

ACTIVITY REPORT

2009

(25 June 2010)

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The European Committee of Social Rights, a committee of independent experts established by Article 25 of the Charter as amended by the 1991 Turin Protocol, rules on the conformity of national law and practice with the European Social Charter. The Committee examines national reports submitted annually by the States Parties, and in respect of which it adopts “conclusions”, as well as collective complaints lodged by organisations and in respect of which it adopts “decisions”.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

Introduction

by Mrs Polonca KONCAR,

President of the European Committee of Social Rights

The European Social Charter (ESC), adopted in 1961, is along with the European Convention of Human Rights one of the Council of Europe's two core human rights treaties. It guarantees on a general level a comparatively wide and comprehensive set of social rights. It covers virtually everything that is seen as social rights in modern Europe spanning areas such as housing, health, education, employment, legal and social protection, movement of persons and non-discrimination.

For many years the European Social Charter and the rights it safeguards were not given due recognition. Several factors were responsible, namely: the doctrinal conception which prevailed in the past in part of the world that social and economic rights are merely programmatic principles; an unwieldy, hence, ineffective, supervisory mechanism; and finally, from an institutional standpoint, the fact that the Charter was not assigned its rightful position within the organisation, which resulted in a lack of understanding of the Charter and the rights it enshrined within the organisation and consequently by its member States.

One of the first steps made to resolve this issue was finally taken at an organisational level. Acknowledging that social rights are indeed a human rights issue resulted in the successful transfer of the Service of the European Social Charter to the Directorate General of Human Rights in November 1989. In addition, a series of instruments have gradually been adopted to relaunch the original Charter of 1961 and to "revitalise" it. The Additional Protocol of 1995 providing for a system of collective complaints and the Revised European Social Charter of 1996 are two such instruments which have significantly contributed to the strengthening of the status of social rights in our societies.

From a substantive point of view the adoption of the Revised European Social Charter is important for two reasons: first of all, it amended certain provisions concerning the rights recognized by the 1961 Charter and, second of all, it brought about the recognition of eight new fundamental social rights, such as the right to housing and the right to protection against poverty and social exclusion. The Revised Charter reflects the "dynamics" of social rights in the sense that they correspond to a certain level of economic and social development, permanently evolving, and at the same time a factor of social progress.

The Additional Protocol providing for a system of collective complaints which entered into force in 1998 in order to reinforce the traditional reporting procedure, has proven to be a new and innovative procedure. This has since been confirmed in practice as the collective complaints procedure both increases the efficiency of the Charter's supervisory mechanism and contributes to the implementation of the rights it lays down. The procedure also enables the European Committee of Social Rights, the

body that is competent to assess from a legal standpoint compliance of national law and practice with the obligations arising from the Charter, to further clarify and refine the position it had adopted with regard to certain rights within the reporting procedure, and to contribute to jurisprudential developments regarding the rights laid down by the Charter.

In its decisions on the 59 collective complaints lodged up till now, the Committee adopted several crucial interpretations of principle. To illustrate my point let me mention one of them. In connection with means of ensuring steady progress towards achieving goals laid down in the Charter, the Committee emphasised that the implementation of the Charter requires States Parties not merely to take legal action but also to make resources available and to introduce operational procedures to give full effect to rights (International Movement ATD Fourth World v. France (No. 33/2006)). Such interpretation has an important impact on the Charter and its substantive law. By the adoption of such an interpretation the Committee indicated the tendency of transforming “obligations of means“ into “obligations of result“.

The number of Member States which have ratified the Charter has increased significantly in the past few years. To date, all 47 Council of Europe Member States have signed the Charter. 29 have ratified the Revised Charter and 13 are still bound only by the 1961 Charter. Such a development can be assessed as a positive one, allowing for the presumption that it reflects the common awareness in Member States of the importance of social rights for the functioning and development of our societies.

On a realistic note, I have to add that some persons still maintain that social rights constitute a hindrance to economic gain in the globalized market. In the context of the current economic crisis, implementing social rights puts many countries under pressure . Despite this, I remain convinced that social rights must continue to be promoted and protected. They are essential if we want to weather the present economic crisis. They must be interpreted as a means of preventing social exclusion of people, they can contribute to the reinforcement of cohesion in the societies of our Member States in which they must be allowed to serve as a factor of integral and sustainable development.

2009 activities of the European Committee of Social Rights by Mr Jean-Michel Belorgey, General Rapporteur

The Committee, set up pursuant to Article 25 of the European Social Charter in 1967, and whose current composition appears in Annex 1, It held 7 sessions in 2009:

- 1) from 16 to 20 February 2009
- 2) from 30 March to 2 April 2009
- 3) from 11 to 15 May 2009
- 4) from 29 June to 3 July 2009
- 5) from 7 to 11 September 2009
- 6) from 19 to 23 October 2009
- 7) from 7 to 11 December 2009

The Committee's function is to rule on whether national situations are in conformity with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. A table showing the state of signatures and ratifications of these various instruments appears in Annex 2.

The Committee:

- examines each year reports presented by States describing how they have implemented the Charter in law and in practice;
- rules on collective complaints against States having accepted this procedure presented by the ETUC, UNICE or the IOE, an employees' or employers' organisation of the country concerned or an INGO enjoying participatory status with the Council of Europe.

At its 7 sessions in 2009, the Committee:

- in accordance with the principles laid down by the Committee of Ministers on 3 May 2006 concerning the frequency with which states should present reports on accepted provisions, considered reports on the application of Articles 3 (right to safe and healthy working conditions), 11 (right to protection of health), 12 (right to social security), 13 (right to social and medical assistance), 14 (right to benefit from social welfare services), 23 (right of elderly persons to social protection) and 30 (right to protection against poverty and social exclusion) of the Charter and the Revised Charter presented by Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey the United Kingdom and Ukraine (a table summarising the conclusions reached appears in Annex 4);

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- received five collective complaints against three countries and ruled on their admissibility, as well as on the admissibility of two previously received complaints, and ruled on the merits of seven previously received complaints (a list of these complaints and summaries of the decisions on the merits appear in Annex 5);
 - gave its opinion on several texts submitted to this effect by the Parliamentary Assembly and the Congress of local and regional authorities;
 - met representatives of several other Council of Europe bodies, including the Parliamentary Assembly Monitoring Committee and Social, Health and Family Affairs Committee, and several other international institutions, for example the UNHCR, to discuss ways of developing co-operation with them; the Committee was also represented in meetings of the Presidents of Monitoring Mechanisms organised by the Directorate of Human Rights and Legal Affairs of the Council of Europe.

Committee delegations also visited several countries in 2009 to discuss with them:

- the Committee's assessment in previous supervision cycles and likely assessment in the current cycle of those countries' policies concerning their Charter undertakings;
- in the case of countries that had not yet done so, the prospects for their accession to the revised Charter, and more generally the prospects for all these countries' acceptance of the provisions not yet accepted of either Charter.

A list of the relevant meetings appears in Annex 6.

The Charter and Community law

The Bureaux of the European Committee of Social Rights and the Governmental Committee of the Charter held a joint meeting in Paris on 29 September 2009. As with previous meetings, the last of which was on 19 May 2008, the meeting was mainly concerned with case-law issues, in particular relating to articles 5 – freedom to form unions of the unemployed and elderly persons - 10§4 and 5 – study grants and scholarships – and 20 – comparing remuneration in different undertakings for the purposes of assessing compliance with the principle of equal treatment between women and men with regard to pay. The meeting also considered the Committee's position in the Council of Europe following the Council's organisational restructuring, the disadvantages of the new system of report presentation and the sensitive issue of the relationship between European Union law and the Charter. On this last point, it was noted that there was a presumption of compliance with the Charter if a country's law was compatible with Community law, but the Committee's assessment of whether a country's policies were in conformity with the Charter depended not just on the state of the law but also on its effectiveness. Moreover, whereas in some cases

the Charter's requirements, as interpreted by the Committee, were less demanding than those of Community law, in certain areas the opposite was the case and the Charter was more demanding.

Reports¹

When it considered the reports, the Committee concluded that during the period covered by the 2009 supervision cycle Europe had benefited from generally favourable economic conditions. However, the serious economic and financial crisis that broke out in 2008 and 2009 already seemed to be having significant repercussions on social rights, particularly those covered by the "health, social security and social protection" thematic group, which it considered in 2009. Rising unemployment and deteriorating public accounts posed a threat to social protection systems, with increasing numbers of recipients at a time when tax revenues and social security contributions were falling. The Committee is all too aware of the dramatic consequences of this scissors effect and wishes to stress that one of the Charter's objectives is to ensure that social rights, and more specifically rights to social protection, are safeguarded, despite any constraints arising from economic conditions, partly because it is in periods of crisis that such protection is particularly needed and partly because any amplification of the automatic effects of the crisis in this area will tend to reinforce these adverse cyclical effects.

Irrespective of the early signs of the crisis and while welcoming the fact that in many areas its comments have persuaded the states concerned to adjust the relevant laws and regulations or eliminate practices contrary to the standards it lays down, the Committee has to point out that in other areas the strategies being implemented cannot always be deemed to be compatible with Charter undertakings. Despite the fact that legislation and regulations may conform with the Charter, this is not always reflected in what happens in practice, as revealed, if not in government reports, at least in other sources that the Committee draws on, such as the reports of the ILO and other public and private international organisations.

In this and other respects, there are still problems in several countries with regard to:

- occupational health and safety:
 - inadequate data on occupational accidents and diseases and the nature and frequency of checks and inspections to ensure that the regulations are complied with;
 - the limited development of prevention strategies;
- health protection:
 - significant infant and maternal mortality rates;

¹ For a brief technical presentation of Conclusions 2009/XIX-2, see Annex 3.

- failure to take account of certain causes of morbidity or insufficient action to counter them;
- social security and social welfare assistance:
 - rules and practices that are manifestly discriminatory and prevent nationals of other states party from gaining access to benefits provided for nationals;
 - very low levels of social security and social welfare benefits for certain categories of recipient, such as elderly persons.

It has to be recognised that in many countries that have only recently accepted various obligations in this area and that face considerable economic difficulties, the introduction of adequate social protection systems is a considerable challenge that cannot be rapidly overcome. The Committee has therefore had to acknowledge that even if a social security system does not reach a level that satisfies the requirements of the first two paragraphs of Article 12, the overall trend may be considered to be positive from the standpoint of Article 12§3. It has also had to recognise that the need to safeguard social security systems may also make it necessary to place certain restrictions on the development of these systems and that this need not necessarily be incompatible with Article 12§3.

The Committee has also observed that states submitting reports do not always fully understand the scope of Article 14. It has therefore had to point out that this article guarantees the right to benefit from general social welfare services and that other, more specialist, social services are the subject of other provisions of the Charter.

All vulnerable persons must be eligible for social welfare services. The Committee therefore ascertains whether there are social services for all categories of the population who are likely to need them. It has identified, in this regard, the following groups: children, elderly persons, persons with disabilities, young persons in difficulty, young offenders, minorities, such as migrants, Roma and refugees, the homeless, alcoholics and drug addicts, battered women and former prisoners.

Under Article 14§1 the Committee reviews the rules governing eligibility to benefit from the right to social welfare services (effective and equal access) and the quality and supervision of social services as well as issues relating to the rights of beneficiaries and their participation in the establishment and maintenance of social welfare services (Article 14§2). Persons applying for social welfare services should receive any necessary advice and counselling to enable them to benefit from the available services in accordance with their needs.

As in the past, in 2009 the Committee had to criticise several states for failure to submit scheduled reports within the deadlines set by the Committee of Ministers. The entry into force of the new presentation system has led to some improvement but this

has not been universal. Thus, the reports of Hungary, Iceland and Ireland had to be examined after the conclusions for all other states had been adopted and made public.

However, it is difficult to see what further reductions are possible to the burden of producing reports that permit an assessment of how far states are meeting their obligations. Already, the time that elapses between two supervision cycles makes it very difficult to identify - sufficiently rapidly to draw them to the relevant governments' attention - stagnating or deteriorating situations that need to be remedied without delay. It also makes the Committee's situation very difficult when questions asked four years previously receive unclear answers, or no answers at all, in the next supervision cycle. In such cases, only the collective complaints procedure, one of whose roles this has to be, can help to update information and secure action on problems that the reporting procedure alone cannot resolve.

This is why it is important for more states to accept this procedure.

Collective complaints

Of the decisions handed down by the Committee in 2009 on collective complaints, four deserve special mention:

- Defence for Children International v the Netherlands
- FEANTSA v Slovenia
- ERRC v France
- ERRC v Bulgaria

The complaint lodged by Defence for Children International against the Netherlands concerned immigrant children not lawfully present in the country, and alleged that the Netherlands were in violation of articles 31 (right to housing) and, as a consequence, 11 (right to health), 13 (right to social and medical assistance), 16 (right of the family to social protection), 17 (right of children and young persons to such protection) and 30 (right to protection against poverty and social exclusion) of the revised Charter, taken alone or in conjunction with Article E (non-discrimination). As in 2004, when it had to rule on the FIDH complaint against France, concerning alleged violations of Articles 13, 17 and E of the Charter, because of the failure to grant state medical assistance to immigrant children not lawfully present in the country, and subject to certain reservations, the Committee found for the complainants. In particular, it held that the scope of rights relating directly to the right to life and dignity could not be limited to foreign nationals lawfully in the country.

The complaint lodged against Slovenia by FEANTSA concerned the country's alleged violations of Articles 16 and 31 of the Charter. The Committee had previously considered other complaints relating to housing, namely International Movement ATD Fourth World v France and FEANTSA v France – decisions of 4 February 2008. What distinguished the complaint concerning Slovenia was that it raised problems linked directly to the profound changes of economic and social systems in the countries that emerged from the former Yugoslavia, in particular that of the nature of

the housing rights to which persons who formerly held occupancy rights, under a system of permanent and uninterrupted usufruct of their dwelling, were now entitled in order to meet their needs. Another complaint against Croatia raising similar and other problems was registered in 2009 and a decision will be taken in 2010.

The complaint against France lodged by the ERRC argued that the country was in violation of its undertakings under Articles 16, 19 and 30 of the revised Charter, in connection with the Roma community. Previous complaints of this type had concerned Greece, Bulgaria and Italy. The complaint against France is not the last of its sort because a new complaint against Italy, very similar in scope to the previous one, was registered in May 2009. All the complaints concerning Roma on which it has ruled, including the ones against France and Bulgaria, have been accepted in whole or in part by the Committee. They showed clearly what had already emerged, though less clearly, from national reports, namely that in nearly all the Council of Europe member states Roma were still being treated in a manner that was incompatible with these countries' undertakings and, to varying extents, were being discriminated against. This was either because they did not receive, when required, the same treatment as nationals (the countries concerned did not even distinguish between national and foreign Roma), or because they did not receive sufficiently different treatment to ensure that, as with other benefit claimants, the application of apparently neutral criteria did not in fact work to their disadvantage.

The subject matter of the new complaint against Italy is in part similar to the previous one. This might seem surprising but in fact it is inevitable that applicants whose claims are accepted by the European Committee of Social Rights and then find that the state has not introduced policies to give the decision practical effect should once more turn to the Committee. For example, both prior to and in 2009, French trade unions lodged a series of complaints alleging violations by France of several articles of the Charter concerned with working conditions, fair remuneration and the right to collective bargaining, in connection with the so-called "Aubry 2" Act of 19 January 2000 and the "Fillon" Act of 17 January 2003, and now again in connection with legislation continuing and extending the provisions of the previous laws. The same applies to a number of complaints brought by the European Council of Police Trade Unions against Portugal and France. However, the second case brought against Portugal concerning corporal punishment of children was somewhat different from the first. In the first case, the Committee considered that in the absence of legislation explicitly proscribing the corporal punishment of children, Portugal could argue that its supreme court had consistently found against such practices and rejected the complaint. However it reversed that decision in the second case, following a supreme court decision that explicitly invalidated the Committee's previous incorrect analysis of its case-law.

Non-accepted provisions

Consultations with the countries concerned by the procedure for regular reports on non-accepted provisions, laid down by the Ministers' Deputies in 2002, have shown that several of these countries, particularly Sweden, tend to justify their reluctance to accept additional provisions with reference to distinctive national traditions, in

particular the leading role of the social partners in determining the rules governing labour relations. Since Article I of the revised Charter on implementation of the undertakings given makes it quite clear that this may be secured by laws or regulations, or by agreements between employers or employers' organisations and workers' organisations, and given the Committee's constant concern to respect

different national traditions, this argument cannot be considered convincing in the long term, unless it reflects the reluctance of countries that rely on it to accept, in one or other area covered by the Charter, the standards it promotes. What makes this even more regrettable is that the positions adopted by the Committee, particularly in its decision on the collective complaint *Confederation of Swedish Enterprise v. Sweden* of 22 May 2003, on the failure of collective agreements to ensure compliance with an accepted provision – in this case, Article 5 of the Charter, which recognises the right to organise in both its positive and its negative aspects - will almost certainly be supported by other regulatory bodies and instruments dealing with the same topics. For example, when called on to rule on an alleged violation of Article 11 of the European Convention on Human Rights, which has the same objective as Article 5 of the Charter, the European Court of Human Rights not only ruled in favour of the applicant, an Icelandic national², but also referred explicitly to the Committee's decision in the Swedish case.

The audience for the Charter and the Committee

As is natural with social rights and a body that does not exercise full judicial authority, even in the case of collective complaints, the European Social Charter and its regulatory body, the ECSR, do not enjoy the reputation and the credit that, given the issues dealt with, they might legitimately expect. This does not mean that legal specialists are not interested in the Committee's activities or its decisions, or that the courts in the states party, including constitutional courts, or for that matter international courts, fail to take account of the positions it adopts. Indeed this is becoming less and less frequent, although certain national courts are still reluctant, even when handing down an identical ruling on a subject on which the Committee has already given a decision, to refer expressly to the Charter and the Committee. For example, there was no mention of the *FIDH v France* decision in the decision of the French *Conseil d'Etat* on the same subject. Annex 7 lists a number of colloquies on the Charter and the Committee in which some of its members or secretariat officials have taken part, books and articles on the Charter and the Committee that appeared in 2009 (Annex 8) and court decisions that referred to one or other of them (Annex 9).

² Judgment in the case of *Olafsson v. Iceland*, 27 April 2010.

Annex 1 : List of the members of the European Committee of Social Rights

	from	expiration date of mandate
Mrs Polonca KONCAR, President	01/08/2001	31/12/2010*
Mr Andrzej SWIATKOWSKI, Vice President	01/01/2003	31/10/2012*
Mr Colm O'CONNOR, Vice President	08/11/2006	31/12/2010
Mr Jean-Michel BELORGEY, General Rapporteur	01/01/2001	31/12/2012*
Mrs Csilla KOLLONAY LEHOCZKY	01/01/2001	31/12/2012*
Mr Lauri LEPPIK	01/01/2005	31/12/2010
Mrs Monika SCHLACHTER	01/01/2007	31/12/2012
Mrs Birgitta NYSTRÖM	01/01/2007	31/12/2012
Mrs Lyudmila HARUTYUNYAN	26/09/2007	31/12/2010
Mr Rüchan IŞIK	01/01/2009	31/12/2014
Mr Petros STANGOS	01/01/2009	31/12/2014
Mr Alexandru ATHANASIU	01/01/2009	31/12/2014
Mr Luis JIMENA QUESADA	01/01/2009	31/12/2014
Mrs Jarna PETMAN	04/02/2009	31/12/2014

* Non-renewable term

Annex 2: Signatures and ratifications of the European Social Charter, its Protocols and the European Social Charter (revised)

Situation at 3 March 2010

Member states	European Social Charter 1961 ETS 035		Additional Protocol 1988 ETS 128		Amending Protocol 1991 ETS 142		Collective Complaints Protocol 1995 ETS 158		Revised European Social Charter 1996 ETS 163	
	<i>Signature Ratification</i>		<i>Signature Ratification</i>		<i>Signature Ratification</i>		<i>Signature Ratification</i>		<i>Signature Ratification</i>	
Ibania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	21/9/98	14/11/02
Andorra	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/11/00	12/11/04
Armenia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	21/1/04
Austria										
a	22/7/63	29/10/69	4/12/90	—	7/5/92	13/7/95	7/5/99	—	7/5/99	—
Azerbaijan	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	2/9/04
Belgium	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
Bosnia and Herzegovina	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	11/5/04	7/10/08
Bulgaria	(2)	(2)	(3)	(3)	(2)	(2)	(4)	(4)	21/9/98	7/6/00
Croatia	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
Cyprus	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
Czech Republic	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	—	4/11/00	—
Denmark	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/5/98	11/9/00
Finland	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
France	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
Georgia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	30/6/00	22/8/05
Germany	18/10/61	27/1/65	5/5/88	—	—	***	(1)	—	29/6/07	—
Greece	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	—
Hungary	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
Iceland	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	—
Liechtenstein	9/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
Luxembourg	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
Malta	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
Moldova	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
Monaco	(1)	—	(1)	—	(1)	—	(1)	—	5/10/04	—
Montenegro	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
Netherlands	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
Poland	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—
Portugal	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02
Romania	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/5/97	7/5/99
Russian Federation	(2)	(2)	(3)	(3)—	(2)	(2)	(2)	—	14/9/00	16/10/09
San Marino	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	14/9/09
Slovak Republic	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
Spain	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	—	23/10/00	—
Sweden	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
Switzerland	6/5/76	—	—	—	—	—	—	—	—	—
“the former Yugoslav Republic of Macedonia”	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(1)	—	27/5/09	—
Turkey	18/10/61	24/11/89	5/5/98	—	6/10/04	10/6/09	(2)	—	6/10/04	27/6/07
Ukraine	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	—	7/5/99	21/12/06
United Kingdom	18/10/61	11/7/62	—	—	21/10/91	***	(1)	—	7/11/97	—

* Date of signature by the Czech and Slovak Federal Republic.

** Date of signature by the State Union of Serbia and Montenegro.

*** State whose ratification is necessary for the entry into force of the protocol.

- (1) State having signed the European Social Charter (revised).
(2) State having ratified the European Social Charter (revised).
(3) State having accepted the rights (or certain of the rights) guaranteed by the Protocol by ratifying the European Social Charter (revised).
(4) State having accepted the collective complaints procedure by a declaration made in application of Article D para. 2 of Part IV of the European Social Charter (revised)

Annex 3: Presentation of Conclusions 2009/XIX-2³

Conclusions 2009 in respect of the state reports on the Revised Charter and Conclusions XIX-2 in respect of the state reports on the 1961 Charter represented the second round of supervision under the new system of thematic reporting adopted by the Committee of Ministers in 2006. The theme for this second round was “Health, social security and social protection” and concerned the following articles:

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 23 or AP 4).
- the right to protection against poverty and social exclusion (Article 30).

The deadline for submission of the reports was 31 October 2008. A total of 39 reports were due: 23 in respect of Revised Charter and 16 in respect of the 1961 Charter. Although all reports were eventually received, several states submitted their reports with significant delays and only four reports were received within the deadline. The reports of Hungary, Iceland and Ireland arrived almost a year late and had to be examined after the conclusions for all other states had been adopted and made public. In its General Introduction to the Conclusions the European Committee of Social Rights (ECSR) invited the States Parties to observe scrupulously the reporting deadlines so as not to undermine the impact of the Charter’s supervisory mechanism.

Moreover, the ECSR had to note that the quality of certain reports is still not adequate and does not allow it to make an assessment of the situation forcing it therefore to defer the conclusion. Information provided is not always pertinent, is not sufficiently clear and/or exhaustive or is lacking entirely. The ECSR also announced its decision that it will defer a conclusion for lack of information only once before adopting a conclusion of non-conformity on the ground that it has not been established by the State in question that the situation is in conformity with the Charter. In practical terms, this means that where conclusions in the present supervision cycle have been deferred, the requested information must be included in the next report on the provision concerned (i.e. in four years’ time), otherwise the conclusion will be one of non-conformity.

The ECSR examined the reports during its sessions in the period between February 2009 and December 2009. During this period the Committee also addressed written questions directly to a number of states in order to obtain supplementary information or clarification in relation to the reports. The conclusions were adopted in October and December 2009 and made public and transmitted to states in January 2010.

³ Presentation made by the Secretariat at the 121st meeting of the Governmental Committee on 3 May 2010

The Committee adopted a total of 572 conclusions; 356 in respect of the Revised Charter and 216 in respect of the 1961 Charter. Although the new system of presenting reports has alleviated the workload somewhat, it is evident that the number of reports and provisions to be examined will increase in the years ahead with the new States Parties that are in the process of preparing their first reports, with new member States ratifying the Revised Charter and with States Parties to the 1961 Charter moving to the Revised Charter and accepting additional provisions.

In 164 cases (100 for the Revised Charter, 64 for the 1961 Charter) the Committee found States to be in violation of the Charter. This corresponds to about 29% of all cases examined which is a practically unchanged compared to the previous round. It may be noted here that the number of cases where the Committee concludes for a violation because states have not demonstrated the compliance of the situation (i.e. the necessary information was not provided) has increased considerably in recent years.

The number of conclusions deferred for lack of information has declined over a period of several years, and this trend continued in the present conclusions where there were 127 deferrals or about 22% (compared to 26% in the previous cycle).

It is difficult to summarize the substantive findings of the ECSR in the present conclusions in a few sentences, but certain typical problems of conformity nevertheless stand out:

- Right to safe and healthy working conditions (Article 3)

The violations found concerned *inter alia* issues such as restrictions on the personal scope of protective legislation, lack of adequate inspection efforts to enforce regulations, inadequate prevention strategies as well as insufficient statistical data on accidents and occupational diseases in some cases;

- Right to health (Article 11)

The ECSR noted several cases where infant and maternal mortality were high and also cases where certain causes of ill health and death were not taken into account in an adequate manner and where the efforts to fight these causes were not deemed to be sufficient;

- Right to social security and right to social and medical assistance (Articles 12 and 13)

Here the violations identified by the Committee concerned to a large extent well-known issues already identified in the past, namely on the one hand manifestly inadequate levels of various income-substituting social security and social assistance benefits and on the other hand the existence in a number of countries of discriminatory rules and practices as regards the payment of benefits to nationals of other States Parties.

As usual the Committee made several comments in General Introduction to the Conclusions on the interpretation of certain Charter provisions, so-called “statements of interpretation”, as follows:

Statement on Article 12§3

The Committee clarified its understanding on this particular provision by saying that the existence of a social security system of a higher level than that required under Article 12§1 or Article 12§2 is not presupposed under Article 12§3. This means that a situation where a social security system is being developed and progress is made may be in conformity with Article 12§3 even though that system has not yet attained the levels required under the two first paragraphs of Article 12. The Committee also reiterated that a restrictive or regressive evolution in the social security system is not automatically in breach of Article 12§3; such situations will be assessed in the light of different criteria defined by the Committee.

Statement on Article 14§1

The Committee observed first of all that Article 14§1 guarantees the right to general social welfare services as opposed to “the various articles of the Charter which require States to provide social welfare services with a narrowly specialised objective”. The provision of social welfare services concerns everybody who find themselves in a situation of dependency. The Committee therefore verifies that social services are available to all categories of the population who are likely to need them. It has identified the following groups: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, battered women and former detainees.

The list is not exhaustive as the right to social welfare services must be open to all individuals and groups in the community. It does, however, give an idea of the groups in which the Committee systematically takes an interest because of their more vulnerable situation in society.

The Committee also adopted the following two “general questions” addressed to all states which have accepted the provisions concerned:

Article 11

The Committee asks that the next report on Article 11 contain information on the availability of rehabilitation facilities for drug addicts, the range of facilities and treatments as well as whether supply matches demand under Article 11.

Article 12§1

The Committee observes that self-employment is becoming a more widespread form of economic activity. In this context, the Committee asks for information on the coverage of self-employed persons with regard to all social security schemes under Article 12§1.

Finally, the Committee also took the opportunity to make a statement in the General Introduction about implementation of the Charter in the context of the current economic crisis. The Committee emphasised notably that the crisis had already had significant implications on social rights and notably that “increasing levels of

unemployment is presenting a challenge to social security and social assistance systems as the number of beneficiaries increase while tax and social security contribution revenues decline.”

The Committee underlined that under the Charter the Parties have accepted to pursue by all appropriate means, the attainment of conditions in which *inter alia* the right to health, the right to social security, the right to social and medical assistance and the right to benefit from social welfare services may be effectively realised. On this basis the Committee stated that “the economic crisis should not have as a consequence the reduction of the protection of the rights recognized by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.”

Annex 4: Summaries of the Committee's Conclusions for 2009

1961 Charter: XIX-2 (2009)

Article	AUSTRIA	CROATIA	CZECH REP	DENMARK	GERMANY	GREECE	HUNGARY	ICELAND	LATVIA	LUXEMBOURG	POLAND	SLOVAKIA	"The former Yugoslav Rep. of Macedonia"	SPAIN	UNITED KINGDOM
Article 3.1	-	NA	+	+	-	-	-	+	NA	0	+	+	NA	-	+
Article 3.2	+	NA	+	+	+	-	0	+	NA	0	+	+	NA	-	+
Article 3.3	+		+	+	+	+	+	+	NA	+	+	+	NA	+	+
Article 11.1	+	+	+	+	+	0	-	+	-	+	0	-	+	0	+
Article 11.2	+	0	+	+	+	0	0	+	-	+	+	-	0	0	+
Article 11.3	+	+	+	+	+	-	+	+	-	+	+	0	0	+	+
Article 12.1	-	NA	-	0	0	-	-	+	NA	-	-	-	-	-	-
Article 12.2	0	NA	+	+	+	+		0	NA	+	0	-	0	+	NA
Article 12.3	+	NA	-	+	0	+		+	NA	-	0	+	0	0	NA
Article 12.4	+	NA	-	-	-	-		-	NA	0	-	-	0	-	NA
Article 13.1	+	-	-	-	+	-	0	+	-	-		-	-	-	0
Article 13.2	+	-	+	+	+		+	+	+	+	+	+	+	0	+
Article 13.3	+	+	-	0	-	+	+	+	-	+	-	0	+	0	0
Article 13.4	+	-	0	+	-	-	0	+	0	-	NA		0	+	0
Article 14.1	+	+	-	+	+	0	0	+	-	-	-	-	NA	-	+
Article 14.2	+	+	-	+	+	+	+	+	+	-	NA	0	NA	0	+
P Article 4	NA	NA	-	-		0	NA	NA	NA	NA	NA	0	NA	-	NA

+ Conformity

- Non conformity

0 Deferral

NA Non accepted provision

Revised Charter - Conclusions 2009

Article	ALBANIA	ANDORRA	ARMENIA	AZERBAIJAN	BELGIUM	BULGARIA	CYPRUS	ESTONIA	FINLAND	FRANCE	GEORGIA	IRELAND	ITALY	LITHUANIA	MALTA	MOLDOVA	NETHERLANDS	NORWAY	PORTUGAL	ROMANIA	SLOVENIA	SWEDEN	TURKEY	UKRAINE
Article 3.1	-	0	0	NA	0	+	+	+	+	+	NA	+	-	+	0	0	+	NA	0	-	0	+	0	+
Article 3.2	-	0	NA	NA	+	+	-	+	NA	-	NA	+	+	0	0	-	+	+	+	-	0	+	0	0
Article 3.3	-	+	NA	NA	+	-	+	+	NA	0	NA	+	-	0	-	-	+	+	-	-	-	+	0	0
Article 3.4	0	0	NA	NA	+	+	NA	NA	+	+	NA	0	+	+	0		0	NA	0	NA	-	NA	0	0
Article 11.1	-	0	NA	-	+	-	0	+	+	+	-	+	-	-	-	-	+	+	+	-	+	+	-	0
Article 11.2	-	+	NA	0	0	+	+	0	+	+	-	+	+	0	-	-	+	+	0	-	+	+	-	0
Article 11.3	0	0	NA	-	0	-	-	+	+	+	0	-	+	+	+	-	+	+	0	0	+	+	0	0
Article 12.1	NA	0	0	NA	0	-	-	-	-	-	-	-	-	-	-	-	0	0	-	-	-	-	0	NA
Article 12.2	NA	0	NA	NA	+	NA	+	+	0	+	NA	+	+	NA	NA	-	+	+	+	-	+	+	+	NA
Article 12.3	NA	+	0	NA	+	+	+	+	+	+	0	+	-	+	+	-	+	+	+	+	+	0	+	NA
Article 12.4	NA	0	NA	NA	-	NA	-	-	-	-	NA	-	0	-	0	-	-	-	+	-	-		+	NA
Article 13.1	NA	-	-	NA	-	-	NA	-	+	-	NA	+	-	-	-	-	+	-	-	-	NA	+	-	NA
Article 13.2	NA	+	0	NA	+	+	+	+	0	+	NA	+	+	+	+	-	+	+	+	+	+	+	+	NA
Article 13.3	NA	+	NA	NA	0	+	+	+	+	+	NA	+	+	+	-	-	+	+	+	0	+	0	0	NA
Article 13.4	NA	0	NA	NA	+	NA	NA	NA	+	+	NA	+	-	NA	0	NA	-	+	0	NA	NA	+	0	NA
Article 14.1	NA	+	NA	0	-	+	+	+	+	+	-	0	+	0	0	NA	+	+	+	NA	+	0	-	0
Article 14.2	NA	+	+	+	-	+	+	0	+	+	-	0	+	+	+	NA	+	0	+	NA	+	+	0	+
Article 23	NA	0	NA	NA	NA	NA	NA	NA	-	0	NA	+	-	NA	+	NA	0	+	-	NA	-	-	0	-
Article 30	NA	0	NA	NA	+	NA	NA	NA	+	+	NA	+	-	NA	NA	NA	+	+	+	NA	+	+	0	0

+ Conformity

- Non conformity

0 Deferral

NA Non accepted provision

Annex 5: Collective complaints list and state of procedure as of 31 December 2009

- No. 59/2009 European Trade Union Confederation (ETUC)/ Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)/ Confédération des Syndicats chrétiens de Belgique (CSC)/ Fédération Générale du Travail de Belgique (FGTB) v. Belgium

The complaint was registered on 22 June 2009. The complainant organisations allege that the situation in Belgium is not in conformity with the rights laid down in Article 6§4 (right to strike) of the Revised Charter. They believe that judicial intervention in social conflicts in Belgium, in particular concerning restrictions imposed on the action of picket line, violate this provision.

The European Committee of Social Rights declared the complaint **admissible** on 8 December 2009.

- No. 58/2009 Centre on Housing Rights and Evictions (COHRE) v. Italy

The complaint was registered on 29 May 2009. The complainant organisation pleads a violation of Articles 16 (the right of the family to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read alone or in conjunction with Article E (non discrimination) of the Revised Charter. The complainant organisation alleges that the recent so-called emergency security measures and racist and xenophobic discourse have resulted in unlawful campaigns and evictions leading to homelessness and expulsions, disproportionately targeting Roma and Sinti.

The European Committee of Social Rights declared the complaint **admissible** on 8 December 2009.

No. 57/2009 European Council of Police Trade Unions (CESP) v. France

The complaint was registered on 7 May 2009. The CESP claims that the new regulations introduced by the French government on 27 February 2008 (Decree No. 2008-199 modifying Article 3 of Decree No. 2000-194 of 3 March 2000), laying down the conditions for the granting of a payment for extra services to operational members of the national police force, are in breach of Article 4§2 (right to a fair remuneration) of the Revised Charter, because it establishes - regardless of the grade and step – a fixed compensation system.

The European Committee of Social Rights declared the complaint **admissible** on 7 September 2009.

No. 56/2009 Confédération Française de l'Encadrement (CFE-CGC) v. France

The complaint, registered on 4 May 2009, relates to Articles 1 (the right to work), 2 (the right to just conditions of work), 3 (the right to safe and healthy working conditions), 4 (right to a fair remuneration), 20 (right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex), and 27 (right of workers with family responsibilities to equal opportunities and equal treatment), read alone or in conjunction with Article E (non discrimination), of the Revised Charter. The CFE-CGC claims that the new regulations on working time introduced in France on 20 August 2008 (Act N°2008-789) violate these provisions.

The European Committee of Social Rights declared the complaint **admissible** on 29 June 2009.

No. 55/2009 Confédération Générale du Travail (CGT) v. France

The complaint, lodged on 21 January 2009, relates to Articles 2 (the right to just conditions of work) and 4 (the right to a fair remuneration). The CGT (*Confédération Générale du Travail*) claims that the new regulations on working time introduced in France on 20 August 2008 (Act n° 2008-789) violates these provisions).

The European Committee of Social Rights declared the complaint **admissible** on 30 March 2009.

No. 54/2008 European Council of Police Trade Unions (CESP) v. France

The CESP (European Council of Police Trade Unions) claims that the new regulations introduced by the French Government on 15 April 2008 (General Regulations on Employment in the National Police Service and General Instruction on the organisation of working hours in the National Police Service) are in breach of Article 2§1 on the grounds that it is impossible to ascertain whether daily and weekly police working hours are reasonable because such working hours are not recorded. The CESP also contends that the flat, ie non-increased, rate of remuneration for overtime work provided for in the new regulations of 17 April 2008 (the General Regulations on the National Police Service and Instruction NOR INTC0800092c) infringes Article 4§2 (because the rate of remuneration for overtime work, where the latter is taken into consideration, is based on a rate below the hourly rate for police officers, and where compensation is available in the form of rest periods, such compensation is ineffective).

The European Committee of Social Rights declared the complaint **admissible** on 17 February 2009.

No. 53/2008 European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia

The complaint was registered on 28 August 2008. The complainant organisation pleads a violation of Articles 31 (right to housing) and 16 (the right of the family to social, legal and economic protection), read alone or in conjunction with Article E (non discrimination) of the Revised Charter. In support of its request, the complainant organisation alleges that a vulnerable group of persons occupying denationalised flats in the Republic of Slovenia have been deprived of their occupancy titles and subjected to eviction. As the persons concerned were denied access to alternative housing in the long term, they have now become homeless. These measures have also resulted in housing problems for the families of the evicted persons.

The European Committee of Social Rights declared the complaint **admissible** on 2 December 2008.

The European Committee of Social Rights concluded that there was a **violation** of Article 31 of the Revised Charter and transmitted its decision on the merits to the Committee of Ministers on Collective Complaints list and state of procedure 29 September 2009.

No. 52/2008 Centre on Housing Rights and Evictions (COHRE) v. Croatia

The complaint was registered on 25 August 2008. The complainant organisation pleads a violation of Article 16 of the Charter (the right of the family to social, legal and economic protection), read alone or in conjunction with Article E (non discrimination) of the Charter, on the grounds that the ethnic Serb population displaced during the war in Croatia has been subjected to discriminatory treatment as the families have not been allowed to reoccupy their former dwellings prior to the conflict, nor have they been granted financial compensation for the loss of their homes.

The European Committee of Social Rights declared the complaint **admissible** on 30 March 2009.

No. 51/2008 European Roma Rights Centre (ERRC) v. France

The complaint was registered on 17 April 2008. The complainant organisation pleads a violation of Articles 16 (right of the family to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read alone or in conjunction with Article E (non-discrimination), on the grounds that Travellers in France are victims of injustice with regard to access to housing, inter alia social exclusion, forced eviction as well as residential segregation, substandard housing conditions and lack of security. Furthermore, France has failed to take measures to address the deplorable living conditions of Romani migrants from other Council of Europe member states.

The European Committee of Social Rights declared the complaint **admissible** on 23 September 2008.

The European Committee of Social Rights concluded that there was a violation of Articles 31§§1 and 2, Article E taken in conjunction with Article 31, Article 16 and Article E in conjunction with Article 16, Article 30 and Article E taken in conjunction with Article 30 and Article 19§4c of the Revised Charter and transmitted its **decision on the merits** to the Committee of Ministers on 26 October 2009.

No. 50/2008 Confédération française démocratique du travail (CFDT) v. France

The complaint was registered on 1 April 2008. It is alleged that the rules governing the integration of civilians working for the French forces based in Germany into the French administration, following the dissolution of these forces are not in conformity with the rights laid down in Articles 4 (right to a fair remuneration), 12 (right to social security), 18 (right to engage in a gainful occupation in the territory of other Parties) and 19 (right of migrant workers and their families to protection and assistance) alone or read in conjunction with Article E (non-discrimination) of the European Social Charter (revised).

The European Committee of Social Rights declared the complaint **admissible** on 23 September 2008.

The European Committee of Social Rights concluded that there was no violation of Articles 4, 12, 18 and 19 in conjunction with Article E and transmitted its decision on the merits to the Committee of Ministers on 29 September 2009.

The Committee of Ministers adopted Resolution CM/ResChS(2009)8 on 9 December 2009.

No. 49/2008 International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece

The complaint was registered on 28 March 2008. It is alleged that the Greek Government continues to forcibly evict Roma without providing suitable alternative accommodation. It also alleges that the Roma in Greece continue to suffer discrimination in access to housing in violation of Article 16 of the European Social Charter (Right of the family to social, legal and economic protection) alone or in conjunction with the non discrimination clause in the Preamble.

The European Committee of Social Rights declared the complaint **admissible** on 23 September 2008.

The European Committee of Social Rights concluded that there was a violation of Article 16 of the European Social Charter (revised) and transmitted its **decision on the merits** to the Committee of Ministers on 25 January 2010.

No. 48/2008 European Roma Rights Centre (ERRC) v. Bulgaria

The complaint registered on 28 March 2008 relates to Article 13§1 (the right to social and medical assistance) alone or in conjunction with Article E (non discrimination) of the Revised European Social Charter. It is alleged that Bulgarian legislation as from 01/01/2008 will no longer ensure the right to adequate social assistance to unemployed persons without adequate resources. This will notably affect Roma and women.

The European Committee of Social Rights declared the complaint **admissible** on 2 June 2008.

The European Committee of Social Rights concluded that there was a violation of Article 13§1 of the European Social Charter (revised), and transmitted its **decision on the merits** to the Committee of Ministers on 31 March 2009.

The Committee of Ministers adopted **adopted Resolution CM/ResChS(2010) 2** on 31 March 2010.

No. 47/2008, Defence for Children International v. The Netherlands

The complaint was registered on 4 February 2008. It is alleged that Dutch legislation deprives children residing illegally in The Netherlands of the right to housing (Article 31) and consequently of a series of additional rights laid down in Articles 11 (right to health), 13 (right to social and medical assistance), 16 (right to appropriate social, legal and economic protection for the family), 17 (right of children and young persons to appropriate social, legal and economic protection) and 30 (right to protection against poverty and social exclusion) alone or read in conjunction with Article E (nondiscrimination) of the European Social Charter (revised).

The European Committee of Social Rights declared the complaint **admissible** on 23 September 2008.

The European Committee of Social Rights concluded that there was a violation of Articles 31§2 and 17§1.c of the European Social Charter (revised), and transmitted its **decision on the merits** to the Committee of Ministers on 27 October 2009.

Annex 6 : Bilateral meetings (action plan)⁴ and meetings on non-accepted provisions⁵ of the Charter

3-4 February	Meeting on non-accepted provisions with Belgium (Brussels)
6 May	Meeting on non-accepted provisions with Romania (Bucarest)
23-24 June	Meeting on non-accepted provisions with Azerbaïdjan (Baku)
5-6 November	Action Plan Seminar on the Revised Charter - Tirana, Albania
11 November	Action Plan Seminar - Vienna, Austria
25 November	Meeting with German authorities on the Revised Charter Berlin, Germany
15-16 December	Action Plan Seminar on the Revised Charter - Krasnodar, Russian Federation.

⁴ The meetings form part of the implementation of the Action Plan adopted by the Heads of State and Government of the Council of Europe at the 2005 Warsaw Summit. The overall objective is to ensure wider application of the Charter, in particular by providing assistance to States on ratification of the Revised Charter and the collective complaints procedure and on the drafting of national reports.

⁵ Article 22 of the 1961 Charter provides for a procedure relating to any provisions not accepted by States at the time of ratification. The aim of the meetings organised within the framework of this procedure is to review the situation every five years after the ratification and encourage the States concerned to accept more provisions.

Annex 7 : Meetings and teaching sessions, congresses and colloquies

- 2 Feb. Exchange of views between the Intra-Secretariat Task Force and Human Rights Commissioner, Thomas Hammarberg, Strasbourg.
- 19-20 Feb. Training on Collective Complaints procedure: organised by the Roma and Travellers Division and the Department of the European Social Charter, Strasbourg.
- 26 Feb. Group of Experts on Action Against Trafficking in Human Beings (GRETA) : Presentation of the ECSR and its working methods at the 1st meeting of GRETA, Strasbourg
- 26-27 Feb. First Conference of European Ministers responsible for Social Cohesion – Moscow, Russian Federation
- 4-5 March Training course on gender equality standards of the Revised European Social Charter : Joint project between the Council of Europe and the European Union - Kiev, Ukraine.
- 3 April Study visit “*La Suisse et les droits sociaux : des garanties juridiques à la réalité sociale*” (Switzerland and social rights: from legal guarantees to social reality) – Bern, Switzerland.
- 23 April *Colloquio internazionale sulla Convenzione europea dei diritti dell'uomo* (International Colloquy on the European Convention of Human Rights) – Turin, Italy.
- 27-29 April *Seminario Internacional sobre « Actualidad de los derechos sociales en Europa »* (International Seminar on recent developments in social rights in Europe) - Valencia, Spain.
- 13 May Presentation of the Charter to the Dutch Supreme Court, Strasbourg.

- 10 June The Role of the Council of Europe in the Human Rights Protection and in the strengthening of democracy and the rule of law on the territory of the SE Europe – Strasbourg.
- 11-12 June Justiciability of social rights on courts of constitutional jurisdiction and the European Court of Human Rights – Batumi, Georgia,
- 26 June *Journée d'études "Les droits fondamentaux : charnières entre ordres et systèmes juridiques* – Paris, France.
- 24 Aug. Presentation : Summer Course on Human Rights, organised jointly by the Dutch Human Rights Research School and the Catholic University Leuven, Strasbourg.
- 1 Sept. Presentation : *Programme d'études destiné aux élèves avocats de l'Ecole des Avocats du Grand Ouest* (Study programme for student lawyers from *l'Ecole des Avocats du Grand Ouest* – Strasbourg.
- 3-4 Sept. Round Table with Ombudsmen of the Russian Federation – St Petersburg, Russian Federation.
- 15-16 Sept. Workshop for specialised staff of national human rights structures – Budapest, Hungary.
- 21-22 Sept. Conférence internationale "Le rôle de la législation européenne dans le développement du droit social en Roumanie" – Bucarest, Roumanie
- 24-25 Sept. Derechos sociales y politicas publicas en el estatuto de autonomia para Andalucia, Sevilla, Spain.
- 24 Sept. Expert workshop « Human Rights responses to criminalisation migration in Europe », Paris, France.
- 28 Sept. Presentation of the European Social Charter to French judges (ENM), Strasbourg.

- 15-16 Oct. Colloquy « *Les droits sociaux constitutionnels sous l'optique de la Charte sociale européenne* », Marmara, Turkey.
- 28-29 Oct. Workshop on the justiciability of economic, social and cultural rights, Geneva, Switzerland.
- 7 Dec. Round table on « The social rights of refugees, asylum seekers and internally displaced persons : a comparative perspective », Strasbourg.

Annex 8 : Books and articles

- AKANDJI-COMBE J.F « Tonnerre de Brest ou pétard mouillé ? A propos de la déclaration d'inconventionnalité de la loi du 20 août 2008 »
La Semaine sociale Lamy, N° 1421, 16 novembre 2009, p. 10-13
- « Logement, droits fondamentaux et droit européen »
Droit au logement, droit du logement – Rapport public 2009 du Conseil d'Etat, La Documentation Française, 2009, p. 397-408
- AKILLIOGLU T. « Some critical considerations on the European Social Charter and the collective complaints protocol »
Studia z zakresu prawa pracy I polityki społecznej – Studies in labour law and social policy – Liber Amicorum Prof. Dr habil. Andrzej Marian Świątkowski, Kraków Rocznik, 2009, p. 60-69
- BELORGEY J-M « La Charte sociale en pratique : la jurisprudence du Comité européen des Droits sociaux »
Revista Europea de Derechos Fundamentales, N° 13, 1^{er} semestre 2009, p. 245-257
- BERNARD N. « Le droit au logement dans la Charte sociale révisée: à propos de la condamnation de la France par le Comité européen des Droits sociaux »
Revue trimestrielle des Droits de l'homme, Nemesis et Bruylant, N° 80, 1^{er} octobre 2009, p. 1061-1089
- BIRK R.
et MAACK N. « The Council of Europe and employee involvement in private enterprises »
The International Journal of Comparative Labour Law and Industrial Relations, Vol. 25, No. 2, June 2009, p. 123-135
- BRILLAT R. « La Charte sociale et son acceptation progressive par les Etats »
Revista Europea de Derechos fundamentales, N° 13, 1^{er} semestre 2009, p. 227-243
- « La Charte sociale européenne révisée : le défi des droits sociaux face à la pauvreté »
La pauvreté, un défi pour les droits de l'homme, sous la direction d'Emmanuel Decaux et Alice Yotopoulos-Marangopoulos, Editions A. Pedone, Paris, 2009, p. 59-69

« La Charte sociale européenne révisée : sa contribution à la mise en œuvre effective de la Déclaration universelle des droits de l'homme »

La Déclaration universelle des droits de l'homme 1948-2008 - Réalité d'un idéal commun ? - Les droits économiques, sociaux et culturels en question, Actes du colloque international organisé par la Commission nationale consultative des droits de l'homme et le Commissaire aux droits de l'homme du Conseil de l'Europe, les 16 et 17 octobre 2008 à Strasbourg, La Documentation française, 2009, p. 93-104

- CULLEN H. « The collective complaints system of the European Social Charter: interpretative methods of the European Committee of Social Rights» Human Rights Law Review, No. 9 (2009), p. 61-93
- DE SCHUTTER O. « The European Social Charter » International protection of human rights : a textbook, edited by Catarina Krause and Martin Scheinin, Åbo Akademi University Institute for Human Rights, 2009, p. 425-442
- GORI G. « Il Comitato europeo dei Diritti sociali : il ruolo e l'azione dell'organo di controllo della Carta sociale europea » I diritti economici, sociali e culturali – promozione e tutela nella comunità internazionale, a cura di Francesco Bestagno, Vita & Pensiero, Milano, 2009, p. 193-204
- JIMENA QUESADA L. « Crónica de la jurisprudencia del Comité Europeo de Derechos Sociales – 2009 » Revista Europea de Derechos Fundamentales, N° 14/2^e semestre 2009, p. 329-346
- « La Carta Social Europea y la Unión Europea » Revista Europea de Derechos Fundamentales, N° 13, 1^{er} semestre 2009, p. 389-407
- KONCAR P. « The evolution of international and European law in the field of social rights » Revista Europea de Derechos Fundamentales, N° 13, 1^{er} semestre 2009, p. 193-204

- KRISTENSEN H. « The European Committee of Social Rights and its case law on the negative freedom of association »
Studia z zakresu prawa pracy i polityki społecznej – Studies in labour law and social policy – Liber Amicorum Prof. Dr habil. Andrzej Marian Świątkowski, Kraków Rocznik, 2009, p. 275-284
- ŁASAK K. « Health and safety in the European Social Charter »
The International Journal of Comparative Labour Law and Industrial Relations, Volume 25, Issue 2, 2009, p. 109-122
- O’CINNEIDE C. « Bringing socio-economic rights back to the mainstream of human rights : the case-law of the European Committee of Social Rights as an example of rigorous and effective rights adjudication »
Revista Europea de Derechos Fundamentales, N° 13, 1^{er} semestre 2009, p. 259-299
- TRILSCH M. « European Committee of Social Rights: the right to a healthy environment »
International Journal of Constitutional Law, Volume 7, N° 3, July 2009, p. 529-538

Annex 9: Selected judicial decisions referring to the European Social Charter in 2009

France

- Cour administrative d'appel de Versailles, 23 juin 2009, Syndicat national des professions du tourisme (SNPT) c. Etablissement public du musée et du domaine national de Versailles
- Tribunal d'Instance de Brest, 27 octobre 2009, SDMO et CFDT c. FO et Beganton
- Tribunal d'Instance d'Annecy, 2 décembre 2009, Syndicat CFDT Protection Sociale de Haute Savoie c. M. Levando, Mme Lescanne-Desbiolles, Mmes Nanche, Jacquin, Perillat-Boiteux et M. Collard
- Tribunal d'Instance de Niort, 14 décembre 2009, Mutuelle des assurances des instituteurs de France FILIA-MAIF c. Syndicat libre et autonome es assurances

and also:

- .- délibération n° 2009 – 133 du 16 mars 2009 de la HALDE : constats dans el domaine du logement, principes devant guider la mise en œuvre de l'objectif de mixité sociale dans l'habitat, recommandations)
- délibération n° 2009 – 372 du 26 octobre 2009 de la HALDE sur les discriminations à l'égard des gens du voyage
- HALDE, 30 novembre 2009, FAPIL, GISTI, DAL, AFVS, FNARS : Conditions d'accès à la procédure DALO

Spain

- Tribunal Superior de Justicia de la Comunitat Valenciana, Sala de lo contencioso-administrativo, Recurso contencioso-administrativo n° 1504/2006, 24 octobre 2009, Dona Maria Victoria Bejarano Toledo y Don José Moreno Moreno c. Conselleria de Sanidad (Generalitat Valenciana)