



European
Social
Charter

Charte
Sociale
Européenne



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

10/4/2013

EUROPEAN SOCIAL CHARTER **OF 1961**

Comments from the "Working Group Social Charter" / GBR
on the
32nd Report by United Kingdom on the
implementation of the European Social
Charter (RAP/Cha/32/XX-2(2013))

Registered by the Secretariat on 3 March 2013

CYCLE XX-2
(2013)

Questions to the national members of INGOs

Reminder

Every year the States have to write a report showing that they are, or try to be, in conformity with their commitments concerning the European Social Charter. For so doing they answer the questionnaire that has been adopted by the Committee of Minister on 26 March 2008 and that didn't change since that date. The article of the Charter have been divided into four groups to be examined one group each year.

The year the articles are on health, social security and social protection

- Article 3 The right to safe and healthy working conditions
- Article 11 The right to protection of health
- Article 12 The right to social security
- Article 13 The right to social and medical assistance
- Article 14 The right to benefit from social welfare services
- Article 23 The right of elderly persons to social protection
- Article 30 The right to protection against poverty and social exclusion

What is the role of INGOs ?

Their role is to provide the Committee of Social Rights, by means of a common contribution, with information on the implementation of these rights "at grass root level".

In order to be able to achieve this, we have thought that each INGO could ask some basic and easy questions to their national members, to collect these answers and send them to the responsible of the Working Group on the European Social Charter for transmission to the Secretariat of the Social Charter.

It's clear that the aim is not to answer all the questions, but those that are in the INGO's field of work.

We propose here 3 or 4 questions for each article under scrutiny this year

In order to facilitate your work we give you for each article:

- The full text of the article. **Note:** don't propose changes in the article. The Social Charter is a treaty that has been negotiated with the States, adopted and ratified ; we can't change anything in the text of this treaty.
- The explanatory notes given by the Committee of Social Rights in the appendix to the articles (this is case-law that we can't change)
- The States that have not yet ratified whole of the article under scrutiny or one or the other of its paragraphs ;

As the Charter does exist in all European languages it will be enough for the INGO to quote the explanatory note and for each State, the articles and paragraphs that have not yet been ratified. It is mainly on the ratified parts that local organisation should consider whether there is a real implementation .

Agenda for the INGOs

- **Immediately** : contact their member organisations in all countries and ask for their answers to be sent by mail at latest for the 15th January
- **15 January** : send the answers to the responsible of the working group on the European Social Charter
- **Session in January**: meeting of the group for exchanging on the contributions and preparing our common contribution.

M.J. Schmitt responsable du WG Social Charter
Mail : mariejose.schmitt@nordnet.fr

Article 3 The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations :

1. to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising causes of hazards inherent in the working environment ;
2. to issue safety and health regulations ;
3. to provide for the enforcement of such regulations by measures of supervision;
4. to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions..

Appendix to article 3 §4

It is understood that for the purpose of this provision the functions, organisation and conditions of operation of these services shall be determined by national law or regulations, collective agreements or other means appropriate to national conditions .

Ratification :

Did not ratify whole of this article : Azerbaijan, Bosnia and Herzegovina, Croatia , Georgia, Latvia

Didn't ratify §3: Armenia, Finland, the former Yugoslav Republic of Macedonia.

Didn't ratify §4: Armenia, Cyprus, Estonia, Moldova, Norway, Romania, Sweden

QUESTIONS to the national members of your INGO

1. Do you have in your country a health service for work that is independent from the enterprises and that makes regular controls of hygiene and safety?

Yes; the Health and Safety Executive:

<http://www.hse.gov.uk/index.htm>

There is also an initiative on health and well-being at work:

<http://www.dwp.gov.uk/health-work-and-well-being/about-us/>

2. Have the organisations of employers and the organisations of workers a say in the organisation of the health service for work?

Yes.

3. Does your country have a specific legislation as to hygiene and safety at work ?

Yes

The Health and Safety at Work etc Act 1974 , also referred to as HSWA, HSW Act or HASAWA, is the primary piece of legislation covering occupational health and safety in Great Britain.

See here for more information.

<http://www.hse.gov.uk/legislation/hswa.htm>

Article 11 The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health ;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Only Armenia did not ratify this article.

QUESTIONS to the national members of your INGO

1. Are public and private health services accessible to the whole of the population?
(accessibility to non-nationals, to people with disabilities, financial accessibility)

Yes and the law requires the inclusion of all disabled people. However, we find that blind and partially sighted people are excluded in practice from many aspects of the health service. This most commonly occurs due to a failure to register the accessible format needs of blind and partially sighted people, and to provide information in accessible formats. This leads to missed appointments, misunderstanding of diagnoses and treatment, among other problems. RNIB has campaigned for change in this area but it is very hard to achieve widespread change in our health service.

More information can be found here:

http://www.rnib.org.uk/getinvolved/campaign/accesstoinformation/accessiblehealth/Pages/losing_patients_campaign.aspx

The UK health authorities also have a patchy record in approving effective treatment for people at risk of losing their sight from conditions such as age-related macular degeneration and glaucoma. More information can be found here:

http://www.rnib.org.uk/getinvolved/campaign/yoursight/saveoursight/Pages/save_our_sight.aspx

2. Generalisation of vaccination: is it possible that some groups of population are excluded from vaccination ?

As mentioned above, blind and partially sighted people are often, in practice, excluded from health services in the UK due to failures to provide them with health-related information in accessible formats. This includes information on vaccinations. If a blind person is not aware of the need for vaccinations, or of vaccinations on offer, due to inaccessible information on the matter, he or she is less likely to be vaccinated than others.

3. What are the provisions for the prevention of accidents on the streets and roads?

Although there are various laws on safety on our streets and roads, RNIB is concerned about some aspects of street design.

The proliferation of so-called “shared surfaces” in the street environment is having an adverse impact on access for many groups of disabled people, including those who are blind and partially sighted. (A shared surface is a new design concept for town centre and high street developments. In most cases the design involves removing the kerb that has traditionally separated areas for vehicles and pedestrians creating a shared surface street.)

Where a development is new or where existing facilities are being refurbished, equal access for everyone, including disabled people, should be ensured straight away.

We are also concerned about the danger of accidents from the increasing use of electric or “hybrid” electric/ petrol cars on our roads. RNIB supports campaigns to ensure that new electric vehicles are installed with warning sound devices to alert pedestrians to their presence.

4. What are the provisions for the prevention of drug addiction (information in the schools and others...?).

5. Are there other actions for health protection undertaken or to be undertaken in your country ?

Article 12 The right to social security

With a view to ensuring the effective exercise of the right to social security the Parties undertake:

1. to establish or maintain a system of social security ; ;
- 2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security ;
3. to endeavour to raise progressively the system of social security to a higher level ;
4. to take steps, by the conclusion of appropriate bilateral or multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure :
 - a. equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislations, whatever movements the protected persons may undertake between the territories of the Parties ;
 - b. the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties

Appendix to article 12§4

The words « and subject to the conditions laid down in such agreements » in the introduction of this paragraph are taken to imply inter alia that with regard to benefits which are available independently of

any insurance contribution, a Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Parties..

Didn't ratify whole of this article Albania, Azerbaijan, Croatia, Latvia, Ukraine.

Didn't ratify § 1 : Armenia, Bulgaria, Georgia, Hungary, Lithuania, Malta, Russian Federation, UK

Didn't ratify § 2 : Armenia, Bulgaria, Georgia, Hungary, Lithuania, Malta, Russian Federation, UK

Didn't ratify §3 : Bosnia and Herzegovina, Hungary , Russian Federation, UK

Didn't ratify §4 : Armenia, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary , Malta (2) Russian Federation, Sweden UK .

QUESTIONS to the national members of your INGO

RNIB regrets that the UK has not ratified this article, given the great importance of social security to many blind and partially sighted people in the UK.

1 . Do you have in your country a social security system that covers really health, illness, old age, unemployment, work accidents, family, motherhood, invalidity and survivors?

Yes, we do, but it is being eroded by government budget cuts.

<http://www.rnib.org.uk/getinvolved/campaign/hardest-hit/Pages/hardest-hit.aspx>

As RNIB said in its October 2012 report on this matter, "cuts that are inconsistent with the goal of independent living undermine the rights of disabled people enshrined in the UN Convention on the Rights of Persons with Disabilities (UNCRPD)¹. Moreover, they jeopardise the vision set out by the Prime Minister of an 'aspiration nation'² that unlocks the promise of all people. Disabled people want to work and contribute to their communities but too many hurdles are being put in their way."

2. What is the level of the minimum income (daily or per hour) that is guaranteed by the social security system in case of illness? How many days are not covered?

3. What are the conditions for being admitted to the social security system in your country? (length of stay in the country, being borne in the country, bilateral or multilateral agreements?)

The UK benefits system is undergoing a major overhaul, partly with a view to improving work incentives but to a very large extent as a means of reducing the deficit. Very significant cuts are taking place, £18 billion a year in fact, £9 billion of which the respected think tank Demos estimates will affect disabled people and their households. Part of this "cuts agenda" involves redefining, more narrowly, who can access disability benefits, which are being seriously reduced as a result.

¹ www.un.org/disabilities/convention/conventionfull.shtml.

² set out by the Prime Minister in his Party Conference speech on October 10th 2012.

Article 13 : The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraph 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed in Paris on 11 December 1953.

Appendix to article 13§4

Governments not Parties to the Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

Didn't ratify whole of this article : Albania, Azerbaijan, Georgia, Russian Federation, Ukraine

Didn't ratify §1: Cyprus, Poland,, Slovenia

Didn't ratify §3 : Armenia,

Didn't ratify §4: Armenia, Bosnia and Herzegovina, Bulgaria, Estonia, Lithuania, Moldova, Poland, Romania, Slovak Republic, and Slovenia.

QUESTIONS to the national members of your INGO

Note: This article concerns those persons who don't work or are no more working

1. What are the main actors of social assistance in your country?

The main three are the local government authorities for social care; the National Health Service (NHS) for healthcare and the Government's Department for Work and Pensions (DWP) for benefits. Provision from all of these sources is being reduced or rationed in some form. This erosion is undermining the UK government's commitment under Article 13.1 that blind and partially sighted people "be granted adequate assistance".

Cuts to provision of sight-saving treatments, mentioned above, could be said to run contrary to wording in 13.1 that UK nationals be granted the care necessitated by their condition.

2. Who is benefiting from this assistance?

Many blind and partially sighted people require assistance from all three- social care from local government, healthcare from the NHS and benefits from the DWP. That is why the reduction of this provision is of such concern to RNIB.

3. What are the links established between actors of medical care and actors of social care?
4. How does your country secure the competence and quality of these services? Controls?
5. In cases of emergency persons who are not legally on the territory of a State should be provided with medical care as well as with housing, clothing and food. How does this work in your country?

Article 14 The right to benefit from social welfare services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Didn't ratify whole of this article : Albania, Moldova, Romania, Former Yugoslav Republic of Macedonia

QUESTIONS to the national members of your INGO

1. Are the social services in your country suffering from the present crisis (lowering of financial means, more people asking for help??)

Very much so. This extract from the "Tipping point" report 2012, mentioned above, gives an overview of the kind of deterioration we are facing:

"The Association of Directors of Adult Social Services (ADASS) reports that savings in care and support have been achieved through a combination of efficiencies, reduced service provision and increased charges. Increased charges of £77million are likely to affect access to basic care services. Data from 93 out of 153 councils in England showed disabled and older people who have to pay charges for meals on wheels have seen fees go up by 13 per cent over the last two years, while transport fees rose by 33 per cent³. Moreover, ADASS reports that 85 per cent of councils now restrict care to people with 'substantial' and 'critical' needs, which are thresholds proving ever more difficult to reach in terms of proving eligibility⁴.

£2bn being taken out of care budgets:

Directors of adult social services in England are in the process of taking £890million out of the nation's total social care budget between April this year and March 2013⁵. When combined with last year's figures, the cumulative reduction in adult social care budgets is £1.89bn - at a time when growing pressures from rising numbers of older and disabled adults continues to grow at three per cent per

³ A survey of care provided by local councils, published by the Labour Party (30/12/11).

⁴ ADASS Budget Survey (April/May 2012).

⁵ Ibid.

year⁶. Furthermore, Age UK and Carers UK estimate £4bn is now being lost as a result of people leaving work to look after elderly or disabled relatives, with the Treasury losing £1bn of taxes they would otherwise have paid. The charities have warned that the missing £5bn is equivalent to more than 0.3 per cent of Britain's gross domestic product (GDP) and the status quo would get worse if we see continuing cuts to care budgets⁷."

2. Are there groups of population that don't have access to social services?

RNIB is most concerned that some blind and partially sighted people will be excluded from social service provision as more and more local authorities ration services solely to those they deem to have "critical" need.

⁶ Ibid.

⁷ Age UK and Carers UK (2012) Estimation of the Financial Impact of Leaving Work due to Caring Responsibilities.

Article 23 The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in cooperation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society as long as possible , by means of:
 - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
 - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
 - a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
 - b. the health care and the services necessitated by their state ;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

APPENDIX to article 23, paragraphe 1

For the purpose of the application of this paragraph, the term “ for as long as possible” refers to the elderly person’s physical, psychological and intellectual capacities.

Note : for those State that have only ratified the first Charter of 1961 this article 23 is the article 4 of the additional, protocol; the wording is the same

Didn’t ratify whole of this article : Albania, Germany, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Cyprus, Croatia, Estonia, Georgia, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Moldova, Poland, Romania, the Russian Federation, the former Yugoslav republic of Macedonia, UK,

QUESTIONS to the national members of your INGO

1. Does your country develop o policy for allowing elderly persons to remain in their familiar surroundings?

If so, are there :

- Helps for adaptations in their home?
- Helps for their daily life?

RNIB notes that the UK has not ratified the whole of this Article. The UK is still bound by the UN Convention on the Rights of Persons with Disabilities, which it has both signed and ratified. Article 19 of the Convention states:

“Article 19

Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community...”

In 2010 RNIB asked blind and partially sighted people about the UK’s current and planned efforts to meet the requirements of Article 19.

The feedback identified many barriers. The top three were a lack of public service personnel awareness and understanding of visual impairment and disability generally; a lack of information in accessible formats and inaccessible consumer goods and services.

Generally, as people get older they are increasingly likely to experience sight loss, and therefore, in the UK’s ageing population, one in five people aged 75 and over and one in two people aged 90 and over are living with sight loss.

Social services in the UK to provide assistance designed to help older people, including those with sight loss, live independently at home. However, as mentioned above, cuts to the social care budgets and disability benefits are having a serious and damaging impact on disabled, and older, people. Often, the payment of benefits such as “Disability Living Allowance” (DLA) are the difference between an older, disabled person being able to continue to live independently in their own home, or going into residential care. As these benefits are cut for people in their late fifties and early sixties, adults approaching older age will find their independence is being undermined, which in turn undermines the achievement of the aims of Article 23.

2. Is a financial support available for them?

Yes, but as mentioned, many local authorities now restrict such support to the most “critical” cases, leaving others with significant care needs without sufficient provision.

3. Is there a legal provision for helps to decision making and for the protection of the person? Is an appropriate training provided to those who are responsible for this legal protection?

4. Is an appropriate training provided to all those who are involved in providing support to elderly persons? What kind of training? E

Article 30 The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b. to review these measures with a view to their adaptation if necessary.

Didn’t ratify this article :

- The States that are only Parties to the Charter of 1061: Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Poland, Spain, UK
- Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Hungary, Lithuania, Malta, Moldova, Montenegro, Romania, Russian Federation, the former Yugoslav republic of Macedonia.

QUESTIONS to the national members of your INGO

RNIB notes that the UK did not ratify this Article. It has, however, ratified the UN Convention on the Rights of Persons with Disabilities, which is built on the principle of the full inclusion in society of all disabled people.

1. Do you observe an increase in poverty in your country?

Yes. Whilst most sectors of society have become poorer in the last few years, the impact of deficit-reduction cuts has been more keenly felt by disabled people. Blind and partially sighted people are among the poorest in society, with two thirds being unemployed and many surviving on small pensions. Blind and partially sighted people have suffered from the cumulative impact of cuts to welfare, social services and other infrastructure such as- to give just one example- buses upon which they rely more than those who can drive.

2. Which group of population does the most experience poverty :

- young people
- unemployed
- elderly persons
- single families

RNIB is not in a position to create a “league table of the impoverished”, but as stated in 1. blind and partially sighted people are among the most affected by the economic crisis and the cuts that have ensued.

3. What is, for you, the meaning of “extreme poverty”

Thank you for sending your answers as soon as possible

AIC UK

De : Elspeth Robinson, President AIC UK

Envoyé : mercredi 16 janvier 2013 8:20

À : Natalie Monteza

QUESTIONS FROM THE INGOS (INTERNATIONAL NGOS) TO THEIR MEMBER ASSOCIATIONS

1. Have you noticed an increase in poverty in your country? **Yes, this is due to both global and national issues.**

2. Which is the group in the population which has been most affected: **Difficult to distinguish between the groups. Poverty affects each one.**

- Young people *Lack of employment opportunities and closures of businesses lead to many unemployed school and college leavers. University fees have risen steeply which prevents many poorer youngsters being unable to attend. There is a lack of education in the management of personal economics.*
- Unemployed people *Many people are unemployed due to lack of job vacancies or ill-health. For some, there is lack of motivation as benefits may exceed income causing unemployment to be more attractive. These issues are being addressed by our Government.*
- Elderly people *State Pensions are insufficient for basic living needs causing elderly people to be unable to live at an acceptable living standard unless they have other financial resources to back up their pension.*
- Single parent homes *There are systems in place for single parents regarding housing, child care and benefits but I do not know the full effect of their position in relation to poverty.*
- *Lack of housing leads to overcrowding and frustration amongst the poor or unemployed.*

3. What do you understand by « great poverty » *Social, economic and physical deprivation of the basic needs for an acceptable living standard.*