introduction to Conclusions XVIII-1, §§13-21).

### *Restrictions linked to the fight against terrorism*

The Committee again invites the Government to reply to its question in the General Introduction to Conclusions XVIII-1 as to whether any legislation against terrorism precludes persons from taking up certain types of employment.

### *Service in place of military service*

In its last conclusion, the Committee found that the situation was compatible with the Charter because military and alternative service both lasted 12 months. It notes that alternative service was abolished on 1 January 2007, because the armed forces are now entirely professionalised.

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<sup>1</sup> Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report, Latvia, Gita Feldhune, state of affairs up to 8 January 2007, European Network of Legal Experts in the nondiscrimination field, p.46.

<sup>2</sup> European Anti-Discrimination Law Review, Issue No. 5, 2007, p. 84

*Part time work*

The Committee notes that there must be rules to prevent non-declared work through overtime (Conclusions XVI-1, Austria). The Committee wishes again to receive further information on the rules relating to overtime as they apply to part time workers.

*Conclusion*

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

*Paragraph 3 – Public employment services*

The Committee takes note of the information provided in Latvia's report.

According to the report, the state employment agency registered 72,762 vacancies in 2006, somewhat more than in the previous reference period (61,906 in 2004).

It also states that it was unable to calculate the placement rate. The Committee wishes to stress that this information is vital for it to assess the effectiveness of public employment services and must therefore appear in the next report. It also asks what is the average period of time required to fill vacancies.

The Committee again asks for information on the total staffing of the state employment agency and their qualification levels.

It also previously asked whether trade unions and employers' organisations were involved in the management of the state employment agency, for example on a board of directors or similar body. In the absence of a reply, the Committee repeats its question.

The report says that the number of private agencies authorised to provide paid placement services increased considerably during the reference period, having risen from 18 in 2002 to 73 in 2006. In the absence of a reply, the Committee again asks for details of the market share of the state employment agency, that is the number of placements made as a share of total hirings in the labour market.

The Committee emphasises that if the next report does not provide the necessary information, there will be nothing to show that the situation in Latvia is in conformity with Article 1§3 of the Charter.

*Conclusion*

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

*Paragraph 4 – Vocational guidance, training and rehabilitation*

The Committee takes note of the information provided in Latvia's report.

Under Article 1§4 of the Charter, the Committee considers vocational guidance, continuing training for workers and the rehabilitation of persons with disabilities.

As Latvia has accepted Article 9 of the Charter (right to vocational guidance), the Committee refers to its conclusion under that article, in which it considers the situation to be in conformity with the Charter. The Committee is concerned here only with continuing vocational training and training for persons with disabilities in view of the fact that Latvia has not accepted Articles 10§3 and 15§1 of the Charter. The Committee deals with the following questions under Article 1§4, looking in turn at continuing training and the guidance and training of persons with disabilities:

- the existence on the labour market of training services for employed and unemployed persons or of training aimed specifically at persons with disabilities;
- access, i.e. how many people make use of these services;
- the existence of legislation explicitly prohibiting discrimination on the ground of disability in the field of training.

*Continuing vocational training*

In its previous conclusion (Conclusions XVIII-2), the Committee asked what measures had been taken or were planned to improve access to continuing vocational training. In the absence of a reply on this question in the report, the Committee notes from another source<sup>1</sup> that the 1999 Vocational Education Act makes a distinction between two types of formal training, continuing vocational training and professional development training:

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<sup>1</sup> [www.centre-inffo.fr/Lettonie](http://www.centre-inffo.fr/Lettonie), [www.trainingvillage.gr](http://www.trainingvillage.gr)

- continuing vocational training leads to a state-recognised qualification. Prerequisites are based on the level of qualifications acquired previously.
- professional development training, which was introduced in 2002, is open to all and satisfies direct labour-market needs. Its aim has been to broaden the options on offer to adults.

Continuing vocational training is provided by the government, local authorities, private agencies and non-governmental organisations. In 2004, official certification was granted to 323 institutes (mainly private bodies), 6 public bodies, 23 local authority bodies and 3 semi-public bodies. Any body providing formal training must be certified by the state.

There are no specific rules governing continuing training for employees. However, major companies grant training leave of at least 20 days a year, some paid and some unpaid, to study or sit examinations. Traditionally, private individuals cover a large portion of their training costs, which are tax deductible. In 2003, 28% of training costs were covered by private individuals, 34% by companies and 33% by the state and local authorities.

Training for jobseekers is managed by the national employment office (SSA), which negotiates agreements with the various training bodies; these then establish direct contact with jobseekers and propose different types of continuing vocational training and professional development training. In 2003, 8% of jobseekers had attended training programmes. The Committee asks for the next report to contain updated information on numbers of beneficiaries of training programmes. It also asks whether training supply satisfies demand.

#### *Guidance and training for persons with disabilities*

The Social Integration Centre (SIC) was set up in 2004 and provides services in schools and higher education establishments and vocational training and retraining for social, psychological and medical purposes to persons with disabilities. During the reference period, 814 students with mental disabilities were given an initial vocational training provided by one of 35 specialised schools.

The Alsviki training and rehabilitation centre offered various different types of training in 2006 and trained 80 special-needs students. The same year, Jurmala vocational training college provided vocational rehabilitation courses for 233 persons with disabilities and 200 disabled students attended a higher education course.

The Committee asks whether the training on offer satisfies demand.

#### *Conclusion*

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

## **Article 9 – Right to vocational guidance**

The Committee takes note of the information provided in Latvia's report.

As Latvia has not accepted Article 15 of the Charter, measures relating to vocational guidance for persons with disabilities are dealt with here.

### *Vocational guidance within the education system*

#### a. Functions, organisation and operation

National resource centres for vocational guidance (NRCVGs) (run by the Ministry of Education and Science) provide vocational guidance counselling within the education system. Their services are free of charge.

These centres' functions are limited to disseminating information. They help teachers and vocational counsellors to acquire new working methods by publishing information material and holding training courses four times a year. There is also a website giving information on guidance policy.

At secondary and higher education level, the NRCVG holds seven sessions per year to inform students about study options or the recruitment conditions for certain professions. The NRCVG also takes part in two national education fairs per year and in exhibitions staged for particular groups of students.

A national education development strategy adopted on 27 September 2006, covering the period from 2007 to 2013, made vocational guidance one of its priorities.

With regard to vocational guidance for persons with disabilities, the Ministry of Education and Science works with the social integration centre run by the Ministry of Health to improve regional centres and make it easier for people to be offered guidance closer to their homes.

#### b. Expenditure, staffing and number of beneficiaries

As the NRCVG does not provide vocational guidance directly but offers methodological tools for the dissemination of information, there are no precise statistics on the number of beneficiaries. The NRCVG employs two people full time and one person part time. The Committee asks the next report to provide detailed information on staffing and number of beneficiaries.

In 2006 the budget of the NRCVG was € 80,000, half of which was funded by the Ministry of Education and Science and the other half by the Directorate General of Education and Culture.

### *Vocational guidance in the labour market*

#### a. Functions, organisation and operation

The national vocational guidance office, which was set up in 2004, aims to facilitate access to guidance services in the labour market both for people living in large towns and cities and for those living in the regions.

In its previous conclusion (Conclusions XVIII-2), the Committee noted that under a project forming part of the national programme of the European Regional Development Fund for 2004-2006, it was planned to open seven new counselling centres. According to the report, this project has been extended up to 2007 and its activities focus in particular on improving the skills of vocational counsellors, identifying the needs of jobseekers using the national office's services and promoting awareness about vocational guidance. Between 2005 and 2006, seven new advice centres were opened, renovations were made to four regional centres, computer equipment was supplied and a new website was set up.

#### b. Expenditure and numbers of staff and of persons assisted

The number of persons assisted by the national office's vocational guidance services increased during the reference period from 43,716 in 2005 to 53,463 in 2006. Of the 53,463 beneficiaries in 2006, in addition in particular to the 33,511 students, 12,513 were unemployed people registered with the national employment office, 1,577 were non-registered unemployed and 2,336 were people with jobs.

The number of beneficiaries with disabilities also increased during the reference period from 446 in 2004 to 909 in 2006. The improvement of the services provided for persons with disabilities was the result of co-operation between the national vocational guidance office and specialised associations and institutions.

In 2006, 89 people were employed by the national office (including 62 counsellors with a higher education in psychology, education or social education).

Total public spending on vocational guidance was € 853,375 in 2006 and € 972,628 in 2007.

*Dissemination of information*

The Committee notes that there has been no change in the situation which it previously (Conclusions XVII-2) considered to be in conformity with the Charter.

*Equal treatment of nationals of the other States Parties*

The Committee notes that there has been no change in the situation which it previously (*ibid*) considered to be in conformity with the Charter.

*Conclusion*

The Committee concludes that the situation in Latvia is in conformity with Article 9 of the Charter.