

# European Social Charter

Collected texts (7th edition)

Updated: 1st January 2015



European  
Social  
Charter

Charte  
sociale  
européenne

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



# European Social Charter

**Collected texts (7th edition)**  
(updated to 1st January 2015)



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# Introduction

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## **The European Social Charter: a continually developing treaty**

This seventh edition of the Collected Texts is an update of the previous edition (30 June 2008) to the position as of 1 January 2015. Its purpose is to provide a clear and current account of all of the relevant instruments, and the functioning of the various bodies which participate in the monitoring procedures, for all interested persons.

The text of the European Social Charter and its three protocols, that of the Revised Charter – along with a chart of the signatures and ratifications of each instrument, and reservations and declarations thereto – as well as the explanatory reports of the protocols and the Revised Charter, are included in the compilation. It also contains the texts of the Rules of Procedure of the European Committee of Social Rights, and of the Governmental Committee.

For each reporting cycle, references to the documents of the monitoring bodies are provided.

For more information on the Council of Europe's European Social Charter, please see the Council of Europe website: [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

*Régis Brillat*  
Head of the Department of the European Social Charter  
Executive Secretary of the European Committee of Social  
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# I. Basic texts

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## A. European Social Charter and Protocols

### 1. European Social Charter of 1961

#### Preamble

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950, and the Protocol thereto signed at Paris on 20th March 1952, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin;

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of both their urban and rural populations by means of appropriate institutions and action,

Have agreed as follows:

#### Part I

The Contracting Parties accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
2. All workers have the right to just conditions of work.
3. All workers have the right to safe and healthy working conditions.
4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.

5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
6. All workers and employers have the right to bargain collectively.
7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
8. Employed women, in case of maternity, and other employed women as appropriate, have the right to a special protection in their work.
9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
10. Everyone has the right to appropriate facilities for vocational training.
11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
12. All workers and their dependents have the right to social security.
13. Anyone without adequate resources has the right to social and medical assistance.
14. Everyone has the right to benefit from social welfare services.
15. Disabled persons have the right to vocational training, rehabilitation and resettlement, whatever the origin and nature of their disability.
16. The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
17. Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection.
18. The nationals of any one of the Contracting Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
19. Migrant workers who are nationals of a Contracting Party and their families have the right to protection and assistance in the territory of any other Contracting Party.

## Part II

The Contracting Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

### ■ Article 1 – The right to work

With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;

3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

#### ■ **Article 2** – The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of two weeks annual holiday with pay;
4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

#### ■ **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 Contracting Parties undertake:

1. to issue safety and health regulations;
2. to provide for the enforcement of such regulations by measures of supervision;
3. to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health.

#### ■ **Article 4** – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

## ■ Article 5 – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

## ■ Article 6 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

## ■ Article 7 – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

1. to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under sixteen years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under eighteen years of age shall be entitled to not less than three weeks' annual holiday with pay;
8. to provide that persons under eighteen years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under eighteen years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

#### ■ **Article 8** – The right of employed women to protection

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least twelve weeks;
2. to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. *a.* to regulate the employment of women workers on night work in industrial employment;
- b.* to prohibit the employment of women workers in underground mining, and, as appropriate, on all other work which is unsuitable for them by reason of its dangerous, unhealthy, or arduous nature.

#### ■ **Article 9** – The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

#### ■ **Article 10** – The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Contracting Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers'

- and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
  3. to provide or promote, as necessary:
    - a. adequate and readily available training facilities for adult workers;
    - b. special facilities for the re-training of adult workers needed as a result of technological development or new trends in employment;
  4. to encourage the full utilisation of the facilities provided by appropriate measures such as:
    - a. reducing or abolishing any fees or charges;
    - b. granting financial assistance in appropriate cases;
    - c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
    - d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

#### ■ **Article 11** – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation 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.

#### ■ **Article 12** – The right to social security

With a view to ensuring the effective exercise of the right to social security, the Contracting 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 required for ratification of International Labour Convention (No. 102) Concerning Minimum Standards 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 and 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 Contracting Parties in respect of social security rights, including the



retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting 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 Contracting Parties.

#### ■ **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 Contracting 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 a 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 a 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 paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

#### ■ **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 Contracting 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.

#### ■ **Article 15** – The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

With a view to ensuring the effective exercise of the right of the physically or mentally disabled to vocational training, rehabilitation and resettlement, the Contracting Parties undertake:

1. to take adequate measures for the provision of training facilities, including, where necessary, specialised institutions, public or private;
2. to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.

■ **Article 16** – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

■ **Article 17** – The right of mothers and children to social and economic protection

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

■ **Article 18** – The right to engage in a gainful occupation in the territory of other Contracting Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;  
and recognise:
4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.

■ **Article 19** – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;
2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;
3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;
4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control

- of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
- a. remuneration and other employment and working conditions;
  - b. membership of trade unions and enjoyment of the benefits of collective bargaining;
  - c. accommodation;
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
  6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
  7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
  8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
  9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
  10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

### Part III

#### ■ Article 20 – Undertakings

1. Each of the Contracting Parties undertakes:
  - a. to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
  - b. to consider itself bound by at least five of the following articles of Part II of this Charter: Articles 1, 5, 6, 12, 13, 16 and 19;
  - c. in addition to the articles selected by it in accordance with the preceding sub-paragraph, to consider itself bound by such a number of articles or numbered paragraphs of Part II of the Charter as it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than 10 articles or 45 numbered paragraphs.
2. The articles or paragraphs selected in accordance with sub-paragraphs b and c of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification or approval of the Contracting Party concerned is deposited.
3. Any Contracting Party may, at a later date, declare by notification to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings

subsequently given shall be deemed to be an integral part of the ratification or approval, and shall have the same effect as from the thirtieth day after the date of the notification.

4. The Secretary General shall communicate to all the signatory governments and to the Director General of the International Labour Office any notification which he shall have received pursuant to this part of the Charter.
5. Each Contracting Party shall maintain a system of labour inspection appropriate to national conditions.

## Part IV<sup>1</sup>

### ■ **Article 21** – Reports concerning accepted provisions

The Contracting Parties shall send to the Secretary General of the Council of Europe a report at two-yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

### ■ **Article 22** – Reports concerning provisions which are not accepted

The Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

### ■ **Article 23** – Communication of copies

1. Each Contracting Party shall communicate copies of its reports referred to in Articles 21 and 22 to such of its national organisations as are members of the international organisations of employers and trade unions to be invited under Article 27, paragraph 2, to be represented at meetings of the Sub-committee of the Governmental Social Committee.
2. The Contracting Parties shall forward to the Secretary General any comments on the said reports received from these national organisations, if so requested by them.

### ■ **Article 24** – Examination of the reports

The reports sent to the Secretary General in accordance with Articles 21 and 22 shall be examined by a Committee of Experts, who shall have also before them any comments forwarded to the Secretary General in accordance with paragraph 2 of Article 23.

### ■ **Article 25** – Committee of Experts<sup>2</sup>

1. The Committee of Experts shall consist of not more than seven members appointed by the Committee of Ministers from a list of independent experts

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1. See Amending Protocol.

2. At the Deputies' 509th meeting in March 1994, the committee unanimously decided to increase the committee's membership from seven to nine. The committee is now called the European Committee of Social Rights.

of the highest integrity and of recognised competence in international social questions, nominated by the Contracting Parties.

2. The members of the committee shall be appointed for a period of six years. They may be reappointed. However, of the members first appointed, the terms of office of two members shall expire at the end of four years.
3. The members whose terms of office are to expire at the end of the initial period of four years shall be chosen by lot by the Committee of Ministers immediately after the first appointment has been made.
4. A member of the Committee of Experts appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

#### ■ **Article 26** – Participation of the International Labour Organisation

The International Labour Organisation shall be invited to nominate a representative to participate in a consultative capacity in the deliberations of the Committee of Experts.

#### ■ **Article 27** – Sub-committee of the Governmental Social Committee<sup>3</sup>

1. The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a sub-committee of the Governmental Social Committee of the Council of Europe.
2. The sub-committee shall be composed of one representative of each of the Contracting Parties. It shall invite no more than two international organisations of employers and no more than two international trade union organisations as it may designate to be represented as observers in a consultative capacity at its meetings. Moreover, it may consult no more than two representatives of international non-governmental organisations having consultative status with the Council of Europe, in respect of questions with which the organisations are particularly qualified to deal, such as social welfare, and the economic and social protection of the family.
3. The sub-committee shall present to the Committee of Ministers a report containing its conclusions and append the report of the Committee of Experts.

#### ■ **Article 28** – Consultative Assembly<sup>4</sup>

The Secretary General of the Council of Europe shall transmit to the Consultative Assembly the conclusions of the Committee of Experts. The Consultative Assembly shall communicate its views on these conclusions to the Committee of Ministers.

#### ■ **Article 29** – Committee of Ministers<sup>5</sup>

By a majority of two-thirds of the members entitled to sit on the Committee, the Committee of Ministers may, on the basis of the report of the sub-committee, and

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3. The committee is now called the Governmental Committee.

4. In 1992, the Parliamentary Assembly decided to abstain from giving opinions on the conclusion of the Committee of Independent Experts and to use these conclusions as a basis for the periodical debates on social policy which it would be led to hold according to Article 6 of the Amending Protocol.

5. The Committee of Ministers decided that only the representatives of Contracting Parties to the Charter could vote in the Committee of Ministers when the latter acted as the "supervisory body" of the application of the Charter (April 1993, 492nd meeting of the Deputies). The latter

after consultation with the Consultative Assembly, make to each Contracting Party any necessary recommendations.

## Part V

### ■ Article 30 – Derogations in time of war or public emergency

1. In time of war or other public emergency threatening the life of the nation any Contracting Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. Any Contracting Party which has availed itself of this right of derogation shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.
3. The Secretary General shall in turn inform other Contracting Parties and the Director General of the International Labour Office of all communications received in accordance with paragraph 2 of this Article.

### ■ Article 31 – Restrictions

1. The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those parts, except such as are prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.
2. The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

### ■ Article 32 – Relations between the Charter and domestic law or international agreements

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral treaties, conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

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was supplemented in June 1995 (541st meeting of the Deputies) by the following decision: "The Deputies specified that following their decision, adopted at the 492nd meeting [...] whereby "only the Representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter", Recommendations under the European Social Charter are adopted by a majority of two-thirds of the Deputies casting a vote and a majority of the Contracting Parties to the Charter, (Article 9, paragraph 4, taken together with Article 10, paragraph 3, of the Rules of Procedure for the meetings of the Deputies)."

### ■ **Article 33** – Implementation by collective agreements

1. In member States where the provisions of paragraphs 1, 2, 3, 4 and 5 of Article 2, paragraphs 4, 6 and 7 of Article 7 and paragraphs 1, 2, 3 and 4 of Article 10 of Part II of this Charter are matters normally left to agreements between employers or employers' organisations and workers' organisations, or are normally carried out otherwise than by law, the undertakings of those paragraphs may be given and compliance with them shall be treated as effective if their provisions are applied through such agreements or other means to the great majority of the workers concerned.
2. In member States where these provisions are normally the subject of legislation, the undertakings concerned may likewise be given, and compliance with them shall be regarded as effective if the provisions are applied by law to the great majority of the workers concerned.

### ■ **Article 34** – Territorial application

1. This Charter shall apply to the metropolitan territory of each Contracting Party. Each signatory government may, at the time of signature or of the deposit of its instrument of ratification or approval, specify, by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.
2. Any Contracting Party may, at the time of ratification or approval of this Charter or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify in the declaration the articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.
3. The Charter shall extend to the territory or territories named in the aforesaid declaration as from the thirtieth day after the date on which the Secretary General shall have received notification of such declaration.
4. Any Contracting Party may declare at a later date, by notification addressed to the Secretary General of the Council of Europe, that, in respect of one or more of the territories to which the Charter has been extended in accordance with paragraph 2 of this Article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the thirtieth day after the date of the notification.
5. The Secretary General shall communicate to the other signatory governments and to the Director General of the International Labour Office any notification transmitted to him in accordance with this Article.

### ■ **Article 35** – Signature, ratification and entry into force

1. This Charter shall be open for signature by the members of the Council of Europe. It shall be ratified or approved. Instruments of ratification or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Charter shall come into force as from the thirtieth day after the date of deposit of the fifth instrument of ratification or approval.
3. In respect of any signatory government ratifying subsequently, the Charter shall come into force as from the thirtieth day after the date of deposit of its instrument of ratification or approval.
4. The Secretary General shall notify all the members of the Council of Europe and the Director General of the International Labour Office of the entry into force of the Charter, the names of the Contracting Parties which have ratified or approved it and the subsequent deposit of any instruments of ratification or approval.

### ■ **Article 36** – Amendments

Any member of the Council of Europe may propose amendments to this Charter in a communication addressed to the Secretary General of the Council of Europe. The Secretary General shall transmit to the other members of the Council of Europe any amendments so proposed, which shall then be considered by the Committee of Ministers and submitted to the Consultative Assembly for opinion. Any amendments approved by the Committee of Ministers shall enter into force as from the thirtieth day after all the Contracting Parties have informed the Secretary General of their acceptance. The Secretary General shall notify all the members of the Council of Europe and the Director General of the International Labour Office of the entry into force of such amendments.

### ■ **Article 37** – Denunciation

1. Any Contracting Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it, or at the end of any successive period of two years, and, in each case, after giving six months notice to the Secretary General of the Council of Europe who shall inform the other Parties and the Director General of the International Labour Office accordingly. Such denunciation shall not affect the validity of the Charter in respect of the other Contracting Parties provided that at all times there are not less than five such Contracting Parties.
2. Any Contracting Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article or paragraph of Part II of the Charter accepted by it provided that the number of articles or paragraphs by which this Contracting Party is bound shall never be less than 10 in the former case and 45 in the latter and that this number of articles or paragraphs shall continue to include the articles selected by the Contracting Party among those to which special reference is made in Article 20, paragraph 1, sub-paragraph b.



3. Any Contracting Party may denounce the present Charter or any of the articles or paragraphs of Part II of the Charter, under the conditions specified in paragraph 1 of this Article in respect of any territory to which the said Charter is applicable by virtue of a declaration made in accordance with paragraph 2 of Article 34.

### ■ **Article 38** – Appendix

The appendix to this Charter shall form an integral part of it.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Charter.

Done at Turin, this 18th day of October 1961, in English and French, both texts being equally authoritative, in a single copy which shall be deposited within the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the Signatories.

### **Appendix to the Social Charter**

#### *Scope of the Social Charter in terms of persons protected*

1. Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other Contracting Parties lawfully resident or working regularly within the territory of the Contracting Party concerned, subject to the understanding that these Articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Contracting Parties.

2. Each Contracting Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28th July 1951, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Contracting Party under the said Convention and under any other existing international instruments applicable to those refugees.

### **Part I, paragraph 18, and Part II, Article 18, paragraph 1**

It is understood that these provisions are not concerned with the question of entry into the territories of the Contracting Parties and do not prejudice the provisions of the European Convention on Establishment, signed at Paris on 13th December 1955.

### **Part II**

#### ■ **Article 1**, paragraph 2

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

#### ■ **Article 4**, paragraph 4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

#### ■ Article 4, paragraph 5

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

#### ■ Article 6, paragraph 4

It is understood that each Contracting Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article 31.

#### ■ Article 7, paragraph 8

It is understood that a Contracting Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

#### ■ Article 12, paragraph 4

The words “and subject to the conditions laid down in such agreements” in the introduction to this paragraph are taken to imply *inter alia* that with regard to benefits which are available independently of any insurance contribution a Contracting Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Contracting Parties.

#### ■ Article 13, paragraph 4

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

#### ■ Article 19, paragraph 6

For the purpose of this provision, the term “family of a foreign worker” is understood to mean at least his wife and dependent children under the age of twenty-one years.

### Part III

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

#### ■ Article 20, paragraph 1

It is understood that the “numbered paragraphs” may include articles consisting of only one paragraph.

### Part V

#### ■ Article 30

The term “in time of war or other public emergency” shall be so understood as to cover also the threat of war.

## 2. Additional Protocol of 1988

### Preamble

The member States of the Council of Europe signatory hereto, resolved to take new measures to extend the protection of the social and economic rights guaranteed by the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as “the Charter”),

Have agreed as follows:

### Part I

The Parties accept as the aim of their policy to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.
2. Workers have the right to be informed and to be consulted within the undertaking.
3. Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.
4. Every elderly person has the right to social protection.

### Part II

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles:

■ **Article 1** – Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

1. With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:
  - ▶ access to employment, protection against dismissal and occupational resettlement;
  - ▶ vocational guidance, training, retraining and rehabilitation;
  - ▶ terms of employment and working conditions including remuneration;
  - ▶ career development including promotion.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in paragraph 1 of this Article.
3. Paragraph 1 of this Article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.

4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this Article or some of its provisions.

■ **Article 2** – Right to information and consultation

1. With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:
  - a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
  - b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.
2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

■ **Article 3** – Right to take part in the determination and improvement of the working conditions and working environment

1. With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:
  - a. to the determination and the improvement of the working conditions, work organisation and working environment;
  - b. to the protection of health and safety within the undertaking;
  - c. to the organisation of social and socio-cultural services and facilities within the undertaking;
  - d. to the supervision of the observance of regulations on these matters.
2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

■ **Article 4** – 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 co-operation with public or private organisations, appropriate measures designed in particular:

1. to enable elderly persons to remain full members of society for 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;
- 2. 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;
- 3. to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

### Part III

#### ■ Article 5 – Undertakings

1. Each of the Parties undertakes:
  - a. to consider Part I of this Protocol as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that Part;
  - b. to consider itself bound by one or more articles of Part II of this Protocol.
2. The article or articles selected in accordance with sub-paragraph *b* of paragraph 1 of this Article, shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification, acceptance or approval of the Contracting State concerned is deposited.
3. And Party may, at a later day, declare by notification to the Secretary General that it considers itself bound by any articles of Part II of this Protocol which it has not already accepted under the terms of paragraph 1 of this Article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval, and shall have the same effect as from the thirtieth day after the date of the notification.

### Part IV

#### ■ Article 6 – Supervision of compliance with the undertakings given

The Parties shall submit reports on the application of those provisions of Part II of this Protocol which they have accepted in the reports submitted by virtue of Article 21 of the Charter.

### Part V

#### ■ Article 7 – Implementation of the undertakings given

1. The relevant provisions of Articles 1 to 4 of Part II of this Protocol may be implemented by:
  - a. laws or regulations;
  - b. agreements between employers or employers' organisations and workers' organisations;

- c. a combination of those two methods; or
    - d. other appropriate means.
  2. Compliance with the undertakings deriving from Articles 2 and 3 of Part II of this Protocol shall be regarded as effective if the provisions are applied, in accordance with paragraph 1 of this Article, to the great majority of the workers concerned.

■ **Article 8** – Relations between the Charter and this Protocol

1. The provisions of this Protocol shall not prejudice the provisions of the Charter.
2. Articles 22 to 32 and Article 36 of the Charter shall apply, *mutatis mutandis*, to this Protocol.

■ **Article 9** – Territorial application

1. This Protocol shall apply to the metropolitan territory of each Party. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.
2. Any Contracting State may, at the time of ratification, acceptance or approval of this Protocol or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe that the Protocol shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify in the declaration the article or articles of Part II of this Protocol which it accepts as binding in respect of the territories named in the declaration.
3. This Protocol shall enter into force in respect of the territory or territories named in the aforesaid declaration as from the thirtieth day after the date on which the Secretary General shall have notification of such declaration.
4. Any Party may declare at a later date by notification addressed to the Secretary General of the Council of Europe, that, in respect of one or more of the territories to which this Protocol has been extended in accordance with paragraph 2 of this Article, it accepts as binding any articles which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the thirtieth day after the date on which the Secretary General shall have notification of such declaration.

■ **Article 10** – Signature, ratification, acceptance, approval and entry into force

1. This Protocol shall be open for signature by member States of the Council of Europe who are signatories to the Charter. It is subject to ratification, acceptance or approval. No member State of the Council of Europe shall ratify, accept or approve this Protocol except at the same time as or after ratification of the Charter. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Protocol shall enter into force on the thirtieth day after the date of deposit of the third instrument of ratification, acceptance or approval.
3. In respect of any signatory State ratifying subsequently, this Protocol shall come into force as from the thirtieth day after the date of deposit of its instrument of ratification, acceptance or approval.

#### ■ **Article 11** – Denunciation

1. Any Party may denounce this Protocol only at the end of a period of five years from the date on which the Protocol entered into force for it, or at the end of any successive period of two years, and, in each case, after giving six months' notice to the Secretary General of the Council of Europe. Such denunciation shall not affect the validity of the Protocol in respect of the other Parties provided that at all times there are not less than three such Parties.
2. Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article of Part II of this Protocol accepted by it, provided that the number of articles by which this Party is bound shall never be less than one.
3. Any Party may denounce this Protocol or any of the articles of Part II of the Protocol, under the conditions specified in paragraph 1 of this Article, in respect of any territory to which the Protocol is applicable by virtue of a declaration made in accordance with paragraphs 2 and 4 of Article 9.
4. Any Party bound by the Charter and this Protocol which denounces the Charter in accordance with the provisions of paragraph 1 of Article 37 thereof, will be considered to have denounced the Protocol likewise.

#### ■ **Article 12** – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council and the Director General of the International Labour Office of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Protocol in accordance with Articles 9 and 10;
- d. any other act, notification or communication relating to this Protocol.

#### ■ **Article 13** – Appendix

The Appendix to this Protocol shall form an integral part of it.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 5th day of May, 1988, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council in Europe shall transmit certified copies to each member State of the Council of Europe.

## Appendix to the Protocol

### *Scope of the Protocol in terms of persons protected*

1. The persons covered by Articles 1 to 4 include foreigners only insofar as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19 of the Charter. This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.
2. Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instruments and under any other existing international instruments applicable to those refugees.
3. Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done at New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

#### ■ Article 1

It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this Article.

#### ■ Article 1, paragraph 4

This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

#### ■ Articles 2 and 3

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The term "national legislation and practice" embraces as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs, as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3 Establishments pursuing



activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a State the rights set out in Articles 2 and 3 are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

### ■ Article 3

This provision affects neither the powers and obligations of States as regards the adoption of health and safety regulations for work-places, nor the powers and responsibilities of the bodies in charge of monitoring their application.

The terms social and socio-cultural services and facilities" are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

### ■ Article 4, paragraph 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.

### ■ Article 7

It is understood that workers excluded in accordance with paragraph 2 of Article 2 and paragraph 2 of Article 3 are not taken into account in establishing the number of workers concerned.

## 3. Amending Protocol of 1991

### Preamble

The member States of the Council of Europe, signatory to this Protocol to the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as "the Charter"),

Being resolved to take some measures to improve the effectiveness of the Charter, and particularly the functioning of its supervisory machinery;

Considering therefore that it is desirable to amend certain provisions of the Charter,

Have agreed as follows:

### ■ Article 1

Article 23 of the Charter shall read as follows:

"Article 23 – Communication of copies of reports and comments

1. When sending to the Secretary General a report pursuant to Articles 21 and 22, each Contracting Party shall forward a copy of that report to such of its national organisations as are members of the international organisations

of employers and trade unions invited, under Article 27, paragraph 2, to be represented at meetings of the Governmental Committee. Those organisations shall send to the Secretary General any comments on the reports of the Contracting Parties. The Secretary General shall send a copy of those comments to the Contracting Parties concerned, who might wish to respond.

2. The Secretary General shall forward a copy of the reports of the Contracting Parties to the international non-governmental organisations which have consultative status with the Council of Europe and have particular competence in the matters governed by the present Charter.
3. The reports and comments referred to in Articles 21 and 22 and in the present article shall be made available to the public on request.”

## ■ Article 2

Article 24 of the Charter shall read as follows:

“Article 24 – Examination of the reports

1. The reports sent to the Secretary General in accordance with Articles 21 and 22 shall be examined by a Committee of Independent Experts constituted pursuant to Article 25. The committee shall also have before it any comments forwarded to the Secretary General in accordance with paragraph 1 of Article 23. On completion of its examination, the Committee of Independent Experts shall draw up a report containing its conclusions.
2. With regard to the reports referred to in Article 21, the Committee of Independent Experts shall assess from a legal standpoint the compliance of national law and practice with the obligations arising from the Charter for the Contracting Parties concerned.
3. The Committee of Independent Experts may address requests for additional information and clarification directly to Contracting Parties. In this connection the Committee of Independent Experts may also hold, if necessary, a meeting with the representatives of a Contracting Party, either on its own initiative or at the request of the Contracting Party concerned. The organisations referred to in paragraph 1 of Article 23 shall be kept informed.
4. The conclusions of the Committee of Independent Experts shall be made public and communicated by the Secretary General to the Governmental Committee, to the Parliamentary Assembly and to the organisations which are mentioned in paragraph 1 of Article 23 and paragraph 2 of Article 27.”

## ■ Article 3

Article 25 of the Charter shall read as follows:

“Article 25 – Committee of Independent Experts

1. The Committee of Independent Experts shall consist of at least nine members elected by the Parliamentary Assembly by a majority of votes cast from a list of experts of the highest integrity and of recognised competence in national and international social questions, nominated by the

Contracting Parties. The exact number of members shall be determined by the Committee of Ministers.

2. The members of the committee shall be elected for a period of six years. They may stand for re-election once.
3. A member of the Committee of Independent Experts elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.
4. The members of the committee shall sit in their individual capacity. Throughout their term of office, they may not perform any function incompatible with the requirements of independence, impartiality and availability inherent in their office."

#### ■ Article 4

Article 27 of the Charter shall read as follows:

"Article 27 – Governmental Committee

1. The reports of the Contracting Parties, the comments and information communicated in accordance with paragraphs 1 of Article 23 and 3 of Article 24, and the reports of the Committee of Independent Experts shall be submitted to a Governmental Committee.
2. The committee shall be composed of one representative of each of the Contracting Parties. It shall invite no more than two international organisations of employers and no more than two international trade union organisations to send observers in a consultative capacity to its meetings. Moreover, it may consult representatives of international non-governmental organisations which have consultative status with the Council of Europe and have particular competence in the matters governed by the present Charter.
3. The Governmental Committee shall prepare the decisions of the Committee of Ministers. In particular, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties, it shall select, giving reasons for its choice, on the basis of social, economic and other policy considerations the situations which should, in its view, be the subject of recommendations to each Contracting Party concerned, in accordance with Article 28 of the Charter. It shall present to the Committee of Ministers a report which shall be made public.
4. On the basis of its findings on the implementation of the Social Charter in general, the Governmental Committee may submit proposals to the Committee of Ministers aiming at studies to be carried out on social issues and on articles of the Charter which possibly might be updated."

#### ■ Article 5

Article 28 of the Charter shall read as follows:

"Article 28 – Committee of Ministers

1. The Committee of Ministers shall adopt, by a majority of two-thirds of those voting, with entitlement to voting limited to the Contracting Parties, on the

basis of the report of the Governmental Committee, a resolution covering the entire supervision cycle and containing individual recommendations to the Contracting Parties concerned.

2. Having regard to the proposals made by the Governmental Committee pursuant to paragraph 4 of Article 27, the Committee of Ministers shall take such decisions as it deems appropriate.”

## ■ Article 6

Article 29 of the Charter shall read as follows:

“Article 29 – Parliamentary Assembly

The Secretary General of the Council of Europe shall transmit to the Parliamentary Assembly, with a view to the holding of periodical plenary debates, the reports of the Committee of Independent Experts and of the Governmental Committee, as well as the resolutions of the Committee of Ministers.”

## ■ Article 7

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Charter, which may express their consent to be bound by:
  - a. signature without reservation as to ratification, acceptance or approval;  
or
  - b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

## ■ Article 8

This Protocol shall enter into force on the thirtieth day after the date on which all Contracting Parties to the Charter have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.

## ■ Article 9

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. the date of entry into force of this Protocol in accordance with Article 8;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Turin, this 21st day of October 1991, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## 4. Additional Protocol of 1995 providing for a system of collective complaints

### Preamble

The member States of the Council of Europe, signatories to this Protocol to the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as “the Charter”);

Resolved to take new measures to improve the effective enforcement of the social rights guaranteed by the Charter;

Considering that this aim could be achieved in particular by the establishment of a collective complaints procedure, which, *inter alia*, would strengthen the participation of management and labour and of non-governmental organisations,

Have agreed as follows:

### ■ Article 1

The Contracting Parties to this Protocol recognise the right of the following organisations to submit complaints alleging unsatisfactory application of the Charter:

- a. international organisations of employers and trade unions referred to in paragraph 2 of Article 27 of the Charter;
- b. other international non-governmental organisations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee;
- c. representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint.

### ■ Article 2

1. Any Contracting State may also, when it expresses its consent to be bound by this Protocol, in accordance with the provisions of Article 13, or at any moment thereafter, declare that it recognises the right of any other representative national non-governmental organisation within its jurisdiction which has particular competence in the matters governed by the Charter, to lodge complaints against it.
2. Such declarations may be made for a specific period.
3. The declarations shall be deposited with the Secretary General of the Council of Europe who shall transmit copies thereof to the Contracting Parties and publish them.

### ■ Article 3

The international non-governmental organisations and the national non-governmental organisations referred to in Article 1.b and Article 2 respectively may submit complaints in accordance with the procedure prescribed by the aforesaid provisions only in respect of those matters regarding which they have been recognised as having particular competence.

#### ■ Article 4

The complaint shall be lodged in writing, relate to a provision of the Charter accepted by the Contracting Party concerned and indicate in what respect the latter has not ensured the satisfactory application of this provision.

#### ■ Article 5

Any complaint shall be addressed to the Secretary General who shall acknowledge receipt of it, notify it to the Contracting Party concerned and immediately transmit it to the Committee of Independent Experts.

#### ■ Article 6

The Committee of Independent Experts may request the Contracting Party concerned and the organisation which lodged the complaint to submit written information and observations on the admissibility of the complaint within such time-limit as it shall prescribe.

#### ■ Article 7

1. If it decides that a complaint is admissible, the Committee of Independent Experts shall notify the Contracting Parties to the Charter through the Secretary General. It shall request the Contracting Party concerned and the organisation which lodged the complaint to submit, within such time-limit as it shall prescribe, all relevant written explanations or information, and the other Contracting Parties to this Protocol, the comments they wish to submit, within the same time-limit.
2. If the complaint has been lodged by a national organisation of employers or a national trade union or by another national or international non-governmental organisation, the Committee of Independent Experts shall notify the international organisations of employers or trade unions referred to in paragraph 2 of Article 27 of the Charter, through the Secretary General, and invite them to submit observations within such time-limit as it shall prescribe.
3. On the basis of the explanations, information or observations submitted under paragraphs 1 and 2 above, the Contracting Party concerned and the organisation which lodged the complaint may submit any additional written information or observations within such time-limit as the Committee of Independent Experts shall prescribe.
4. In the course of the examination of the complaint, the Committee of Independent Experts may organise a hearing with the representatives of the parties.

#### ■ Article 8

1. The Committee of Independent Experts shall draw up a report in which it shall describe the steps taken by it to examine the complaint and present its conclusions as to whether or not the Contracting Party concerned has ensured the satisfactory application of the provision of the Charter referred to in the complaint.

2. The report shall be transmitted to the Committee of Ministers. It shall also be transmitted to the organisation that lodged the complaint and to the Contracting Parties to the Charter, which shall not be at liberty to publish it.

It shall be transmitted to the Parliamentary Assembly and made public at the same time as the resolution referred to in Article 9 or no later than four months after it has been transmitted to the Committee of Ministers.

#### ■ Article 9

1. On the basis of the report of the Committee of Independent Experts, the Committee of Ministers shall adopt a resolution by a majority of those voting. If the Committee of Independent Experts finds that the Charter has not been applied in a satisfactory manner, the Committee of Ministers shall adopt, by a majority of two-thirds of those voting, a recommendation addressed to the Contracting Party concerned. In both cases, entitlement to voting shall be limited to the Contracting Parties to the Charter.
2. At the request of the Contracting Party concerned, the Committee of Ministers may decide, where the report of the Committee of Independent Experts raises new issues, by a two-thirds majority of the Contracting Parties to the Charter, to consult the Governmental Committee.

#### ■ Article 10

The Contracting Party concerned shall provide information on the measures it has taken to give effect to the Committee of Ministers' recommendation, in the next report which it submits to the Secretary General under Article 21 of the Charter.

#### ■ Article 11

Articles 1 to 10 of this Protocol shall apply also to the articles of Part II of the first Additional Protocol to the Charter in respect of the States Parties to that Protocol, to the extent that these articles have been accepted.

#### ■ Article 12

The States Parties to this Protocol consider that the first paragraph of the appendix to the Charter, relating to Part III, reads as follows:

"It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof and in the provisions of this Protocol."

#### ■ Article 13

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Charter, which may express their consent to be bound by:
  - a. signature without reservation as to ratification, acceptance or approval; or
  - b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. A member State of the Council of Europe may not express its consent to be bound by this Protocol without previously or simultaneously ratifying the Charter.

3. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### ■ Article 14

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 13.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.

#### ■ Article 15

1. Any Party may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of such notification by the Secretary General.

#### ■ Article 16

The Secretary General of the Council of Europe shall notify all the member States of the Council of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. the date of entry into force of this Protocol in accordance with Article 14;
- d. any other act, notification or declaration relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 9th day of November 1995, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## **B. Revised European Social Charter of 1996**

### **Preamble**

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;



Considering that in the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that in the European Social Charter opened for signature in Turin on 18 October 1961 and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the social rights specified therein in order to improve their standard of living and their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;

Resolved, as was decided during the Ministerial Conference held in Turin on 21 and 22 October 1991, to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;

Recognising the advantage of embodying in a Revised Charter, designed progressively to take the place of the European Social Charter, the rights guaranteed by the Charter as amended, the rights guaranteed by the Additional Protocol of 1988 and to add new rights,

Have agreed as follows:

## **Part I**

The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
2. All workers have the right to just conditions of work.
3. All workers have the right to safe and healthy working conditions.
4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
6. All workers and employers have the right to bargain collectively.
7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
8. Employed women, in case of maternity, have the right to a special protection.
9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.

10. Everyone has the right to appropriate facilities for vocational training.
11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
12. All workers and their dependents have the right to social security.
13. Anyone without adequate resources has the right to social and medical assistance.
14. Everyone has the right to benefit from social welfare services.
15. Disabled persons have the right to independence, social integration and participation in the life of the community.
16. The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
17. Children and young persons have the right to appropriate social, legal and economic protection.
18. The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
19. Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.
20. All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.
21. Workers have the right to be informed and to be consulted within the undertaking.
22. Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.
23. Every elderly person has the right to social protection.
24. All workers have the right to protection in cases of termination of employment.
25. All workers have the right to protection of their claims in the event of the insolvency of their employer.
26. All workers have the right to dignity at work.
27. All persons with family responsibilities and who are engaged or wish to engage in employment have a right to do so without being subject to discrimination and as far as possible without conflict between their employment and family responsibilities.
28. Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions.
29. All workers have the right to be informed and consulted in collective redundancy procedures.
30. Everyone has the right to protection against poverty and social exclusion.
31. Everyone has the right to housing.

## Part II

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

### ■ Article 1 – The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

### ■ Article 2 – The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of four weeks' annual holiday with pay;
4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

### ■ 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 the 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.

#### ■ **Article 4** – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

#### ■ **Article 5** – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

#### ■ **Article 6** – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;

3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes; and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

■ **Article 7** – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that the minimum age of admission to employment shall be eighteen years with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under eighteen years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under eighteen years of age shall be entitled to a minimum of four weeks' annual holiday with pay;
8. to provide that persons under eighteen years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under eighteen years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

■ **Article 8** – The right of employed women to protection of maternity

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;

2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;
5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

■ **Article 9** – The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

■ **Article 10** – The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
  - a. adequate and readily available training facilities for adult workers;
  - b. special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
5. to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - a. reducing or abolishing any fees or charges;
  - b. granting financial assistance in appropriate cases;
  - c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;

- d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

■ **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 co-operation 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.

■ **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 and 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 legislation, whatever movements the persons protected 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.

■ **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 a 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 a 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 paragraphs 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 at Paris on 11 December 1953.

■ **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.

■ **Article 15** – The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;
2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;
3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

■ **Article 16** – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.



■ **Article 17** – The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1.
  - a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
  - b. to protect children and young persons against negligence, violence or exploitation;
  - c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;
2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

■ **Article 18** – The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

■ **Article 19** – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;
2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and

- to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;
3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;
  4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
    - a. remuneration and other employment and working conditions;
    - b. membership of trade unions and enjoyment of the benefits of collective bargaining;
    - c. accommodation;
  5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
  6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
  7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
  8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
  9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
  10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;
  11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;
  12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

■ **Article 20** – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a. access to employment, protection against dismissal and occupational reintegration;
- b. vocational guidance, training, retraining and rehabilitation;
- c. terms of employment and working conditions, including remuneration;
- d. career development, including promotion.

### ■ **Article 21** – The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
- b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

### ■ **Article 22** – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;
- b. to the protection of health and safety within the undertaking;
- c. to the organisation of social and socio-cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.

### ■ **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 co-operation with public or private organisations, appropriate measures designed in particular:

- ▶ to enable elderly persons to remain full members of society for 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.

■ **Article 24** – The right to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end, the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

■ **Article 25** – The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

■ **Article 26** – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

■ **Article 27** – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

1. to take appropriate measures:
  - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence

- due to those responsibilities, including measures in the field of vocational guidance and training;
- b. to take account of their needs in terms of conditions of employment and social security;
  - c. to develop or promote services, public or private, in particular child daycare services and other childcare arrangements;
2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;
  3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

■ **Article 28** – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers’ representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers’ representatives within the undertaking;
- b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

■ **Article 29** – The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers’ representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

■ **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.

## ■ Article 31 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.

## Part III

### Article A – Undertakings

1. Subject to the provisions of Article B below, each of the Parties undertakes:
  - a. to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
  - b. to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
  - c. to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.
2. The articles or paragraphs selected in accordance with sub-paragraphs *b* and *c* of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification, acceptance or approval is deposited.
3. Any Party may, at a later date, declare by notification addressed to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of the notification.
4. Each Party shall maintain a system of labour inspection appropriate to national conditions.

### ■ Article B – Links with the European Social Charter and the 1988 Additional Protocol

1. No Contracting Party to the European Social Charter or Party to the Additional Protocol of 5 May 1988 may ratify, accept or approve this Charter without considering itself bound by at least the provisions corresponding to the provisions of the European Social Charter and, where appropriate, of the Additional Protocol, to which it was bound.
2. Acceptance of the obligations of any provision of this Charter shall, from the date of entry into force of those obligations for the Party concerned,

result in the corresponding provision of the European Social Charter and, where appropriate, of its Additional Protocol of 1988 ceasing to apply to the Party concerned in the event of that Party being bound by the first of those instruments or by both instruments.

#### **Part IV**

■ **Article C** – Supervision of the implementation of the undertakings contained in this Charter

The implementation of the legal obligations contained in this Charter shall be submitted to the same supervision as the European Social Charter.

■ **Article D** – Collective complaints

1. The provisions of the Additional Protocol to the European Social Charter providing for a system of collective complaints shall apply to the undertakings given in this Charter for the States which have ratified the said Protocol.
2. Any State which is not bound by the Additional Protocol to the European Social Charter providing for a system of collective complaints may when depositing its instrument of ratification, acceptance or approval of this Charter or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that it accepts the supervision of its obligations under this Charter following the procedure provided for in the said Protocol.

#### **Part V**

■ **Article E** – Non-discrimination

The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.

■ **Article F** – Derogations in time of war or public emergency

1. In time of war or other public emergency threatening the life of the nation any Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. Any Party which has availed itself of this right of derogation shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.

■ **Article G** – Restrictions

1. The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to

any restrictions or limitations not specified in those parts, except such as are prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

2. The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

#### ■ **Article H** – Relations between the Charter and domestic law or international agreements

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral treaties, conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

#### ■ **Article I** – Implementation of the undertakings given

1. Without prejudice to the methods of implementation foreseen in these articles the relevant provisions of Articles 1 to 31 of Part II of this Charter shall be implemented by:
  - a. laws or regulations;
  - b. agreements between employers or employers' organisations and workers' organisations;
  - c. a combination of those two methods;
  - d. other appropriate means.
2. Compliance with the undertakings deriving from the provisions of paragraphs 1, 2, 3, 4, 5 and 7 of Article 2, paragraphs 4, 6 and 7 of Article 7, paragraphs 1, 2, 3 and 5 of Article 10 and Articles 21 and 22 of Part II of this Charter shall be regarded as effective if the provisions are applied, in accordance with paragraph 1 of this article, to the great majority of the workers concerned.

#### ■ **Article J** – Amendments

1. Any amendment to Parts I and II of this Charter with the purpose of extending the rights guaranteed in this Charter as well as any amendment to Parts III to VI, proposed by a Party or by the Governmental Committee, shall be communicated to the Secretary General of the Council of Europe and forwarded by the Secretary General to the Parties to this Charter.
2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Governmental Committee which shall submit the text adopted to the Committee of Ministers for approval after consultation with the Parliamentary Assembly. After its approval by the Committee of Ministers this text shall be forwarded to the Parties for acceptance.
3. Any amendment to Part I and to Part II of this Charter shall enter into force, in respect of those Parties which have accepted it, on the first day of the month following the expiration of a period of one month after the date on which three Parties have informed the Secretary General that they have accepted it.



In respect of any Party which subsequently accepts it, the amendment shall enter into force on the first day of the month following the expiration of a period of one month after the date on which that Party has informed the Secretary General of its acceptance.

4. Any amendment to Parts III to VI of this Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

## Part VI

### ■ Article K – Signature, ratification and entry into force

1. This Charter shall be open for signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which three member States of the Council of Europe have expressed their consent to be bound by this Charter in accordance with the preceding paragraph.
3. In respect of any member State which subsequently expresses its consent to be bound by this Charter, it shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.

### ■ Article L – Territorial application

1. This Charter shall apply to the metropolitan territory of each Party. Each signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, specify, by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.
2. Any signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify in the declaration the articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.
3. The Charter shall extend its application to the territory or territories named in the aforesaid declaration as from the first day of the month following the expiration of a period of one month after the date of receipt of the notification of such declaration by the Secretary General.
4. Any Party may declare at a later date by notification addressed to the Secretary General of the Council of Europe that, in respect of one or more of the territories to which the Charter has been applied in accordance

with paragraph 2 of this article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of receipt of such notification by the Secretary General.

#### ■ **Article M** – Denunciation

1. Any Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it, or at the end of any subsequent period of two years, and in either case after giving six months' notice to the Secretary General of the Council of Europe who shall inform the other Parties accordingly.
2. Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article or paragraph of Part II of the Charter accepted by it provided that the number of articles or paragraphs by which this Party is bound shall never be less than sixteen in the former case and sixty-three in the latter and that this number of articles or paragraphs shall continue to include the articles selected by the Party among those to which special reference is made in Article A, paragraph 1, sub-paragraph b.
3. Any Party may denounce the present Charter or any of the articles or paragraphs of Part II of the Charter under the conditions specified in paragraph 1 of this article in respect of any territory to which the said Charter is applicable, by virtue of a declaration made in accordance with paragraph 2 of Article L.

#### ■ **Article N** – Appendix

The appendix to this Charter shall form an integral part of it.

#### ■ **Article O** – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council and the Director General of the International Labour Office of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Charter in accordance with Article K;
- d. any declaration made in application of Articles A, paragraphs 2 and 3, D, paragraphs 1 and 2, F, paragraph 2, L, paragraphs 1, 2, 3 and 4;
- e. any amendment in accordance with Article J;
- f. any denunciation in accordance with Article M;
- g. any other act, notification or communication relating to this Charter.

In witness whereof, the undersigned, being duly authorised thereto, have signed this revised Charter.

Done at Strasbourg, this 3rd day of May 1996, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of

the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the Director General of the International Labour Office.

## Appendix to the revised European Social Charter

### Scope of the revised European Social Charter in terms of persons protected

1. Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.

2. Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Party under the said convention and under any other existing international instruments applicable to those refugees.
3. Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done in New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

### Part I, paragraph 18, and Part II, Article 18, paragraph 1

It is understood that these provisions are not concerned with the question of entry into the territories of the Parties and do not prejudice the provisions of the European Convention on Establishment, signed in Paris on 13 December 1955.

### Part II

#### ■ Article 1, paragraph 2

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

#### ■ Article 2, paragraph 6

Parties may provide that this provision shall not apply:

- a. to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
- b. where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

■ **Article 3**, paragraph 4

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

■ **Article 4**, paragraph 4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

■ **Article 4**, paragraph 5

It is understood that a Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

■ **Article 6**, paragraph 4

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

■ **Article 7**, paragraph 2

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

■ **Article 7**, paragraph 8

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

■ **Article 8**, paragraph 2

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:

- a. if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b. if the undertaking concerned ceases to operate;
- c. if the period prescribed in the employment contract has expired.

■ **Article 12**, paragraph 4

The words "and subject to the conditions laid down in such agreements" in the introduction to 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.

#### ■ Article 13, paragraph 4

Governments not Parties to the European 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.

#### ■ Article 16

It is understood that the protection afforded in this provision covers single-parent families.

#### ■ Article 17

It is understood that this provision covers all persons below the age of eighteen years, unless under the law applicable to the child majority is attained earlier, without prejudice to the other specific provisions provided by the Charter, particularly Article 7.

This does not imply an obligation to provide compulsory education up to the above-mentioned age.

#### ■ Article 19, paragraph 6

For the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

#### ■ Article 20

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor’s benefit, may be excluded from the scope of this article.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

#### ■ Articles 21 and 22

1. For the purpose of the application of these articles, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.
2. The terms “national legislation and practice” embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs as well as relevant case law.

- 3 For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
- 4 It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
- 5 It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

#### ■ Article 22

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.
2. The terms “social and socio-cultural services and facilities” are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.

#### ■ Article 23, paragraph 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.

#### ■ Article 24

1. It is understood that for the purposes of this article the terms “termination of employment” and “terminated” mean termination of employment at the initiative of the employer.
2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:
  - a. workers engaged under a contract of employment for a specified period of time or a specified task;
  - b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;

- c. workers engaged on a casual basis for a short period.
- 3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:
  - a. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
  - b. seeking office as, acting or having acted in the capacity of a workers' representative;
  - c. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
  - d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
  - e. maternity or parental leave;
  - f. temporary absence from work due to illness or injury.
- 4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

#### ■ Article 25

- 1. It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.
- 2. It is understood that the definition of the term "insolvency" must be determined by national law and practice.
- 3. The workers' claims covered by this provision shall include at least:
  - a the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;
  - b the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;
  - c the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.
- 4. National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

#### ■ Article 26

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

#### ■ Article 27

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.

#### ■ Articles 28 and 29

For the purpose of the application of this article, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

### Part III

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

#### ■ Article A, paragraph 1

It is understood that the numbered paragraphs may include articles consisting of only one paragraph.

#### ■ Article B, paragraph 2

For the purpose of paragraph 2 of Article B, the provisions of the revised Charter correspond to the provisions of the Charter with the same article or paragraph number with the exception of:

- a. Article 3, paragraph 2, of the revised Charter which corresponds to Article 3, paragraphs 1 and 3, of the Charter;
- b. Article 3, paragraph 3, of the revised Charter which corresponds to Article 3, paragraphs 2 and 3, of the Charter;
- c. Article 10, paragraph 5, of the revised Charter which corresponds to Article 10, paragraph 4, of the Charter;
- d. Article 17, paragraph 1, of the revised Charter which corresponds to Article 17 of the Charter.

### Part V

#### ■ Article E

A differential treatment based on an objective and reasonable justification shall not be deemed discriminatory.

#### ■ Article F

The terms “in time of war or other public emergency” shall be so understood as to cover also the threat of war.



### ■ Article I

It is understood that workers excluded in accordance with the appendix to Articles 21 and 22 are not taken into account in establishing the number of workers concerned.

### ■ Article J

The term “amendment” shall be extended so as to cover also the addition of new articles to the Charter.



## **II. Signatures, ratifications, declarations and reservations**

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## A. Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (Revised) (at 1st January 2015)

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
	Signature Ratification	Signature Ratification	Signature Ratification	Signature Ratification	Signature Ratification
<b>Albania</b>	(2)	(3)	(2)	(2)	21/9/98 14/11/02
<b>Andorra</b>	(2)	(3)	(2)	(2)	4/11/00 12/11/04
<b>Armenia</b>	(2)	(3)	(2)	(2)	18/10/01 21/1/04
<b>Austria</b>	22/7/63 29/10/69	4/12/90	7/5/92 13/7/95	(2)	7/5/99 20/5/11
<b>Azerbaijan</b>	(2)	(3)	(2)	(2)	18/10/01 2/9/04
<b>Belgium</b>	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
<b>Bosnia and Herzegovina</b>	(2)	(3)	(2)	(2)	11/5/04 7/10/08
<b>Bulgaria</b>	(2)	(3)	(2)	(4)	21/9/98 7/6/00
<b>Croatia</b>	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 —
<b>Cyprus</b>	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
<b>Czech Republic</b>	27/5/92* 3/11/99	27/5/92* 17/11/99	27/5/92* 17/11/99	26/2/02 4/4/12	4/11/00 —
<b>Denmark</b>	18/10/61 3/3/65	27/8/96 27/8/96	— ***	9/11/95 —	3/5/96 —
<b>Estonia</b>	(2)	(3)	(2)	(2)	4/5/98 11/9/00
<b>Finland</b>	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
<b>France</b>	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
<b>Georgia</b>	(2)	(3)	(2)	(2)	30/6/00 22/8/05
<b>Germany</b>	18/10/61 27/1/65	5/5/88 —	— ***	(1)	29/6/07 —
<b>Greece</b>	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 —

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	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
<b>Hungary</b>	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
<b>Iceland</b>	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
<b>Ireland</b>	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
<b>Italy</b>	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
<b>Latvia</b>	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	26/03/13
<b>Liechtenstein</b>	9/10/91	—	—	—	—	—	—	—	—	—
<b>Lithuania</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
<b>Luxembourg</b>	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
<b>Malta</b>	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
<b>Republic of Moldova</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
<b>Monaco</b>	(1)	(1)	(1)	—	(1)	—	(1)	—	5/10/04	—
<b>Montenegro</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
<b>Netherlands</b>	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
<b>Norway</b>	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
<b>Poland</b>	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—
<b>Portugal</b>	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
<b>Romania</b>	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/5/97	7/5/99
<b>Russian Federation</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	14/9/00	16/10/09
<b>San Marino</b>	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
<b>Serbia</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05*	14/9/09

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
	Signature Ratification	Signature Ratification	Signature Ratification	Signature Ratification	Signature Ratification
<b>Slovak Republic</b>	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
<b>Slovenia</b>	11/10/97 (2)	11/10/97 (3)	11/10/97 (2)	11/10/97 (4)	11/10/97 7/5/99
<b>Spain</b>	27/4/78 6/5/80	5/5/88 24/1/00	21/10/91 24/1/00	(1) —	23/10/00 —
<b>Sweden</b>	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
<b>Switzerland</b>	6/5/76 —	— —	— —	— —	— —
<b>“The former Yugoslav Rep. of Macedonia”</b>	5/5/98 31/3/05	5/5/98 —	5/5/98 31/3/05	(2) —	27/5/09 6/1/12
<b>Turkey</b>	18/10/61 24/11/89	5/5/98 (3)	6/10/04 10/6/09	(2) —	6/10/04 27/6/07
<b>Ukraine</b>	2/5/96 (2)	(3) (3)	(2) (2)	(2) —	7/5/99 21/12/06
<b>United Kingdom</b>	18/10/61 11/7/62	(1) —	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

## B. Tables of accepted provisions Situation at 1<sup>st</sup> January 2015

### Acceptance of provisions of the European Social Charter

#### Acceptation des dispositions de la Charte sociale européenne

accepted/ accepté       not accepted/ non accepté

<b>Articles 1-4 Para.</b>	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
<b>Albania/Albanie</b>																				
<b>Andorra/Andorre</b>																				
<b>Armenia/Arménie</b>																				
<b>Austria/Autriche</b>																				
<b>Azerbaijan/Azerbaïdjan</b>																				
<b>Belgium/Belgique</b>																				
<b>Bosnia and Herzegovina/ Bosnie-Herzégovine</b>																				
<b>Bulgaria/Bulgarie</b>																				
<b>Cyprus/Chypre</b>																				
<b>Estonia/Estonie</b>																				
<b>Finland/Finlande</b>																				
<b>France</b>																				
<b>Georgia/Géorgie</b>																				
<b>Hungary/Hongrie</b>																				
<b>Ireland/Irlande</b>																				
<b>Italy/Italie</b>																				
<b>Latvia/Lettonie</b>																				
<b>Lithuania/Lituanie</b>																				
<b>Malta/Malte</b>																				
<b>Republic of Moldova/ République de Moldova</b>																				
<b>Montenegro/ Monténégro</b>																				
<b>Netherlands/Pays-Bas<sup>6</sup></b>																				

6. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

<b>Articles 1-4</b> <b>Para.</b>	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Norway/Norvège																				
Portugal																				
Romania/Roumanie																				
Russian Federation / Fédération de Russie																				
Serbia/Serbie																				
Slovak Republic/ République Slovaque																				
Slovenia/Slovénie																				
Sweden/Suède																				
“The former Yugoslav Republic of Macedonia”/ “L'ex-République you- goslave de Macédoine																				
Turkey/Turquie																				
Ukraine																				

<b>Articles 5-9</b> <b>Para.</b>	Art. 5	Article 6				Article 7										Article 8					Art. 9
		1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/ Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Hungary/Hongrie																					
Ireland/Irlande																					



	<b>Articles 5-9</b>				Article 6					Article 7										Article 8					Art.
	<b>Para.</b>	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9			
<b>Italy/Italie</b>																									
<b>Latvia/Lettonie</b>																									
<b>Lithuania/Lituanie</b>																									
<b>Malta/Malte</b>																									
<b>Republic of Moldova/ République de Moldova</b>																									
<b>Montenegro/ Monténégro</b>																									
<b>Netherlands/Pays-Bas<sup>7</sup></b>																									
<b>Norway/Norvège</b>																									
<b>Portugal</b>																									
<b>Romania/Roumanie</b>																									
<b>Russian Federation / Fédération de Russie</b>																									
<b>Serbia/Serbie</b>																									
<b>Slovak Republic/ République Slovaque</b>																									
<b>Slovenia/Slovénie</b>																									
<b>Sweden/Suède</b>																									
<b>“The former Yugoslav Republic of Macedonia”/ “L'ex-République yougoslave de Macédoine</b>																									
<b>Turkey/Turquie</b>																									
<b>Ukraine/Ukraine</b>																									

7. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint- Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

8. With the exception of professional military personnel of the Serbian Army / *A l'exception des militaires de carrière de l'Armée serbe.*

<b>Articles 10-15</b>	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15				
	<b>Para.</b>	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3	
<b>Albania/Albanie</b>																							
<b>Andorra/Andorre</b>																							
<b>Armenia/Arménie</b>																							
<b>Austria/Autriche</b>																							
<b>Azerbaijan/Azerbaïdjan</b>																							
<b>Belgium/Belgique</b>																							
<b>Bosnia and Herzegovina/ Bosnie-Herzégovine</b>																							
<b>Bulgaria/Bulgarie</b>																							
<b>Cyprus/Chypre</b>																							
<b>Estonia/Estonie</b>																							
<b>Finland/Finlande</b>																							
<b>France</b>																							
<b>Georgia/Géorgie</b>																							
<b>Hungary/Hongrie</b>																							
<b>Ireland/Irlande</b>																							
<b>Italy/Italie</b>																							
<b>Latvia/Lettonie</b>																							
<b>Lithuania/Lituanie</b>																							
<b>Malta/Malte</b>						9						10											
<b>Republic of Moldova/ République de Moldova</b>																							
<b>Montenegro/ Monténégro</b>																							
<b>Netherlands/Pays-Bas</b>																							
<b>Norway/Norvège</b>																							
<b>Portugal</b>																							
<b>Romania/Roumanie</b>																							
<b>Russian Federation / Fédération de Russie</b>																							
<b>Serbia/Serbie</b>																							
<b>Slovak Republic/ République Slovaque</b>																							
<b>Slovenia/Slovénie</b>																							

9. Sub-paragraphs a. and d. accepted/ *Alinéas a. et d. acceptés.*

10. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

<b>Articles 10-15</b>	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15				
	<b>Para.</b>	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3	
<b>Sweden/Suède</b>																							
<b>“The former Yugoslav Republic of Macedonia”/ “L’Ex-République yougoslave de Macédoine”</b>																							
<b>Turkey/Turquie</b>																							
<b>Ukraine</b>																							

<b>Articles 16-19</b>	<b>Art 16</b>	Art. 17		Article 18				Article 19															
		1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12				
<b>Albania/Albanie</b>																							
<b>Andorra/Andorre</b>																							
<b>Armenia/Arménie</b>																							
<b>Austria/Autriche</b>																							
<b>Azerbaijan/Azerbaïdjan</b>																							
<b>Belgium/Belgique</b>																							
<b>Bosnia and Herzegovina/ Bosnie-Herzégovine</b>																							
<b>Bulgaria/Bulgarie</b>																							
<b>Cyprus/Chypre</b>																							
<b>Estonia/Estonie</b>																							
<b>Finland/Finlande</b>																							
<b>France</b>																							
<b>Georgia/Géorgie</b>																							
<b>Hungary/Hongrie</b>																							
<b>Ireland/Irlande</b>																							
<b>Italy/Italie</b>																							
<b>Latvia/Lettonie</b>																							
<b>Lithuania/Lituanie</b>																							
<b>Malta/Malte</b>																							
<b>Republic of Moldova/ République de Moldova</b>																							
<b>Montenegro/ Monténégro</b>																							
<b>Netherlands/Pays-Bas</b>																							
<b>Norway/Norvège</b>																							
<b>Portugal</b>																							

<b>Articles 16-19</b> <b>Para</b>	Art	Art. 17				Article 18				Article 19											
	16	1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12		
<b>Romania/Roumanie</b>																					
<b>Russian Federation/ Fédération de Russie</b>																					
<b>Serbia/Serbie</b>		11																			
<b>Slovak Republic/ République Slovaque</b>											12										
<b>Slovenia/Slovénie</b>																					
<b>Sweden/Suède</b>																					
<b>“The former Yugoslav Republic of Macedonia”/ “L’ex-République you- goslave de Macédoine”</b>																					
<b>Turkey/Turquie</b>																					
<b>Ukraine</b>																					

<b>Articles 20-31</b> <b>Para.</b>	Art.	Art.	Art.	Art.	Art.	Art.	Art. 26		Art. 27			Art.	Art.	Art.	Article 31			
	20	21	22	23	24	25	1	2	1	2	3	28	29	30	1	2	3	
<b>Albania/Albanie</b>																		
<b>Andorra/Andorre</b>																		
<b>Armenia/Arménie</b>																		
<b>Austria/Autriche</b>																		
<b>Azerbaijan/Azerbaïdjan</b>																		
<b>Belgium/Belgique</b>																		
<b>Bosnia and Herzegovina/ Bosnie-Herzégovine</b>																		
<b>Bulgaria/Bulgarie</b>																		
<b>Cyprus/Chypre</b>			13															
<b>Estonia/Estonie</b>																		
<b>Finland/Finlande</b>																		
<b>France</b>																		
<b>Georgia/Géorgie</b>																		
<b>Hungary/Hongrie</b>																		
<b>Ireland/Irlande</b>										14								
<b>Italy/Italie</b>																		

11. Sub-paragraphs 1b and 1c accepted / *Alinéas 1b et 1c acceptés*
12. Sub-paragraphs a. and b. accepted / *Alinéas a. and b. acceptés*
13. Sub-paragraph b. accepted / *Alinéa b. accepté*
14. Sub-paragraphs a. and b. accepted / *Alinéas a. et b. acceptés*

<b>Articles 20-31</b> <b>Para.</b>	Art. 20	Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26		Art. 27			Art. 28	Art. 29	Art. 30	Article 31			
							1	2	1	2	3				1	2	3	
<b>Latvia/Lettonie</b>																		
<b>Lithuania/Lituanie</b>																		
<b>Malta/Malte</b>																		
<b>Republic of Moldova/ République de Moldova</b>																		
<b>Montenegro/ Monténégro</b>									15									
<b>Netherlands/Pays-Bas</b>																		
<b>Norway/Norvège</b>									16									
<b>Portugal</b>																		
<b>Romania/Roumanie</b>																		
<b>Russian Federation/ Fédération de Russie</b>																		
<b>Serbia/Serbie</b>																		
<b>Slovak Republic/ République Slovaque</b>																		
<b>Slovenia/Slovénie</b>																		
<b>Sweden/Suède</b>																		
<b>“The former Yugoslav Republic of Macedonia”/ “L’ex- République yougo- slave de Macédoine”</b>																		
<b>Turkey/Turquie</b>																		
<b>Ukraine</b>																		

15. Sub-paragraph a. accepted / *Alinéa a. accepté*

16. Sub-paragraph c. accepted / *Alinéa c. accepté*

**Acceptance of provisions of the European Social Charter (1961) and of the Additional Protocol (1988)  
*Acceptation des dispositions de la Charte sociale européenne (1961) et du Protocole additionnel (1988)***

accepted/ accepté  not accepted/ non accepté

Articles 1-7 Para.	Article 1				Article 2				Article 3			Article 4				Art.					Article 6										Article 7									
	1	2	3	4	1	2	3	4	1	2	3	1	2	3	4	1	2	3	4	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10						
Croatia/Croatie																																								
Czech Republic/ République tchèque																																								
Denmark/Danemark																																								
Germany/Allemagne																																								
Greece/Grèce																																								
Iceland/Islande																																								
Luxembourg																																								
Poland/Pologne																																								
Spain/Espagne																																								
United Kingdom/ Royaume-Uni																																								

<b>Articles 8-18</b>		Article 8			Art.			Article 10			Article 11			Article 12			Article 13			Art. 14		Art. 15		Art.			Article 18		
		1	2	3	4	9	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	16	17	1	2	3
<b>Croatia/Croatie</b>																													
<b>Czech Republic/ République tchèque</b>																													
<b>Denmark/Danemark</b>																													
<b>Germany/Allemagne</b>																													
<b>Greece/Grèce</b>																													
<b>Iceland/Islande</b>																													
<b>Luxembourg</b>																													
<b>Poland/Pologne</b>																													
<b>Spain/Espagne</b>																													
<b>United Kingdom/ Royaume-Uni</b>																													

17. Czech Republic denounced paragraph 4 on 25 March 2008 / La République tchèque a dénoncé l'alinéa 4 le 25 mars 2008

18. Poland denounced paragraph 4 on 27 January 2011 / La Pologne a dénoncé l'alinéa 4 le 27 janvier 2011

19. Spain denounced sub-paragraph b with effect from 5 June 1991 / L'Espagne a dénoncé l'alinéa b de cette disposition à partir du 5 juin 1991

	Article 19									
	1	2	3	4	5	6	7	8	9	10
<b>Croatia/Croatie</b>										
<b>Czech Republic/ République tchèque</b>										
<b>Denmark/Danemark</b>										
<b>Germany/Allemagne</b>										
<b>Greece/Grèce</b>										
<b>Iceland/Islande</b>										
<b>Luxembourg</b>										
<b>Poland/Pologne</b>										
<b>Spain/Espagne</b>										
<b>United Kingdom/ Royaume-Uni</b>										

**Articles 19**  
**Para.**

	Additional Protocol/ Protocole additionnel			
	Art 1	Art 2	Art 3	Art 4
<b>Additional Protocol/ Protocole additionnel</b>				
<b>Para.</b>				



## C. Reservations and declarations

### 1. Reservations and declarations relating to the European Social Charter (1961)

#### AUSTRIA

■ *Declaration made at the time of signature, on 22 July 1963 (Or. Fr.)*

The Austrian Government desires that this signature be interpreted as a gesture of European solidarity. In signing the Charter Austria joins the great majority of the member countries of the Council of Europe who by their signatures have acknowledged the Charter's principles. The question of ratification will be examined carefully by Austria; the fact cannot be concealed, however, that in view of the present legal position of Austria considerable difficulties arise, which for the present prevent ratification of several of the essential Articles of the Charter.

■ *Declaration contained in the instrument of ratification, deposited on 29 October 1969 (Or. Engl./Germ.)*

The Republic of Austria declares, in accordance with Article 20, paragraph 2, that it considers itself bound by the following Articles and paragraphs of the European Social Charter:

- ▶ Article 1
- ▶ Article 5
- ▶ Article 12
- ▶ Article 13
- ▶ Article 16; furthermore
- ▶ Article 2, paragraphs 2, 3, 4, 5
- ▶ Article 3, paragraphs 1, 2, 3
- ▶ Article 4, paragraphs 1, 2, 3, 5
- ▶ Article 6, paragraphs 1, 2, 3
- ▶ Article 7, paragraphs 2, 3, 4, 5, 7, 8, 9, 10
- ▶ Article 8, paragraphs 1, 2, 3, 4
- ▶ Article 9
- ▶ Article 10, paragraphs 1, 2, 3, 4
- ▶ Article 11, paragraphs 1, 2, 3
- ▶ Article 14, paragraphs 1, 2
- ▶ Article 15, paragraphs 1, 2
- ▶ Article 17
- ▶ Article 18, paragraphs 1, 2, 4
- ▶ Article 19, paragraphs 1, 2, 3, 5, 6, 9

Period covered: 28/11/1969 -

The preceding statement concerns Article(s) : 20

## BELGIUM

■ Declaration made at the time of deposit of the instrument of ratification on 16 October 1990 (Or. Fr.)

The Permanent Representative declared that his Government accepts in their entirety the undertakings arising out of the Charter.

Period covered: 15/11/1990 -

The preceding statement concerns Article(s) : 20

## CROATIA

■ Declaration contained in the instrument of ratification deposited on 26 February 2003 (Or. Engl./Cro.)

The Republic of Croatia declares, in accordance with Article 20, paragraph 2, of the Charter, that it considers itself bound by the following Articles of Part II of the Charter: Articles 1, 2, 5, 6, 7, 8, 9, 11, 13, 14, 16 and 17.

Period covered: 28/3/03 -

The preceding statement concerns Article(s) : 20

## CYPRUS

■ Declaration made at the time of signature, on 22 May 1967, and contained in the instrument of ratification, deposited on 7 March 1968 (Or. Engl.)

The Republic of Cyprus undertakes to pursue and carry out faithfully the stipulations contained in Part I of the Charter and also, in accordance with the provisions of paragraph 1 (b) and (c) of Article 20, the stipulations contained in the following articles of Part II of the Charter:

- a. in accordance with the provisions of paragraph 1 (b) of Article 20:
  - ▶ Articles 1, 5, 6, 12 and 19
- b. in accordance with the provisions of paragraph 1 (c) of Article 20:
  - ▶ Articles 3, 9, 11, 14 and 15

Period covered: 6/4/1968 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a Note Verbale from the Permanent Representation of Cyprus, dated 20 October 1988, registered at the Secretariat General on 25 October 1988 (Or. Engl.)

According to Article 20 paragraph 3 of the European Social Charter, the Government of the Republic of Cyprus considers itself bound by the following numbered paragraphs of Part II of the Charter:

- ▶ paragraph 3 of Article 2: annual holiday with pay
- ▶ paragraph 5 of Article 2: weekly rest period
- ▶ paragraph 7 of Article 7: annual holiday with pay to employed persons under 18 years of age

- ▶ paragraph 8 of Article 7: night work of persons under 18 years of age
- ▶ paragraph 2 of Article 8: unlawful notice of dismissal given to a woman during her absence on maternity leave

Period covered: 24/11/1988 -

The preceding statement concerns Article(s) : 20

■ *Declaration contained in a Note Verbale from the Permanent Representation of Cyprus, dated 10 February 1992, registered at the Secretariat General on 12 February 1992 (Or. Engl.)*

According to Article 20 paragraph 3 of the European Social Charter, the Government of the Republic of Cyprus considers itself bound by the following numbered paragraphs of Part II of the Charter:

- ▶ paragraph 1 of Article 2: reasonable daily and weekly working hours
- ▶ paragraph 1 of Article 7: minimum age for admission to employment
- ▶ paragraph 3 of Article 7: safeguarding the full benefit of compulsory education
- ▶ paragraph 1 of Article 8: maternity leave

Period covered: 11/3/1992 -

The preceding statement concerns Article(s) : 20

■ *Denunciation contained in a Note Verbale from the Ministry of Foreign Affairs of the Republic of Cyprus, handed to the Secretary General at the time of deposit of the instrument of ratification of the revised Charter, on 27 September 2000 (Or. Engl.)*

In accordance with Article 37 of the Charter, the Republic of Cyprus gives notice of its intention to denounce Article 2, paragraph 3, and Article 7, paragraph 7, of the European Social Charter.

The denunciation is made for purely technical reasons so that the ratification of the Revised Charter will be possible. The denunciation will in no way constitute a regression in the protection afforded to workers as the existing legislation safeguards the right of all employees to three weeks annual holiday with pay. The European Committee of Social Rights has in its conclusions confirmed the compliance of the situation in Cyprus with the aforesaid provisions of the Charter.

Period covered: 7/4/2001 -

The preceding statement concerns Article(s) : 2, 37, 7

## **CZECH REPUBLIC**

■ *Declaration contained in the instrument of ratification, deposited on 3 November 1999 (Or. Engl.)*

In accordance with Article 20 of the European Social Charter:

1. the Czech Republic undertakes to pursue the aims stated in Part I of the Charter;
2. the Czech Republic considers itself bound by the following provisions:
  - ▶ Article 1, paragraphs 1, 2 and 3
  - ▶ Articles 2 and 3

- ▶ Article 4, paragraphs 2, 3, 4 and 5
- ▶ Articles 5, 6, 7, 8, 11, 12, 13 and 14
- ▶ Article 15, paragraph 2
- ▶ Articles 16 and 17
- ▶ Article 18, paragraph 4
- ▶ Article 19, paragraph 9

Period covered: 3/12/1999 -

The preceding statement concerns Article(s) : 20

#### DENMARK

■ Declaration contained in a letter from the Permanent Representative of Denmark, dated 23 February 1965, handed to the Secretary General at the time of deposit of the instrument of ratification, on 3 March 1965 (Or. Engl.)

The Kingdom of Denmark considers herself bound by the following articles and paragraphs:

- a. in accordance with Article 20, paragraph 1 (b):
  - ▶ Articles 1, 5, 6, 12, 13 and 16
- b. in accordance with Article 20, paragraph 1 (c):
  - ▶ Article 2, paragraphs 2, 3 and 5
  - ▶ Article 3
  - ▶ Article 4, paragraphs 1, 2, and 3,<sup>20</sup>
  - ▶ Article 8, paragraph 1
  - ▶ Article 9
  - ▶ Article 10
  - ▶ Article 11
  - ▶ Article 14
  - ▶ Article 15
  - ▶ Article 17
  - ▶ Article 18

Period covered: 2/4/1965 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a letter from the Permanent Representative of Denmark, dated 23 February 1965, handed to the Secretary General at the time of deposit of the instrument of ratification, on 3 March 1965 (Or. Engl.)

In conformity with Article 34 of the Charter, the metropolitan territory of Denmark to which the provisions of the Charter shall apply is declared to be the territory of the Kingdom of Denmark with the exception of the Faroe Islands and Greenland.

20. The additional underlined paragraph was notified by letter from the Ministry of Foreign Affairs of Denmark, dated 24 July 1979, registered at the Secretariat General on 10 August 1979 (Or. Engl.)

Period covered: 2/4/1965 -

The preceding statement concerns Article(s) : 34

■ Declaration contained in a letter from the Ministry of Foreign Affairs of Denmark, dated 24 July 1979, registered at the Secretariat General on 10 August 1979 (Or. Engl.)

In accordance with Article 20, paragraph 1 (c), the Kingdom of Denmark considers itself bound by the paragraph 3, Article 4.

Period covered: 9/9/1979 -

The preceding statement concerns Article(s) : 20

#### FINLAND

■ Declaration contained in a letter from the Permanent Representative, dated 29 April 1991, handed to the Secretary General at the time of deposit of the instrument of acceptance, on 29 April 1991 (Or. Engl.)

The Government of Finland considers itself bound by the following Articles and numbered paragraphs of Part II of the Charter:

- ▶ Articles 1, 2
- ▶ paragraph 3 of Article 3
- ▶ paragraphs 2, 3 and 5 of Article 4
- ▶ Articles 5 and 6
- ▶ paragraphs 1, 2, 3, 4, 5, 7, 8 and 10 of Article 7
- ▶ paragraph 2 of Article 8
- ▶ Articles 9 to 18 and
- ▶ paragraphs 1, 2, 3, 4, 5, 6, 7, 8 and 9 of Article 19

Period covered: 28/5/1991 -

The preceding statement concerns Article(s) : 20

#### FRANCE

■ Declarations and Reservations contained in a letter from the Permanent Representative of France, dated 5 March 1973, handed to the Secretary General at the time of deposit of the instrument of approbation, on 9 March 1973 (Or. Fr.)

*1. In accordance with the provisions of paragraph 1 (b) and (c) of Article 20*

List of Articles which France is able to accept in respect of all the obligations specified in each of the numbered paragraphs:

- ▶ the right to work (Article 1)
- ▶ the right to safe and healthy working conditions (Article 3)
- ▶ the right to a fair remuneration (Article 4)
- ▶ the right to organise (Article 5)
- ▶ the right to bargain collectively (Article 6)
- ▶ the right of children and young persons to protection (Article 7)

- ▶ the right of employed women to protection (Article 8)
- ▶ the right to vocational guidance (Article 9)
- ▶ the right to vocational training (Article 10)
- ▶ the right to protection of health (Article 11)
- ▶ the right to social security (Article 12)
- ▶ the right to benefit from social welfare services (Article 14)
- ▶ the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (Article 15)
- ▶ the right of the family to social, legal and economic protection (Article 16)
- ▶ the right of mothers and children to social and economic protection (Article 17)
- ▶ the right to engage in a gainful occupation in the territory of other Contracting Parties (Article 18)
- ▶ the right of migrant workers and their families to protection and assistance (Article 19)

List of Articles which France accepts in respect of the obligations specified in the numbered paragraphs:

- ▶ Article 2, paragraphs 1, 2, 3 and 5
- ▶ Article 13, paragraphs 1, 3 and 4

Period covered: 8/4/1973 -

The preceding statement concerns Article(s) : 20

## *II. Reservations by the French Government<sup>21</sup>*

- ▶ Article 2, paragraph 4

According to paragraph 4 of Article 2 concerning “the right to just conditions of work”, member States must “provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed”. However, in France, efforts to protect workers against the risks to which they are exposed are directed towards improving working conditions in order to eliminate dangerous or unhealthy situations. Consequently, the French Government cannot undertake to comply with the provisions of paragraph 4 of Article 2.

- ▶ Article 13, paragraph 2

Paragraph 2 of Article 13 on “the right to social and medical assistance”, requires each member State to “ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights”. However, Article L 230-3 of the French Electoral Code provides that persons exempt from payment of local rates and persons receiving assistance from social welfare offices cannot be elected to municipal councils. This provision, originating in the Local Government Act of 1884, was originally intended to apply to assistance to paupers, which was then still provided at the discretion of the

21. Reservations withdrawn by a letter from the Minister for External Affairs, dated 29 March 1984, registered at the Secretariat General on 27 April 1984 (Or. Fr.).

municipal authorities; it has since largely lost its point, as tax arrangements and social welfare are now usually governed by general texts, and current court practice is to regard the Electoral Code's provisions concerning ineligibility as not applicable to persons receiving assistance under statutory schemes. While the Government would be in favour of rescinding Article L 230-3 in order to allow for this development, it is bound to state that, as domestic legislation stands at present, Article 13, paragraph 2 of the Charter is incompatible with the above-mentioned provision.

### *III. Declaration of interpretation regarding Article 12, paragraph 4 (a)*

■ Declaration contained in a letter from the Permanent Representative of France, dated 5 March 1973, handed to the Secretary General at the time of deposit of the instrument of approbation, on 9 March 1973 (Or. Fr.)

Article 12, paragraph 4 (a) concerns equality of social security treatment between nationals of each of the Contracting Parties and those of the other Parties.

The maternity allowance payable under Article L 519 of the French Social Security Code is of such a nature as not to be covered by Article 12, paragraph 4 (a).

The allowance is not intended, as are family allowances, for the maintenance of children. It was introduced for essentially demographic reasons, for the specific purpose of encouraging the birth of French children in France, and hence has a specifically national and territorial character.

However, the national character of this allowance has been criticised in international bodies, which believe that it should be extended to all insured persons resident in French territory. The French Government has accordingly decided recently to investigate the possibility of complying with their wishes.

The French Government asks that formal note now be taken of its intention, pointing out that it will require some considerable time to complete the relevant investigations because of the procedure involved, which entails consulting not only the various ministerial departments concerned, but also family associations, employers' organisations and trade unions.

Period covered: 8/4/1973 -

The preceding statement concerns Article(s) : 12

### **GERMANY**

■ Declaration contained in a letter from the Permanent Representative of the Federal Republic of Germany, dated 28 September 1961 (Or. Germ.)

In the Federal Republic of Germany, pensionable civil servants (*Beamte*), judges and soldiers are subject to special terms of service and loyalty under public law, based in each case on an act of sovereign power. Under the national legal system of the Federal Republic of Germany they are debarred, on grounds of public policy and State security, from striking or taking other collective action in cases of conflicts of interest. Nor do they have the right to bargain collectively since the regulation of their rights and obligations in relation to their employers is a function of the freely elected legislative bodies.

Hence, with reference to the provisions of items 2 and 4 of Article 6 of Part II of the Social Charter the Permanent Representative of the Federal Republic of Germany to the Council of Europe feels obliged to point out that in the view of the Government of the Federal Republic of Germany those provisions do not relate to the above-mentioned categories of persons.

The above declaration does not relate to the legal status of non-pensionable civil servants (*Angestellte*) and workmen in the public service.

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 6

■ Declaration contained in a letter from the Permanent Representative of the Federal Republic of Germany, dated 22 January 1965, handed to the Secretary General at the time of deposit of the instrument of ratification, on 27 January 1965 (Or. Fr.)

The Federal Republic of Germany considers itself bound by the following Articles and paragraphs:

- a. in accordance with Article 20, paragraph 1 (b):
  - ▶ Articles 1, 5, 6, 12, 13, 16 and 19
- b. in accordance with Article 20, paragraph 1 (c),
  - ▶ Article 1
  - ▶ Article 2
  - ▶ Article 3
  - ▶ Article 4, paragraphs 1, 2, 3 and 5
  - ▶ Article 7, paragraphs 2, 3, 4, 5, 6, 7, 8, 9 and 10
  - ▶ Article 8, paragraphs 1 and 3
  - ▶ Article 9
  - ▶ Article 10, paragraphs 1, 2 and 3
  - ▶ Article 11
  - ▶ Article 14
  - ▶ Article 15
  - ▶ Article 17
  - ▶ Article 18

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a letter from the Permanent Representative of the Federal Republic of Germany, dated 22 January 1965, handed to the Secretary General at the time of deposit of the instrument of ratification, on 27 January 1965 (Or. Fr.)

The European Social Charter of 18 October 1961 will also apply to Land Berlin with effect from the date on which it enters into force for the Federal Republic of Germany.



## GREECE

■ Declaration made at the time of deposit of the instrument of ratification, on 4 June 1984 (Or. Fr.)

Greece does not consider itself bound by Articles 5 and 6 of Part II of the Charter (Article 20, paragraph 1, sub-paragraph b.).

Period covered: 5/7/1984 -

The preceding statement concerns Article(s) : 20

## HUNGARY

■ Declaration made at the time of deposit of the instrument of ratification on 8 July 1999 (Or. Fr.)

The Republic of Hungary undertakes to consider itself bound, in accordance with Article 20, paragraph 1, sub-paragraphs b and c, by Articles 1, 2, 3, 5, 6, 8, 9, 11, 13, 14, 16 and 17 of the European Social Charter.

Period covered: 7/8/1999 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a letter from the Minister of Foreign Affairs of Hungary, dated 27 May 2004, registered at the Secretariat General on 22 June 2004 (Or. Engl.)

According to Article 20, paragraph 3, of the Charter, the Government of Hungary informs that the National Assembly of the Republic of Hungary by its Decree No. 34/2004 (IV.26), has considered the Republic of Hungary bound by the following numbered paragraphs of Part II of the Charter: paragraph 1 of Article 7, Article 10, paragraph 1 of Article 12 and Article 15.

Period covered: 22/7/2004 -

The preceding statement concerns Article(s) : 20

## ICELAND

■ Declaration contained in the instrument of approval, deposited on 15 January 1976 (Or. Engl.)

In accordance with Article 20, paragraph 2, Iceland considers itself bound by the following Articles and paragraphs of the Charter:

- ▶ Articles 1, 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, and 18; also Article 2, paragraphs 1, 3 and 5

Period covered: 14/2/1976 -

The preceding statement concerns Article(s) : 20

## IRELAND

■ Declaration contained in the instrument of ratification, deposited on 7 October 1964 (Or. Engl.)

The Government of Ireland do hereby confirm and ratify the Charter and undertake faithfully to perform and carry out the stipulations contained in Parts I, III, IV and V

of the Charter, and, in accordance with the provisions of paragraph 1 (b) and 1 (c) of Article 20, the stipulations contained in the following Articles and paragraphs of Part II of the Charter:

Under paragraph 1 (b) of Article 20:

- ▶ Articles 1, 5, 6, 13, 16 and 19

Under Paragraph 1 (c) of Article 20:

- ▶ Article 2
- ▶ Article 3
- ▶ Paragraphs 1, 2, 4 and 5 of Article 4
- ▶ Paragraphs 2, 3, 4, 5, 6, 8 and 10 of Article 7
- ▶ Paragraphs 1 and 4 of Article 8
- ▶ Article 9
- ▶ Article 10
- ▶ Paragraph 3 of Article 11
- ▶ Paragraphs 1, 3 and 4 of Article 12
- ▶ Articles 14, 15, 17 and 18

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 20

#### ITALY

■ *Declaration made at the time of deposit of the instrument of ratification, on 22 October 1965 (Or. Fr.)*

The Italian Government accepts in their entirety the undertakings arising out of the Charter.

Period covered: 21/11/1965 -

The preceding statement concerns Article(s) : 20

#### LATVIA

■ *Declaration contained in the instrument of ratification deposited on 31 January 2002 (Or. Engl.)*

In accordance with Article 20, paragraph 2, of the Charter, the Republic of Latvia declares that it considers itself bound by the following Articles of the Charter : Articles 1, 5, 6, 8, 9, 11, 13, 14, 16 and 17.

Period covered: 2/3/2002 -

The preceding statement concerns Article(s) : 20

#### LUXEMBOURG

■ *Declaration made at the time of deposit of the instrument of ratification, on 10 October 1991 (Or. Fr.)*

In accordance with Article 20 of the Charter, the Grand-Duchy of Luxembourg considers itself bound by the following provisions of the said Charter:

- ▶ Articles 1, 2, 3, 4 paragraphs 1, 2, 3 and 5
- ▶ Articles 5 and 6 paragraphs 1, 2 and 3
- ▶ Articles 7 and 8 paragraphs 1, 2 and 3
- ▶ Articles 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19

Period covered: 9/11/1991 -

The preceding statement concerns Article(s) : 20

#### **MALTA**

■ *Declaration contained in the instrument of ratification, deposited on 4 October 1988 (Or. Engl.)*

The Government of the Republic of Malta undertakes

- I. in accordance with Article 20, paragraph 1(a) to consider Part I of the said Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph thereof, and,
- II. in accordance with Article 20, paragraph 1(b) of the Charter, to consider itself bound by Articles 1, 5, 6, 13 and 16 of Part II of the Charter; and in accordance with Article 20 paragraph 1(c), by the following Articles and Paragraphs of the same Part:

Articles: 3, 4, 7, 9, 11, 14 15, 17

Paragraphs: 1, 2, 3 and 5 of Article 2  
1, 2, and 4 of Article 8  
1, 2, 3, and 4(a) and (d) of Article 10  
1 and 3 of Article 12, and  
4 of Article 18

Period covered: 5/11/1988 -

The preceding statement concerns Article(s) : 20

#### **NETHERLANDS**

■ *Declaration made at the time of signature, on 18 October 1961 (Or. Engl.)*

Having regard to the equality, from the point of view of public law, between the Netherlands, Surinam and the Dutch West Indies, the terms “metropolitan” and “non-metropolitan” appearing in the European Social Charter lose their original meaning as far as the Kingdom of the Netherlands is concerned, and will therefore be considered, in the case of the Kingdom, as meaning, respectively, “European” and “non-European”.

■ *Declaration contained in a letter from the Ministry of Foreign Affairs of the Netherlands, dated 31 March 1980, handed to the Secretary General at the time of deposit of the instrument of ratification, on 22 April 1980 (Or. Fr.)*

As regards the Kingdom in Europe, the Kingdom of the Netherlands considers herself bound by Articles 1, 2, 3, 4 and 5; Article 6, paragraphs 1, 2 and 3; Article 6,

paragraph 4 (except for civil servants); Articles 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and Article 19, paragraphs 1, 2, 3, 4, 5, 6, 7 and 9;

As regards the Netherlands Antilles, the Kingdom of the Netherlands considers herself bound by Articles 1 and 5, Article 6 (except for civil servants) and Article 16.

Period covered: 21/5/1980 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a letter from the Minister for Foreign Affairs of the Netherlands, dated 21 January 1983, registered at the Secretariat General on 8 February 1983 (Or. Fr.)

As regards the Kingdom in Europe, the Kingdom of the Netherlands will consider itself bound by paragraphs 8 and 10 of Article 19 of the Charter as from the date of entry into force – for the Kingdom (the Kingdom in Europe) – of the European Convention on the Legal Status of Migrant Workers, which was concluded at Strasbourg on 24 November 1977.

Period covered: 1/5/1983 -

The preceding statement concerns Article(s) : 20

■ Declaration contained in a letter from the Permanent Representative of the Netherlands, dated 24 December 1985, registered at the Secretariat General on 3 January 1986 (Or. Engl.)

The island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of the Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (the Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country Aruba.

As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with which treaties are concluded, the said changes will have no consequences in international law regarding treaties concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its new capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) and Aruba.

Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the Netherlands apply to the Netherlands Antilles and Aruba.

List of Conventions referred to by the Declaration

...

35. European Social Charter (1961)

...

Period covered: 3/1/1986 -

The preceding statement concerns Article(s) : 34

#### **NORWAY**

■ *Declaration contained in the instrument of ratification, deposited on 26 October 1962 (Or. Engl.)*

Having seen and examined the European Social Charter, signed at Turin on the 18th October 1961, we hereby approve, ratify and confirm the said Social Charter, and undertake to carry out the stipulations contained in Parts I, III, IV and V of the Charter, and also, in accordance with the provisions of paragraph 1 (b) and (c) of Article 20, the stipulations contained in the following Articles and paragraphs of Part II of the Charter:

In accordance with the provisions of paragraph 1 (b) of Article 20:

- ▶ Articles 1, 5, 6, 12, 13 and 16

As regards Article 12, the undertaking is subject to the reservation that Norway, under paragraph 4 of this article, will be permitted in the bilateral and multilateral agreements therein mentioned to stipulate, as a condition for granting equal treatment, that foreign seamen should be domiciled in the country to which the vessel belongs.

In accordance with the provisions of paragraph 1 (c) of Article 20:

- ▶ Article 2
- ▶ Article 3
- ▶ Article 4
- ▶ Paragraphs 2, 3, 5, 6, 7, 8 and 10 of Article 7
- ▶ Article 9
- ▶ Article 10
- ▶ Article 11
- ▶ Article 14
- ▶ Article 15
- ▶ Article 17
- ▶ Paragraphs 1, 2, 3, 4, 5, 6, 7, 9 and 10 of Article 19

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 20

■ *Reservation contained in the instrument of ratification, deposited on 26 October 1962 (Or. Engl.)*

Having seen and examined the European Social Charter, signed at Turin on the 18th October 1961, we hereby approve, ratify and confirm the said Social Charter, and undertake to carry out the stipulations contained in Parts I, III, IV and V of the Charter, and also, in accordance with the provisions of paragraph 1 (b) and (c) of

Article 20, the stipulations contained in the following Articles and paragraphs of Part II of the Charter:

In accordance with the provisions of paragraph 1 (b) of Article 20:

- ▶ Articles 1, 5, 6, 12, 13 and 16

As regards Article 12, the undertaking is subject to the reservation that Norway, under paragraph 4 of this article, will be permitted in the bilateral and multilateral agreements therein mentioned to stipulate, as a condition for granting equal treatment, that foreign seamen should be domiciled in the country to which the vessel belongs.

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 12

■ *Declaration contained in the instrument of ratification, deposited on 26 October 1962 (Or. Engl.)*

In conformity with Article 34 of the Charter, We further do declare that the metropolitan territory of Norway to which the provisions of the Charter shall apply, shall be the territory of the Kingdom of Norway with the exception of Svalbard (Spitzbergen) and Jan Mayen. The Charter shall not apply to the Norwegian dependencies.

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 34

## **POLAND**

■ *Declaration contained in the instrument of ratification, deposited on 25 June 1997 (Or. Engl./Pol.)*

According to Article 20 of the Charter, the Republic of Poland considers itself bound by provisions of the Charter as the following:

- ▶ Article 1 The right to work (paragraphs 1-4, all)
- ▶ Article 2 The right to just conditions of work (paragraphs 1, 3-5)
- ▶ Article 3 The right to safe and healthy working conditions (paragraphs 1-3, all)
- ▶ Article 4 The right to a fair remuneration (paragraphs 2-5)
- ▶ Article 5 The right to organise
- ▶ Article 6 The right to bargain collectively (paragraphs 1-3)
- ▶ Article 7 The right of children and young persons to protection (paragraphs 2, 4, 6-10)
- ▶ Article 8 The right of employed women to protection (paragraphs 1-4, all)
- ▶ Article 9 The right to vocational guidance
- ▶ Article 10 The right to vocational training (paragraphs 1-2)
- ▶ Article 11 The right to protection of health (paragraphs 1-3, all)
- ▶ Article 12 The right to social security (paragraphs 1-4, all)
- ▶ Article 13 The right to social and medical assistance (paragraphs 2 and 3)
- ▶ Article 14 The right to benefit from social welfare services (paragraph 1)

- ▶ Article 15 The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (paragraphs 1-2, all)
- ▶ Article 16 The right of the family to social, legal and economic protection
- ▶ Article 17 The right of mothers and children to social and economic protection
- ▶ Article 18 The right to engage in a gainful occupation in the territory of other Contracting Parties (paragraph 4)
- ▶ Article 19 The right of migrant workers and their families to protection and assistance (paragraphs 1-10, all)

Period covered: 26/7/1997 -

The preceding statement concerns Article(s) : 20

#### PORTUGAL

■ *Declaration contained in the instrument of ratification, deposited on 30 September 1991 (Or. Port./Fr.)*

In accordance with paragraph 1 (a) of Article 20, Portugal undertakes to consider Part I of this Charter as a declaration setting out the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that Part;

In accordance with paragraph 1 (b) of Article 20, Portugal considers itself bound by Articles 1, 5, 6, 12, 13, 16 and 19 of Part II.

Period covered: 30/10/1991

The preceding statement concerns Article(s) : 20

■ *Reservation contained in the instrument of ratification, deposited on 30 September 1991 (Or. Port./Fr.)*

In accordance with paragraph 1 (c) of Article 20, Portugal considers itself bound by the remaining articles of Part II;

The obligations entered into under paragraph 4 of Article 6 shall in no way invalidate the prohibition of lockouts, as specified in paragraph 3 of Article 57 of the Constitution of the Portuguese Republic.

Period covered: 30/10/1991 -

The preceding statement concerns Article(s) : 6

#### SLOVAKIA

■ *Declaration contained in the instrument of ratification, deposited on 22 June 1998 (Or. Engl.)*

In accordance with Article 20, paragraph 2, of the European Social Charter, the Slovak Republic considers itself bound by the following provisions of the European Social Charter:

- ▶ Article 1 The right to work (paragraphs 1-4)
- ▶ Article 2 The right to just conditions of work (paragraphs 1-5)
- ▶ Article 3 The right to safe and healthy working conditions (paragraphs 1-3)

- ▶ Article 4 The right to a fair remuneration (paragraphs 1-5)
- ▶ Article 5 The right to organise
- ▶ Article 6 The right to bargain collectively (paragraphs 1-4)
- ▶ Article 7 The right of children and young persons to protection (paragraphs 1-10)
- ▶ Article 8 The right of employed women to protection (paragraphs 1-4)
- ▶ Article 9 The right to vocational guidance
- ▶ Article 10 The right to vocational training (paragraphs 1-4)
- ▶ Article 11 The right to protection of health (paragraphs 1-3)
- ▶ Article 12 The right to social security (paragraphs 1-4)
- ▶ Article 13 The right to social and medical assistance (paragraphs 1-3)
- ▶ Article 14 The right to benefit from social welfare services (paragraphs 1-2)
- ▶ Article 15 The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (paragraphs 1-2)
- ▶ Article 16 The right of the family to social, legal and economic protection
- ▶ Article 17 The right of mothers and children to social and economic protection
- ▶ Article 18 The right to engage in a gainful occupation in the territory of other Contracting Parties (paragraphs 1, 2, 4)

Period covered: 21/7/1998 -

The preceding statement concerns Article(s) : 20

#### SPAIN

■ Declaration contained in the instrument of ratification, deposited on 6 May 1980 (Or. Sp.)

Spain declares that it will interpret and apply Articles 5 and 6 of the European Social Charter, read with Article 31 and the Appendix to the Charter, in such a way that their provisions will be compatible with those of Articles 28, 37, 103.3 and 127 of the Spanish Constitution.

Period covered: 5/6/1980 -

The preceding statement concerns Article(s) : 31

■ Declaration contained in a letter from the Permanent Representative dated 4 December 1990, registered at the Secretariat General on 4 December 1990 (Or. Engl.)

Denunciation of acceptance of Article 8 (4) (b).

Period covered: 3/6/1991 -

The preceding statement concerns Article(s) : 37

#### SWEDEN

■ Declaration contained in a letter from the Ministry of Foreign Affairs of Sweden, dated 23 November 1962, handed to the Secretary General at the time of deposit of the instrument of ratification, on 17 December 1962 (Or. Fr.)

With reference to Article 20, paragraph 2 of the European Social Charter, signed in Turin on 18 October 1961, I have the honour to inform you that the Swedish



Government considers itself bound by the Articles and paragraphs of the Charter mentioned below:

In accordance with the provisions of Article 20, paragraph 1, sub-paragraph (b)

- ▶ Articles 1, 5, 6, 13 and 16

In accordance with the provisions of Article 20, paragraph 1, sub-paragraph (c), the following additional Articles and paragraphs:

- ▶ Article 2, paragraphs 3 and 5
- ▶ Article 3
- ▶ Article 4, paragraphs 1, 3 and 4<sup>22</sup>
- ▶ Article 7, paragraphs 1, 2, 3, 4, 7, 8, 9 and 10<sup>1</sup>
- ▶ Article 8, paragraphs 1 and 3
- ▶ Article 9
- ▶ Article 10
- ▶ Article 11
- ▶ Article 12, paragraphs 1, 2 and 3
- ▶ Article 14
- ▶ Article 15
- ▶ Article 17
- ▶ Article 18
- ▶ Article 19, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10<sup>1</sup>

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 20

■ *Declaration contained in a letter from the Ministry of Foreign Affairs of Sweden, dated 25 June 1979, registered at the Secretariat General on 2 July 1979 (Or. Fr.)*

In accordance with the provisions of Article 20, paragraph 1, sub-paragraph (c), the Swedish Government considers itself bound by the following additional Articles or paragraphs:

- ▶ Article 4, paragraph 4
- ▶ Article 7, paragraphs 1
- ▶ Article 19, paragraph 7

Period covered: 3/8/1979

The preceding statement concerns Article(s) : 20

Period covered: 23/12/1989 -

The preceding statement concerns Article(s) : 20

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22. The additional underlined paragraphs were notified by letter from the Minister of Foreign Affairs of Sweden, dated 25 June 1979, registered at the Secretariat General on 2 July 1979 (Or. Fr.).

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

■ Declaration contained in the instrument of ratification, deposited on 31 March 2005 (Or. Engl.)

*In accordance with Article 20, paragraph 2, of the Charter, the Republic of Macedonia declares that it considers itself bound by the following Articles of Part II of the Charter:*

- ▶ Articles 1, 2, 5, 6, 7 (paragraphs 1, 2, 3, 4, 6, 7, 8, 9 and 10), 8, 11, 12, 13, 15 and 17.

Period covered: 30/4/2005 -

The preceding statement concerns Article(s) : 20

**TURKEY**

■ Declaration contained in the instrument of ratification, deposited on 24 November 1989 (Or. Engl.)

The Republic of Turkey declares, in accordance with Article 20, paragraph 2, that it considers itself bound by the following Articles and paragraphs of the European Social Charter:

- a. In accordance with Article 20, paragraph 1 (b):
  - ▶ Articles 1, 12, 13, 16 and 19
- b. In accordance with Article 20, paragraph 1 (c):
  - ▶ Articles 9, 10, 11, 14, 17 and 18 with all their paragraphs
  - ▶ Article 4, paragraphs 3 and 5
  - ▶ Article 7, paragraphs 3, 4, 5, 6, 8 and 9

Period covered: 23/12/1989 -

The preceding statement concerns Article(s) : 20

**UNITED KINGDOM**

■ Declaration contained in the instrument of ratification, deposited on 11 July 1962 (Or. Engl.)

The Government of the United Kingdom of Great Britain and Northern Ireland, having considered the Charter aforesaid, hereby confirm, ratify and undertake faithfully to perform and carry out the stipulations contained in Parts I, III, IV and V of the Charter, and, in accordance with the provisions of paragraph 1 (b) and (c) of Article 20, the stipulations contained in the following Articles and paragraphs of Part II of the Charter:

In accordance with the provisions of paragraph 1 (b) of Article 20:

- ▶ Articles 1, 5, 6, 13, 16 and 19

In accordance with the provisions of paragraph 1 (c) of Article 20:<sup>23</sup>

- ▶ Paragraphs 2, 3, 4 and 5 of Article 2

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23. The United Kingdom has denounced acceptance of Articles:  
– 8 para. 4 a) as from 26 February 1988 (letter from the Permanent Representative of the United Kingdom, dated 26 June 1987, registered at the Secretariat General on 30 June 1987 (Or. Engl.)).

- ▶ Article 3
- ▶ Paragraphs 1, 2, 4 and 5 of Article 4
- ▶ Paragraphs 2, 3, 5, 6, 8, 9 and 10 of Article 7
- ▶ Paragraphs 1 and 4 of Article 8
- ▶ Articles 9, 10 and 11
- ▶ Paragraph 1 of Article 12
- ▶ Articles 14, 15, 17 and 18

■ *Declaration contained in a letter from the Permanent Representative of the United Kingdom, dated 16 September 1963 (Or. Engl.)*

In accordance with Article 34 (2) of the Charter, Her Majesty's Government in the United Kingdom declare that the Charter shall extend to the Isle of Man.

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 34

■ *Declaration contained in a letter from the Permanent Representative of the United Kingdom, dated 16 September 1963 (Or. Engl.)*

The Articles and paragraphs of Part II of the Charter accepted as binding in respect of the Isle of Man are the same as those which have been accepted as binding in the United Kingdom.

Period covered: 26/2/1965 -

The preceding statement concerns Article(s) : 20

## 2. Reservations and declarations relating to the 1988 Additional Protocol

### BELGIUM

■ *Declaration made at the time of signature on 23 June 2003 (Or. Fr.)*

In accordance with Article 5, para. 2, of the Additional Protocol, Belgium declares that it does not consider itself bound by Article 4.

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– 7 para. 8 and 8 para. 4 b) as from 26 February 1990 (letter from the Permanent Representative of the United Kingdom, dated 21 August 1989, registered at the Secretariat General on 23 August 1989 (Or. Engl.)).

Note of the Secretariat: The United Kingdom's declaration reads from 26 February 1990 as follows : The Government of the United Kingdom of Great Britain and Northern Ireland, having considered the Charter aforesaid, hereby confirm, ratify and undertake faithfully to perform and carry out the stipulations contained in Parts I, III, IV and V of the Charter, and, in accordance with the provisions of paragraph 1 (b) and (c) of article 20, the stipulations contained in the following Articles and paragraphs of Part II of the Charter:

In accordance with the provisions of paragraph 1 (b) of Article 20 :  
Articles 1, 5, 6, 13, 16 and 19.

In accordance with the provisions of paragraph 1 (c) of Article 20:  
Paragraphs 2, 3, 4 and 5 of Article 2; Article 3; Paragraphs 1, 2, 4 and 5 of Article 4; Paragraphs 2, 3, 5, 6, 9 and 10 of Article 7; Paragraphs 1 of Article 8; Articles 9, 10 and 11; Paragraph 1 of Article 12; Articles 14, 15, 17 and 18.

Period covered: 26/2/1990 -

The preceding statement concerns Article(s) : 37

Period covered: 22/7/2003 -

The preceding statement concerns Article(s) : 5

#### CROATIA

■ Declaration contained in the instrument of ratification deposited on 26 February 2003 (Or. Engl/Cro.)

The Republic of Croatia declares, in accordance with Article 5, paragraph 1, of the Additional Protocol to the European Social Charter, that it considers itself bound by Articles 1, 2 and 3 of Part II of the Additional Protocol.

Period covered: 28/3/2003 -

The preceding statement concerns Article(s) : 5

#### CZECH REPUBLIC

■ Declaration contained in the instrument of ratification, deposited on 17 November 1999 (Or. Engl.)

In accordance with Article 5 of the Additional Protocol to the European Social Charter:

1. the Czech Republic undertakes to pursue the aims stated in Part I of the Additional Protocol to the European Charter;
2. the Czech Republic considers itself bound by the following provisions of the Additional Protocol to the European Social Charter:
  - ▶ Article 1
  - ▶ Article 2
  - ▶ Article 3
  - ▶ Article 4

Period covered: 17/12/1999 -

The preceding statement concerns Article(s) : 5

#### DENMARK

■ Declaration contained in the instrument of ratification, deposited on 27 August 1996 (Or. Fr.).

Denmark declares that, until further notice, the Protocol shall not apply to the Faroe Islands and to Greenland.

Period covered: 26/9/1996 -

The preceding statement concerns Article(s) : 9

#### FINLAND

■ Declaration contained in a letter from the Permanent Representative, dated 29 April 1991, handed to the Secretary General at the time of deposit of the instrument of acceptance, on 29 April 1991 (Or. Engl.)

The Government of Finland considers itself bound by the following Articles of the Protocol:

- ▶ Articles 1 to 4

Period covered: 4/9/1992 -

The preceding statement concerns Article(s) : 5

#### FRANCE

■ *Reservation and Declaration made at the time of signature, on 22 June 1989 (Or. Fr.)*

*Reservation:*

Non-contributory benefits provided for by French law subject to a condition of nationality shall only be awarded to nationals of the member States of the European Community and of those States which have concluded a convention on reciprocity with France on the award of equivalent non-contributory benefits to French nationals residing in those States.

The preceding statement concerns Article(s) : –

*Declaration:*

This Protocol shall apply not only to the French metropolitan territory (Article 9, paragraph 1), but also to the French overseas departments.

The preceding statement concerns Article(s) : 9

#### HUNGARY

■ *Declaration contained in the instrument of ratification deposited on 1 June 2005 (Or. Engl.)*

Pursuant to Article 5, paragraph 1.b, of the Protocol, the Republic of Hungary considers itself bound by Articles 1, 2 and 3 of the Additional Protocol.

Period covered: 1/7/2005 -

The preceding statement concerns Article(s) : 5

#### ITALY

■ *Declaration contained in a letter from the Permanent Representative of Italy, dated 26 May 1994, handed to the Secretary General at the time of deposit of the instrument of ratification, on 26 May 1994 (Or. Fr.)*

The Government of Italy declares that the provisions of Article 4, paragraph 2, letter a, are to be understood as having a programmatic character.

Period covered: 25/6/1994 -

The preceding statement concerns Article(s) : –

#### NETHERLANDS

■ *Declaration made at the time of signature, on 14 June 1990 (Or. Fr.)*

Having regard to the equality, from the point of view of public law, between the Netherlands, the Dutch West Indies and Aruba, the terms “metropolitan” and “non-metropolitan” appearing in the Additional Protocol lose their original meaning

as far as the Kingdom of the Netherlands is concerned, and will therefore be considered, in the case of the Kingdom, as meaning, respectively, "European" and "non-European".

■ *Declarations contained in the instrument of acceptance deposited on 5 August 1992 (Or. Engl.)*

The Netherlands accepts the Additional Protocol for the Kingdom in Europe and Aruba. In accordance with Article 5, paragraph 1, sub-paragraph b of the Additional Protocol, the Kingdom of the Netherlands considers itself bound by Articles 1, 2 and 3 of Part II of the Additional Protocol with regard to the Kingdom in Europe and bound by Article 1 of Part II with regard to Aruba.

Period covered: 4/9/1992 -

The preceding statement concerns Article(s) : 9

■ *Declarations from the Minister for Foreign Affairs dated 28 September 1992, registered at the Secretariat General on 12 October 1992 (Or. Engl.)*

The Kingdom of the Netherlands accepts the Additional Protocol for the Netherlands Antilles.

In accordance with Article 5, paragraph 1, sub b, of the Additional Protocol, the Kingdom of the Netherlands considers itself bound by Article 1 of Part II with regard to the Netherlands Antilles.

Period covered: 11/11/1992 -

The preceding statement concerns Article(s) : 9

#### **NORWAY**

■ *Declaration contained in the instrument of approval, deposited on 10 December 1993 (Or. Engl.)*

The Protocol shall not apply to Svalbard, Jan Mayen and the Norwegian Antarctic Dependencies.

Period covered: 9/1/1994 -

The preceding statement concerns Article(s) : 9

### **3. Reservations and declarations relating to the 1991 Amending Protocol**

#### **AUSTRIA**

■ *Declaration contained in the instrument of ratification, deposited on 13 July 1995 (Or. Engl./Ger.)*

The Republic of Austria declares that with regard to Article 4 she considers herself bound only by the English text.

The preceding statement concerns Article(s) : 4

## NETHERLANDS

■ Declaration contained in the instrument of acceptance, deposited on 1 June 1993 (Or. Engl.)

The Kingdom of the Netherlands accepts the said Protocol for the Kingdom in Europe, for the Netherlands Antilles and for Aruba.

The preceding statement concerns Article(s) : –

### **4. Reservations and declarations relating to the 1995 Additional Protocol providing for a system of collective complaints**

#### FINLAND

■ Declaration contained in a letter from the President of Finland, dated 21 August 1998, registered at the Secretariat General on 26 August 1998 (Or. Engl.)

The Government of Finland declares, in accordance with Article 2 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, that Finland recognizes the right of any representative national non-governmental organisation within its jurisdiction which has particular competence in the matters governed by the Charter, to lodge complaints against it.

Period covered: 1/9/1998 -

The preceding statement concerns Article(s) : 2

#### NETHERLANDS

■ Declaration contained in the instrument of acceptance deposited on 3 May 2006 (Or. Engl.)

The Kingdom of the Netherlands accepts the Protocol for the Kingdom in Europe.

Period covered: 1/7/2006 -

The preceding statement concerns Article(s) : -

### **5. List of declarations, reservations and other communications related to the revised European Social Charter (1996)**

#### ALBANIA

■ Declaration contained in the instrument of ratification deposited on 14 November 2002 - Or. Engl.

The Republic of Albania in accordance with Part III, Article A of the Charter, considers itself bound by the following Articles of the Charter:

- ▶ Article 1 – The right to work;
- ▶ Article 2 – The right to just conditions of work;
- ▶ Article 3 – The right to safe and healthy working conditions;
- ▶ Article 4 – The right to a fair remuneration;
- ▶ Article 5 – The right to organize;

- ▶ Article 6 – The right to bargain collectively;
- ▶ Article 7 – The right of children and young persons to protection;
- ▶ Article 8 – The right of employed women to protection of maternity;
- ▶ Article 11 - The right to protection of health;
- ▶ Article 19 - The right of migrants workers and their families to protection and assistance;
- ▶ Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex;
- ▶ Article 21 - The right to information and consultation;
- ▶ Article 22 - The right to take part in the determination and improvement of the working conditions and working environment;
- ▶ Article 24 - The right to protection in cases of termination of employment;
- ▶ Article 25 - The right of workers to the protection of their claims in the event of insolvency of their employer;
- ▶ Article 26 - The right to dignity at work;
- ▶ Article 28 - The right of workers' representatives to protection in the undertaking and facilities to be accorded to them;
- ▶ Article 29 - The right to information and consultation in collective redundancy procedures.

Period covered: 1/1/2003 -

The preceding statement concerns Article(s) : A

#### **ANDORRA**

■ Declaration contained in a letter from the Minister for External Relations of Andorra, dated 2 November 2000, handed to the Secretary General at the time of signature of the instrument on 4 November 2000 - Or. Fr.

The Government of the Principality of Andorra wishes this act of signature to be interpreted as a sign in favour of European solidarity. With the signature of the European Social Charter (revised), the Principality of Andorra joins the majority of member States of the Council of Europe which have recognised the Charter's principles. Nevertheless, the particular structure of the Andorran society and economy commit the Principality of Andorra to protect the essential elements of its specificity, and in this view, some articles of the European Social Charter (revised) seem to present difficulties for an immediate ratification.

The preceding statement concerns Article(s) :-

■ Declaration contained in a Note Verbale from the Permanent Representation of Andorra, handed to the Secretary General at the time of deposit of the instrument of ratification, on 12 November 2004 - Or. Fr.

In accordance with Part III, Article A, of the Charter, the Principality of Andorra declares to be bound by the following Articles and paragraphs of Part II of the Charter:

- ▶ Article 1 – the right to work (paragraphs 1-4)



- ▶ Article 2 - the right to just conditions of work (paragraphs 1-7)
- ▶ Article 3 - the right to safe and healthy working conditions (paragraphs 1-4)
- ▶ Article 4 – the right to a fair remuneration (paragraphs 1-5)
- ▶ Article 5 – the right to organize
- ▶ Article 7 – the right of children and young persons to protection (paragraphs 1-10)
- ▶ Article 8 – the right of employed women to protection of maternity (paragraphs 1-5)
- ▶ Article 9 – the right to vocational guidance
- ▶ Article 10 - the right to vocational training (paragraphs 1-5)
- ▶ Article 11 – the right to protection of health (paragraphs 1-3)
- ▶ Article 12 – the right to social security (paragraphs 1-4)
- ▶ Article 13 – the right to social and medical assistance (paragraphs 1-4)
- ▶ Article 14 – the right to benefit from social welfare services (paragraphs 1-2)
- ▶ Article 15 – the right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1-3)
- ▶ Article 17 – The right of children and young persons to social, legal and economic protection (paragraphs 1-2)
- ▶ Article 18 – The right to engage in a gainful occupation in the territory of other Parties (paragraph 4)
- ▶ Article 19 – The right of migrant workers and their families to protection and assistance (paragraphs 1, 3, 5, 7, 9, 11, 12)
- ▶ Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 23 – The right of elderly persons to social protection
- ▶ Article 26 – The right to dignity at work (paragraphs 1-2)
- ▶ Article 30 – The right to protection against poverty and social exclusion
- ▶ Article 31 – The right to housing (paragraphs 1-2).

Period covered: 1/1/2005 -

The preceding statement concerns Article(s): A

#### ARMENIA

■ Declaration contained in the instrument of ratification deposited on 21 January 2004 - Or. Engl.

In accordance with subparagraphs b and c of paragraph 1 of Article A, Part III of the revised Charter, the Republic of Armenia considers itself bound by Articles 1, 5, 6, 7, 8, 17, 18, 19, 20, 22, 24, 27 and 28 as well as by the following paragraphs :

- ▶ Paragraphs 1, 2, 3, 4, 5 and 6 of Article 2,
- ▶ Paragraph 1 of Article 3,
- ▶ Paragraphs 2, 3, 4 and 5 of Article 4,
- ▶ Paragraphs 1 and 3 of Article 12,

- ▶ Paragraphs 1 and 2 of Article 13,
- ▶ Paragraph 2 of Article 14,
- ▶ Paragraphs 2 and 3 of Article 15.

Period covered: 1/3/2004 -

The preceding statement concerns Article(s) : A

#### AUSTRIA

*Declaration contained in the instrument of ratification deposited on 20 May 2011 - Or. Engl.*

In accordance with Part III, Article A, paragraph 2, of the Charter, Austria declares that it considers itself bound by the following Articles and paragraphs:

a) In accordance with Article A, paragraph 1, sub-paragraph b):

- ▶ Articles 1, 5, 12, 13, 16 and 20.

b) In accordance with Article A, paragraph 1, sub-paragraph c):

- ▶ Article 2, paragraphs 2, 3, 4, 5, 6 and 7;
- ▶ Article 3, paragraphs 1, 2, 3 and 4;
- ▶ Article 4, paragraphs 1, 2, 3, and 5;
- ▶ Article 6, paragraphs 1, 2 and 3;
- ▶ Article 7, paragraphs 1, 2, 3, 4, 5, 7, 8, 9 and 10;
- ▶ Article 8, paragraphs 1, 3, 4 and 5;
- ▶ Article 9 ;
- ▶ Article 10, paragraphs 1, 2, 3, 4 and 5;
- ▶ Article 11, paragraphs 1, 2 and 3;
- ▶ Article 14, paragraphs 1 and 2;
- ▶ Article 15, paragraphs 1 and 3;
- ▶ Article 17, paragraphs 1 and 2;
- ▶ Article 18, paragraphs 1, 2 and 4;
- ▶ Article 19, paragraphs 1, 2, 3, 5, 6, 7, 9 and 12;
- ▶ Article 25; Article 26, paragraph 1;
- ▶ Article 27, paragraphs 1 and 2, and
- ▶ Article 28.

Period covered: 1/7/2011 -

The preceding statement concerns Article(s) : A

#### AZERBAIJAN

*Declaration contained in the instrument of ratification deposited on 2 September 2004 - Or. Engl.*

The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Charter in its territories occupied by the Republic of

Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories is available here).

Period covered: 1/11/2004 -

The preceding statement concerns Article(s) :-

■ *Declaration contained in the instrument of ratification deposited on 2 September 2004 - Or. Engl.*

In accordance with Part III, Article A, of the revised Charter, the Republic of Azerbaijan considers itself bound by the following Articles of Part II of the Charter : Articles 1, 4, 5, 6, 7, 8, 9, 11, 14, 16, 20, 21, 22, 24, 26, 27, 28 and 29.

Period covered: 1/11/2004 -

The preceding statement concerns Article(s) : A

#### **BELGIUM**

■ *Declaration contained in the instrument of ratification deposited on 2 March 2004 – Or.Fr.*

In accordance with Part III, Article A, paragraph 2, of the Charter, Belgium considers itself bound by the following articles of Part II:

- ▶ Article 1 – the right to work
- ▶ Article 2 - the right to just conditions of work
- ▶ Article 3 - the right to safe and healthy working conditions
- ▶ Article 4 – the right to a faire remuneration
- ▶ Article 5 – the right to organize
- ▶ Article 6 – the right to bargain collectively
- ▶ Article 7 – the right of children and young persons to protection
- ▶ Article 8 – the right of employed women to protection of maternity
- ▶ Article 9 – the right to vocational guidance
- ▶ Article 10 - the right to vocational training
- ▶ 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 15 – the right of persons with disabilities to independence, social integration and participation in the life of the community
- ▶ Article 16 – The right of the family to social, legal and economic protection
- ▶ Article 17 – The right of children and young persons to social, legal and economic protection
- ▶ Article 18 – The right to engage in a gainful occupation in the territory of other Parties
- ▶ Article 19 – The right of migrant workers and their families to protection and assistance (except paragraph 12)

- ▶ Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 21 – The right to information and consultation
- ▶ Article 22 – The right to take part in the determination and improvement of the working conditions and working environment
- ▶ Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer
- ▶ Article 26 – The right to dignity at work (except paragraph 2)
- ▶ Article 29 – The right to information and consultation in collective redundancy procedures
- ▶ Article 30 – The right to protection against poverty and social exclusion.

Period covered: 1/5/2004 -

The preceding statement concerns Article(s) : A

#### **BOSNIA AND HERZEGOVINA**

■ *Declaration contained in the instrument of ratification deposited on 7 October 2008 - Or. Engl.*

In accordance with Part III, Article A, of the European Social Charter (revised), Bosnia and Herzegovina declares that it considers itself bound by the following articles:

- ▶ Article 1 – The right to work
- ▶ Article 2 – The right to just conditions of work
- ▶ Article 4 – The right to a fair remuneration (paragraph 3)
- ▶ Article 5 – The right to organise
- ▶ Article 6 – The right to bargain collectively
- ▶ Article 7 – The right of children and young persons to protection
- ▶ Article 8 – The right of employed women to protection of maternity
- ▶ Article 9 – The right to vocational guidance
- ▶ Article 11 – The right to protection of health
- ▶ Article 12 – The right to social security (paragraphs 1 and 2)
- ▶ Article 13 – The right to social and medical assistance (paragraphs 1, 2 and 3)
- ▶ Article 14 – The right to benefit from social welfare services
- ▶ Article 16 – The right of the family to social, legal and economic protection
- ▶ Article 17 – The right of children and young persons to social, legal and economic protection
- ▶ Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 21 – The right to information and consultation
- ▶ Article 22 – The right to take part in the determination and improvement of the working conditions and working environment
- ▶ Article 23 – The right of elderly persons to social protection

- ▶ Article 28 – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them

Period covered: 1/12/2008 -

The preceding statement concerns Article(s) : A

#### **BULGARIA**

■ *Declaration contained in the instrument of ratification deposited on 7 June 2000 - Or. Engl.*

In accordance with Part IV, Article D, paragraph 2, of the Charter, the Republic of Bulgaria accepts the supervision of its obligations under this Charter following the procedure provided in the Additional Protocol to the European Social Charter providing for a system of collective complaints of 9 November 1995.

Period covered: 1/8/2000 -

The preceding statement concerns Article(s) : D

■ *Declaration contained in the instrument of ratification deposited on 7 June 2000 - Or. Fr.*

In accordance with Part III, Article A, paragraph 1, of the Charter, the Republic of Bulgaria declares the following:

1. The Republic of Bulgaria considers Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means both national and international in character, as stated in the introductory paragraph of that Part.
2. The Republic of Bulgaria considers itself bound by the following Articles of Part II of the Charter:
  - ▶ Article 1
  - ▶ Article 2, paragraphs 2, 4-7
  - ▶ Article 3
  - ▶ Article 4, paragraphs 2-5
  - ▶ Articles 5, 6, 7, 8, 11
  - ▶ Article 12, paragraphs 1 and 3
  - ▶ Article 13, paragraphs 1-3
  - ▶ Articles 14,16
  - ▶ Article 17, paragraph 2
  - ▶ Article 18, paragraph 4,
  - ▶ Articles 20, 21, 22, 24, 25, 26
  - ▶ Article 27, paragraphs 2 and 3
  - ▶ Articles 28 and 29.

Period covered: 1/8/2000 -

The preceding statement concerns Article(s): A

■ Declaration contained in a Note verbale from the Permanent Representation of Bulgaria, dated 16 February 2007 and registered at the Secretariat General on 20 February 2007 - Or. Engl.

In accordance with Part III, Article A, paragraph 3, of the European Social Charter (revised), the Republic of Bulgaria declares that it considers itself bound by Part II, Article 2, paragraph 3, of the revised Charter.

Period covered: 1/4/2007 -

The preceding statement concerns Article(s): A

#### CYPRUS

■ Declaration contained in a Note Verbale from the Permanent Representation of Cyprus, handed to the Secretary General at the time of deposit of the instrument of ratification, on 27 September 2000 - Or. Engl.

In accordance with Part III, Article A, of the revised European Social Charter, the Republic of Cyprus considers itself bound by Articles 1, 5, 6, 9, 10, 11, 12, 14, 15, 19, 20, 24 and 28 as well as by the following paragraphs:

- ▶ paragraphs 1, 2, 5 and 7 of Article 2,
- ▶ paragraphs 1, 2 and 3 of Article 3,
- ▶ paragraphs 1, 2, 3, 4, 6, 8 and 10 of Article 7,
- ▶ paragraphs 1, 2 and 3 of Article 8,
- ▶ paragraphs 2 and 3 of Article 13,
- ▶ paragraph 4 of Article 18, and
- ▶ paragraph 3 of Article 27.

Period covered: 1/11/2000 -

The preceding statement concerns Article(s) : A

■ Declaration contained in a letter from the Minister of Foreign Affairs of Cyprus, dated 7 September 2011, registered at the Secretariat General on 5 October 2011 Or. Engl.

In conformity with Part III, Article A, paragraph 3, of the Charter, the Republic of Cyprus considers itself bound by the following paragraphs and articles of the Charter:

- ▶ Paragraphs 3 and 6 of Article 2,
- ▶ Paragraph 5 of Article 4,
- ▶ Paragraph 7 of Article 7,
- ▶ Paragraph 5 of Article 8,
- ▶ Part (b) of Article 22,
- ▶ Paragraph 2 of Article 27,
- ▶ Article 25,
- ▶ Article 29.

Period covered: 1/12/2011 -

The preceding statement concerns Article(s): A

## DENMARK

■ Declaration contained in a Note Verbale from the Permanent Representative, dated 2 May 1996, handed to the Secretary General at the time of signature, on 3 May 1996 - Or. Engl.

The Danish Government makes reservations with regard to the following provisions of the Social Charter (Revised): Article 2, paragraph 7, Article 24, Article 27, Article 28, Article 29 and Part V, Article E.

The preceding statement concerns Article(s) : A

## ESTONIA

■ Declaration contained in a Note Verbale from the Ministry of Foreign Affairs of Estonia, handed at the time of deposit of the instrument of ratification on 11 September 2000 - Or. Fr.

In accordance with Part III, Article A, paragraph 2, of the Charter, the Republic of Estonia notifies that it considers itself bound by the following articles of Part II of the Charter:

- ▶ Article 1 - The right to work (paragraphs 1-4, in full);
- ▶ Article 2 – The right to just conditions of work (paragraphs 1-3, 5-7);
- ▶ Article 3 – The right to safe and healthy working conditions (paragraphs 1-3);
- ▶ Article 4 – The right to a fair remuneration (paragraphs 2, 3, 4, 5);
- ▶ Article 5 – The right to organise (in full);
- ▶ Article 6 – The right to bargain collectively (paragraphs 1-4, in full);
- ▶ Article 7 – The right of children and young persons to protection (paragraphs 1-4, 7-10);
- ▶ Article 8 – The right of employed women to protection of maternity (paragraphs 1-5, in full);
- ▶ Article 9 – The right to vocational guidance (in full);
- ▶ Article 10 – The right to vocational training (paragraphs 1, 3, 4);
- ▶ Article 11 – The right to protection of health (paragraphs 1-3, in full);
- ▶ Article 12 – The right to social security (paragraphs 1-4, in full);
- ▶ Article 13 – The right to social and medical assistance (paragraphs 1-3);
- ▶ Article 14 – The right to benefit from social welfare services (paragraphs 1,2, in full);
- ▶ Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1-3, in full);
- ▶ Article 16 – The right of the family to social, legal and economic protection (in full);
- ▶ Article 17 – the right of children and young persons to social, legal and economic protection (paragraphs 1, 2, in full);

- ▶ Article 19 – The right of migrant workers and their families to protection and assistance (paragraphs 1-12, in full);
- ▶ Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (in full);
- ▶ Article 21 – the right to information and consultation (in full);
- ▶ Article 22 – The right to take part in the determination and improvement of the working conditions and working environment (in full);
- ▶ Article 24 – The right to protection in cases of termination of employment (in full);
- ▶ Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer (in full);
- ▶ Article 27 – The right of workers with family responsibilities to equal opportunities and treatment (1-3, in full);
- ▶ Article 28 – the right of workers representatives to protection in the undertaking and facilities to be accorded to them (in full);
- ▶ Article 29 – The right to information and consultation in collective redundancy procedures (in full).

Note by the Secretariat: Please see declaration from the Republic of Estonia registered on 5 July 2012.

Period covered: 1/11/2000 -

The preceding statement concerns Article(s) : A

■ *Declaration from the President of the Republic of Estonia contained in an instrument dated 27 June, registered at the Secretariat on 5 July 2012*

The Republic of Estonia declares that it considers itself bound by the following Articles of Part II of the Charter:

- ▶ Article 10, paragraph 2 ;
- ▶ Article 13, paragraph 4 ;
- ▶ Article 18, paragraph 1, 2 and 4 ;
- ▶ Article 26, paragraph 1 and 2;
- ▶ Article 30.

Period covered: 1/9/2012 -

The preceding statement concerns Article(s) : A

#### **FINLAND**

■ *Declaration contained in the instrument of ratification deposited on 21 June 2002 - Or. Engl.*

The Republic of Finland declares in accordance with Part III, Article A of the Charter that it considers itself bound by the following Articles of Part II of the Charter: Articles 1 and 2, paragraphs 1 and 4 of Article 3, paragraphs 2, 3 and 5 of Article 4, Articles 5



and 6, paragraphs 1 to 5, 7, 8 and 10 of Article 7, paragraphs 2 and 4 of Article 8, Articles 9 to 18, paragraphs 1 to 9, 11 and 12 of Article 19 and Articles 20 to 31.

Period covered: 1/8/2002 -

The preceding statement concerns Article(s) : A

#### FRANCE

[Note by the Secretariat: France considers itself bound by all the articles of Part II of the Charter.]

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : A

#### GEORGIA

■ Declaration contained in the instrument of ratification deposited on 22 August 2005 - Or. Engl.

In accordance with Part III, Article A, paragraph 1, of the revised European Social Charter, Georgia considers itself bound by the following Articles and Paragraphs of the Charter:

- ▶ Article 1, paragraphs 1, 2, 3, 4;
- ▶ Article 2, paragraphs 1, 2, 5, 7;
- ▶ Article 4, paragraphs 2, 3, 4;
- ▶ Article 5;
- ▶ Article 6, paragraphs 1, 2, 3, 4;
- ▶ Article 7, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10;
- ▶ Article 8, paragraphs 3, 4, 5;
- ▶ Article 10, paragraphs 2, 4;
- ▶ Article 11, paragraphs 1, 2, 3;
- ▶ Article 12, paragraphs 1, 3;
- ▶ Article 14, paragraphs 1, 2;
- ▶ Article 15, paragraph 3;
- ▶ Article 17, paragraph 1;
- ▶ Article 18, paragraphs 1, 2, 3, 4;
- ▶ Article 19, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12;
- ▶ Article 20;
- ▶ Article 26, paragraphs 1, 2;
- ▶ Article 27, paragraphs 1, 2, 3;
- ▶ Article 29.

Period covered: 1/10/2005 -

The preceding statement concerns Article(s) : A

## HUNGARY

■ Declaration contained in a Note Verbale from the Permanent Representation of Hungary deposited with the instrument of ratification on 20 April 2009 - Or. Engl.

In accordance with the provisions of Part III, Article A, Paragraph 1, subparagraph b) and c) of the European Social Charter (revised), Hungary declares that it considers itself bound by the following articles:

- ▶ Article 1 - The right to work
- ▶ Article 2 - The right to just conditions of work
- ▶ Article 3 - The right to safe and healthy working conditions
- ▶ Article 5 - The right to organise
- ▶ Article 6 - The right to bargain collectively
- ▶ Article 7, paragraph 1 (\*) - The right of children and young persons to protection
- ▶ Article 8 - The right of employed women to protection of maternity
- ▶ Article 9 - The right to vocational guidance
- ▶ Article 10 - The right to vocational training
- ▶ Article 11 - The right to protection of health
- ▶ Article 12 - The right to social security (paragraph 1)
- ▶ Article 13 - The right to social and medical assistance
- ▶ Article 14 - The right to benefit from social welfare services
- ▶ Article 15 - The right of persons with disabilities to independence, social integration and participation in the life of the community
- ▶ Article 16 - The right of the family to social, legal and economic protection
- ▶ Article 17 - The right of children and young persons to social, legal and economic protection
- ▶ Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 21 - The right to information and consultation
- ▶ Article 22 - The right to take part in the determination and improvement of the working conditions and working environment.

[(\*) Communication contained in a Note verbale from the Permanent Representative of Hungary, dated 26 May 2011, registered at the Secretariat General on 26 May 2011 - Or. Engl.

The Permanent Representation of the Republic of Hungary to the Council of Europe has the honour to communicate the following :

*The declaration made by the Republic of Hungary upon the ratification of the European Social Charter (Revised) (ETS No. 163) contains a clerical error regarding the scope of application of Article 7 of the Charter. According to Act VI of 2009 adopted by the Parliament of Hungary on 23 February 2009 on the ratification of the Revised European Social Charter, Hungary considers itself bound by paragraph 1 of Article 7 of the Charter. Article 2 of the above mentioned Act declares:*

*“(2) In accordance with the provisions of Part III, Article A, paragraph 1, subparagraphs b) and c), the Republic of Hungary considers itself bound by Articles 1, 2, 3, 5, 6, Paragraph 1 of Article 7, 8, 9, 10, 11, Paragraph 1 of Article 12, 13, 14, 15, 16, 17, 20, 21, 22 of the II. Part of the Revised European Social Charter.”*

Note by the Secretariat: The text of the Act VI of 2009, in English, is available upon request to the Treaty Office.]

Period covered: 1/6/2009 -

The preceding statement concerns Article(s) : A

#### IRELAND

■ Declaration contained in the instrument of ratification and in a letter from the Permanent Representative of Ireland, dated 4 November 2000, deposited on 4 November 2000 - Or. Engl.

In accordance with Part III, Article A, of the Charter, Ireland considers itself bound by all the provisions of the Charter, except :

- ▶ Article 8, paragraph 3;
- ▶ Article 21, paragraphs a and b;
- ▶ Article 27, paragraph 1, sub-paragraph c;
- ▶ Article 31.

Period covered: 1/1/2001 -

The preceding statement concerns Article(s) : A

■ Declaration contained in the instrument of ratification and in a letter from the Permanent Representative of Ireland, dated 4 November 2000, deposited on 4 November 2000 - Or. Engl.

In view of the general wording of Article 31 of the Charter, Ireland is not in a position to accept the provisions of this article at this time. However, Ireland will follow closely the interpretation to be given to the provisions of Article 31 by the Council of Europe with a view to their acceptance by Ireland at a later date.

Period covered: 1/1/2001 -

The preceding statement concerns Article(s) : 31

#### ITALY

■ Declaration contained in a Note Verbale from the Permanent Representation, handed to the Secretary General at the time of deposit of the instrument of ratification, on 5 July 1999 - Or. Engl.

Italy does not consider itself bound by Article 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer) of the Charter.

Period covered: 1/9/1999 -

The preceding statement concerns Article(s) : A

## LATVIA

■ Declaration contained in a Note Verbale from the Ministry for Foreign Affairs, handed to the Secretary General at the time of deposit of the instrument of ratification, on 26 March 2013 - Or. Engl.

In accordance with Part III, Article A, of the Charter, the Republic of Latvia declares that it considers itself bound by the provisions of Part I, III, IV, V and VI and the following Articles of Part II of the Charter:

- ▶ Article 1 ;
- ▶ Article 2 ;
- ▶ Article 3 ;
- ▶ Article 4, paragraphs 2, 3, 4, 5 ;
- ▶ Article 5 ;
- ▶ Article 6 ;
- ▶ Article 7 ;
- ▶ Article 8 ;
- ▶ Article 9 ;
- ▶ Article 10 ;
- ▶ Article 11 ;
- ▶ Article 12, paragraphs 1, 2 ;
- ▶ Article 13 ;
- ▶ Article 14 ;
- ▶ Article 15 ;
- ▶ Article 16 ;
- ▶ Article 17 ;
- ▶ Article 18 ;
- ▶ Article 19, paragraphs 1, 4, 5, 6, 7, 8, 9, 10, 11, 12 ;
- ▶ Article 20 ;
- ▶ Article 21 ;
- ▶ Article 22 ;
- ▶ Article 24 ;
- ▶ Article 25 ;
- ▶ Article 26 ;
- ▶ Article 27 ;
- ▶ Article 28 ;
- ▶ Article 29 ;
- ▶ Article 30 ;
- ▶ Article 31, paragraph 1.

Period covered: 1/5/2013 -

The preceding statement concerns Article(s) : A

## LITHUANIA

■ Declaration contained in the instrument of ratification deposited on 29 June 2001 - Or. Engl.

The Republic of Lithuania declares that it considers itself bound by the provisions of the following Articles of the Charter: Articles 1-11 of Part II, sub-paragraphs 1, 3 and 4 of Article 12, sub-paragraphs 1-3 of Article 13, Articles 14-17, sub-paragraphs 1 and 4 of Article 18, sub-paragraphs 1, 3, 5, 7, 9-11 of Article 19, Articles 20-22, Articles 24-29 and sub-paragraphs 1 and 2 of Article 31.

Period covered: 1/8/2001 -

The preceding statement concerns Article(s) : A

## MALTA

■ Declaration contained in a Note Verbale of the Ministry of Foreign Affairs of Malta, handed over at the time of deposit of the instrument of ratification, on 27 July 2005 - Or. Engl.

In accordance with Part III, Article A, of the Charter, the Republic of Malta considers itself bound by the following Articles and paragraphs of Part II:

- ▶ Article 1 – the right to work (paragraphs 1 to 4)
- ▶ Article 2 - the right to just conditions of work (paragraphs 1 to 3, 5 and 6)
- ▶ Article 3 - the right to safe and healthy working conditions (paragraphs 1 to 4)
- ▶ Article 4 – the right to a fair remuneration (paragraphs 1 to 5)
- ▶ Article 5 – the right to organise
- ▶ Article 6 – the right to bargain collectively (paragraphs 1 to 4)
- ▶ Article 7 – the right of children and young persons to protection (paragraphs 1 to 10)
- ▶ Article 8 – the right of employed women to protection of maternity (paragraphs 1, 2, 4 and 5)
- ▶ Article 9 – the right to vocational guidance
- ▶ Article 10 - the right to vocational training (paragraphs 1 to 5a and 5d)
- ▶ Article 11 – the right to protection of health (paragraphs 1 to 3)
- ▶ Article 12 – the right to social security (paragraphs 1, 3 and 4a)
- ▶ Article 13 – the right to social and medical assistance (paragraphs 1 to 4)
- ▶ Article 14 – the right to benefit from social welfare services (paragraphs 1 and 2)
- ▶ Article 15 – the right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1 to 3)
- ▶ Article 16 – The right of the family to social, legal and economic protection
- ▶ Article 17 – The right of children and young persons to social, legal and economic protection (paragraphs 1 and 2)
- ▶ Article 18 – The right to engage in a gainful occupation in the territory of other Parties (paragraph 4)

- ▶ Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 23 – The right of elderly persons to social protection
- ▶ Article 24 – The right to protection in cases of termination of employment
- ▶ Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer
- ▶ Article 26 – The right to dignity at work (paragraphs 1 and 2)
- ▶ Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment (paragraphs 2 and 3)
- ▶ Article 28 – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them
- ▶ Article 29 – The right to information and consultation in collective redundancy procedures.

Period covered: 1/9/2005 -

The preceding statement concerns Article(s): A

#### **MOLDOVA**

■ *Declaration contained in the instrument of ratification, deposited on 8 November 2001 - Or. Engl.*

In accordance with Part III, Article A, paragraph 1, of the Charter, the Republic of Moldova considers itself as being bound by the provisions of Articles 1, 2, 5, 6, 8, 9, 11, 12, 16, 17, 20, 21, 24, 26, 28, 29, as well as partially by the provisions of Article 3 (paragraphs 1-3), Article 4 (paragraphs 3-5), Article 7 (paragraphs 1-4, 7-10), Article 13 (paragraphs 1-3), Article 15 (paragraphs 1, 2), Article 18 (paragraphs 3, 4), Article 19 (paragraphs 7, 8) and Article 27 (paragraph 2).

The Republic of Moldova also acknowledges that the fulfilment of the legal obligations assumed by the partial ratification of the revised European Social Charter shall be subject to the control mechanisms laid down in Part IV of the European Social Charter, done at Turin on 18 October 1961.

Period covered: 1/1/2002 -

The preceding statement concerns Article(s): A

#### **MONTENEGRO**

■ *Declaration contained in the instrument of ratification deposited on 3 March 2010 - Or. Engl.*

In accordance with Part III, Article A, of the Charter, Montenegro declares that it considers itself legally bound to accept the following provisions of Part II of the Charter:

- ▶ Article 1 ;
- ▶ Article 2, paragraphs 1, 2, 6 ;
- ▶ Article 3 ;
- ▶ Article 4, paragraphs 2, 3, 5 ;

- ▶ Article 5 ;
- ▶ Article 6 ;
- ▶ Article 7, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9 ;
- ▶ Article 8 ;
- ▶ Article 9 ;
- ▶ Article 10, paragraphs 1, 2, 3, 4 ;
- ▶ Article 11 ;
- ▶ Article 12 ;
- ▶ Article 13 ;
- ▶ Article 14 ;
- ▶ Article 15 ;
- ▶ Article 16 ;
- ▶ Article 17 ;
- ▶ Article 19, paragraphs 11, 12 ;
- ▶ Article 20 ;
- ▶ Article 23 ;
- ▶ Article 24 ;
- ▶ Article 26, paragraph 1 ;
- ▶ Article 27, paragraphs 1(a), 2, 3 ;
- ▶ Article 28 ;
- ▶ Article 29.

Period covered: 1/5/2010 -

The preceding statement concerns Article(s): A

#### **NETHERLANDS**

■ *Reservation contained in the instrument of acceptance deposited on 3 May 2006 - Or. Engl.*

The Netherlands will consider itself bound by Article 6, paragraph 4, of the European Social Charter (revised), except with respect to military personnel in active service and civil servants employed by the Ministry of Defence.

Period covered: 1/7/2006 -

The preceding statement concerns Article(s): 6, A

■ *Reservation contained in the instrument of acceptance deposited on 3 May 2006 - Or. Engl.*

The Netherlands will not consider itself bound by Article 19, paragraph 12, of the Charter (revised).

Period covered: 1/7/2006 -

The preceding statement concerns Article(s): 19, A

■ Declaration contained in the instrument of acceptance deposited on 3 May 2006  
- Or. Engl.

The Kingdom of the Netherlands accepts the European Social Charter (revised) for the Kingdom in Europe.

[Note by the Secretariat: See also the Communication from the Permanent Representation of the Netherlands registered at the Secretariat General on 28 September 2010, concerning the modification in the structure of the Kingdom as of 10 October 2010.]

Period covered: 1/7/2006 -

The preceding statement concerns Article(s): L

#### **NORWAY**

■ Declaration contained in the instrument of ratification deposited on 7 May 2001  
- Or. Engl.

The Kingdom of Norway declares that it considers itself bound by Articles 1, 4-6, 9-17, 20-25, 30 and 31, as well as, moreover, by the provisions of Article 2, paragraphs 1-6, Article 3, paragraphs 2-3, Article 7, paragraphs 1-3, 5-8 and 10, Article 8, paragraphs 1 and 3, Article 19, paragraphs 1-7 and 9-12 and Article 27, paragraphs 1c and 2, of the Charter.

Period covered: 1/7/2001 -

The preceding statement concerns Article(s) : A

■ Declaration contained in the instrument of ratification deposited on 7 May 2001  
- Or. Engl.

In conformity with Part VI, Article L, of the revised European Social Charter, the Norwegian Government declares that the metropolitan territory of Norway to which the provisions of the revised European Social Charter shall apply, shall be the territory of the Kingdom of Norway with the exception of Svalbard (Spitzbergen) and Jan Mayen. The revised European Social Charter shall not apply to the Norwegian dependencies.

Period covered: 1/7/2001 -

The preceding statement concerns Article(s): L

■ Declaration contained in a letter from the Minister of Foreign Affairs of Norway, transmitted by the Permanent Representative of Norway on 11 January 2005 and registered at the Secretariat General on 13 January 2005 - Or. Engl.

In accordance with Part III, Article A, paragraph 3, of the revised European Social Charter, Norway considers itself bound by Article 28 of the said Social Charter.

Period covered: 1/3/2005 -

The preceding statement concerns Article(s) : A

#### **PORTUGAL**

■ Reservation contained in the instrument of ratification deposited on 30 May 2002  
- Or. Fr./Por.



The Republic of Portugal declares that it will not apply Article 2, paragraph 6 to contracts with a duration not exceeding one month or to those with an ordinary working week not exceeding eight hours, and to those of a particular or occasional nature.

Period covered: 1/7/2002 -

The preceding statement concerns Article(s) : 2

■ *Reservation contained in the instrument of ratification deposited on 30 May 2002*  
- Or. Fr./Por.

The Republic of Portugal declares that the obligation under Article 6 does not prejudice, with respect to paragraph 4, the prohibition of lockouts, as specified in paragraph 4 of Article 57 of the Constitution.

Period covered: 1/7/2002 -

The preceding statement concerns Article(s) : 6

#### ROMANIA

■ *Declaration contained in the instrument of ratification deposited on 7 May 1999*  
- Or. Fr.

In accordance with the provisions of Article A, paragraph 1, of Part III of the Charter, Romania accepts Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means and considers itself bound by the provisions of Article 1; Articles 4 - 9; Articles 11, 12, 16, 17, 20, 21, 24, 25 (\*), 28 and 29, as well as, moreover, by the provisions of Article 2, paragraphs 1, 2, 4 - 7; Article 3, paragraphs 1 - 3; Article 13, paragraphs 1 - 3; Article 15, paragraphs 1 and 2; Article 18, paragraphs 3 and 4; Article 19, paragraphs 7 and 8, and Article 27, paragraph 2.

■ *[(\*) Declaration contained in a Note Verbale from the Permanent Representation of Romania, dated 16 April 2004, registered at the Secretariat General on 21 April 2004*  
- Or. Engl.

The Permanent Representation of Romania informs the Secretariat that the instrument of ratification no. 490 deposited by Romania on 7 May 1999 contains an error. The said instrument of ratification states under item 1 that Romania considers itself bound by Article 26, while the Act no. 74 of 3 May 1999 by which the Parliament of Romania ratified the European Social Charter (revised) made no reference to Article 26.

The Permanent Representation of Romania to the Council of Europe also informs the Secretariat that the said Law stipulates that Romania considers itself bound by Article 25 of the European Social Charter (revised). Article 25 was not notified at the time when the instrument of ratification was deposited.

Given the above, the Permanent Representation of Romania declares that under item 1 of the instrument of ratification no. 490 deposited by Romania, Article 26 should be read as Article 25.

The Permanent Representation of Romania attaches the Romanian version of the Act no. 74 of 3 May 1999 and the English translation thereof.

Note by the Secretariat: the text of this Act is available upon request to the Treaty Office.]

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : A

■ *Declaration contained in the instrument of ratification deposited on 7 May 1999 - Or. Fr.*

Romania declares that it accepts that the application of the legal commitments contained in the European Social Charter (revised) is subject to the control mechanism provided for in Part IV of the European Social Charter adopted in Turin, on 18 October 1961.

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : C

**RUSSIA**

■ *Declaration contained in the instrument of ratification deposited on 16 October 2009 - Or. Engl.*

In accordance with Part III, Article A, of the Charter, the Russian Federation declares that it considers itself bound by the following articles of Part II of the Charter:

- ▶ Article 1 ;
- ▶ Article 2, paragraphs 1, 3-7 ;
- ▶ Article 3 ;
- ▶ Article 4, paragraphs 2-5 ;
- ▶ Article 5 ;
- ▶ Article 6 ;
- ▶ Article 7 ;
- ▶ Article 8 ;
- ▶ Article 9 ;
- ▶ Article 10 ;
- ▶ Article 11 ;
- ▶ Article 12, paragraph 1 ;
- ▶ Article 14 ;
- ▶ Article 15, paragraphs 1 and 2 ;
- ▶ Article 16 ;
- ▶ Article 17 ;
- ▶ Article 18, paragraph 4 ;
- ▶ Article 19, paragraphs 5 and 9 ;
- ▶ Article 20 ;
- ▶ Article 21 ;
- ▶ Article 22 ;

- ▶ Article 24 ;
- ▶ Article 27 ;
- ▶ Article 28 ;
- ▶ Article 29.

Period covered: 1/12/2009 -

The preceding statement concerns Article(s) : A

#### **SERBIA**

■ *Declaration contained in a Note Verbale from the Ministry of Foreign Affairs of Serbia, dated 11 June 2009, deposited with the instrument of ratification on 14 September 2009 - Or. Engl.*

In accordance with Part III, Article A of the Charter, the Republic of Serbia declares that it considers itself bound by the following articles of Part II of the Charter:

- ▶ Article 1;
- ▶ Article 2, paragraphs 1, 2, 3, 5, 6, 7;
- ▶ Article 3;
- ▶ Article 4;
- ▶ Article 5;
- ▶ Article 6, with exception in regard to professional military personnel of the Serbian Army concerning paragraph 4;
- ▶ Article 7;
- ▶ Article 8;
- ▶ Article 9;
- ▶ Article 10, paragraphs 1, 2, 3, 4;
- ▶ Article 11;
- ▶ Article 12;
- ▶ Article 13;
- ▶ Article 14;
- ▶ Article 15;
- ▶ Article 16;
- ▶ Article 17, paragraphs 1b, 1c and 2;
- ▶ Article 18;
- ▶ Article 19, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10;
- ▶ Article 20;
- ▶ Article 21;
- ▶ Article 22;
- ▶ Article 23;
- ▶ Article 24;
- ▶ Article 25;

- ▶ Article 26;
- ▶ Article 28;
- ▶ Article 29;
- ▶ Article 30.

Period covered: 1/11/2009 -

The preceding statement concerns Article(s) : A

#### SLOVAKIA

■ Declaration contained in the instrument of ratification deposited on 23 April 2009  
- Or. Engl.

In accordance with the provisions of Part III, Article A, paragraph 1, subparagraphs b) and c) of the European Social Charter (revised), Slovakia declares that it considers itself bound by the following articles:

- ▶ Article 1 - The right to work (paragraphs 1-4)
- ▶ Article 2 - The right to just conditions of work (paragraphs 1-7)
- ▶ Article 3 - The right to safe and healthy working conditions (paragraphs 1-4)
- ▶ Article 4 - The right to fair remuneration (paragraphs 1-5)
- ▶ Article 5 - The right to organise
- ▶ Article 6 - The right to bargain collectively (paragraphs 1-4)
- ▶ Article 7 - The right of children and young persons to protection (paragraphs 1-10)
- ▶ Article 8 - The right of employed women to protection of maternity (paragraphs 1-5)
- ▶ Article 9 - The right to vocational guidance
- ▶ Article 10 - The right to vocational training (paragraphs 1-5)
- ▶ Article 11 - The right to protection of health (paragraphs 1-3)
- ▶ Article 12 - The right to social security (paragraphs 1-4)
- ▶ Article 13 - The right to social and medical assistance (paragraphs 1-3)
- ▶ Article 14 - The right to benefit from social welfare services (paragraphs 1 and 2)
- ▶ Article 15 - The right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1 and 2)
- ▶ Article 16 - The right of the family to social, legal and economic protection
- ▶ Article 17 - The right of children and young persons to social, legal and economic protection (paragraphs 1 and 2)
- ▶ Article 18 - The right to engage in a gainful occupation in the territory of other Parties (paragraphs 1, 2, 4)
- ▶ Article 19 - The right of migrant workers and their families to protection and assistance (paragraphs 1, 4 letters a) and b), 5, 6, 7, 9 and 11)
- ▶ Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (letters a) to d))

- ▶ Article 21 - The right to information and consultation (letters a) and b))
- ▶ Article 22 - The right to take part in the determination and improvement of the working conditions and working environment (letters a) to d))
- ▶ Article 23 - The right of elderly persons to social protection (first indent letter a) and letter b), second indent letter a) and letter b) and third indent)
- ▶ Article 24 - The right to protection in cases of termination of employment (letter a) and letter b))
- ▶ Article 25 - The right of workers to the protection of their claims in the event of insolvency of their employer
- ▶ Article 26 - The right to dignity at work (paragraphs 1 and 2)
- ▶ Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment (paragraphs 1, 2 and 3)
- ▶ Article 28 - The right of workers' representatives to protection in the undertaking and facilities to be accorded to them (letter a) and letter b))
- ▶ Article 29 - The right to information and consultation in collective redundancy procedures
- ▶ Article 30 - The right to protection against poverty and social exclusion (letter a) and letter b)).

Period covered: 1/6/2009 -

The preceding statement concerns Article(s) : A

#### SLOVENIA

■ Declaration contained in a Note Verbale handed to the Secretary General at the time of deposit of the instrument of ratification, on 7 May 1999 - Or. Engl.

In according with Part III, Article A, paragraph 2, of the Charter, the Republic of Slovenia notifies that it considers itself bound by the following Articles of Part II of this Charter: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 (paragraphs 2 and 3), 14, 15, 16, 17, 18 (paragraphs 1, 3 and 4), 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31.

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : A

■ Declaration contained in a Note Verbale handed to the Secretary General at the time of deposit of the instrument of ratification, on 7 May 1999 - Or. Engl.

In accordance with Part IV, Article D, paragraph 2, of the Charter, the Republic of Slovenia declares that it accepts the supervision of its obligations under this Charter following the procedure provided for in the Additional Protocol to the European Social Charter providing for a system of collective complaints, done at Strasbourg, on 9 November 1995.

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : D

## SWEDEN

■ Declaration contained in the instrument of ratification deposited on 29 May 1998  
- Or. Engl.

In accordance with Part III, Article A, paragraph 2, of the Charter, Sweden considers itself bound by the following Articles in Part II.

- ▶ Article 1 The right to work (paragraphs 1-4, all)
- ▶ Article 2 The right to just conditions of work (paragraphs 3, 5-6)
- ▶ Article 3 The right to safe and healthy working conditions (paragraphs 1-3)
- ▶ Article 4 The right to a fair remuneration (paragraphs 1, 3-4)
- ▶ Article 5 The right to organise
- ▶ Article 6 The right to bargain collectively (paragraphs 1-4, all)
- ▶ Article 7 The right of children and young persons to protection (paragraphs 1-4, 7-10)
- ▶ Article 8 The right of employed women to protection of maternity (paragraphs 1 and 3)
- ▶ Article 9 The right to vocational guidance
- ▶ Article 10 The right to vocational training (paragraphs 1-5, all)
- ▶ Article 11 The right to protection of health (paragraphs 1-3, all)
- ▶ Article 12 The right to social security (paragraphs 1-3)
- ▶ Article 13 The right to social and medical assistance (paragraphs 1-4, all)
- ▶ Article 14 The right to benefit from social welfare services (paragraphs 1-2, all)
- ▶ Article 15 The right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1-3, all)
- ▶ Article 16 The right of the family to social, legal and economic protection
- ▶ Article 17 The right of children and young persons to social, legal and economic protection (paragraphs 1-2, all)
- ▶ Article 18 The right to engage in a gainful occupation in the territory of other Parties (paragraphs 1-4, all)
- ▶ Article 19 The right of migrant workers and their families to protection and assistance (paragraphs 1-12, all)
- ▶ Article 20 The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- ▶ Article 21 The right to information and consultation
- ▶ Article 22 The right to take part in the determination and improvement of the working conditions and working environment
- ▶ Article 23 The right of elderly persons to social protection
- ▶ Article 25 The right of workers to the protection of their claims in the event of the insolvency of their employer
- ▶ Article 26 The right to dignity at work (paragraphs 1-2, all)
- ▶ Article 27 The right of workers with family responsibilities to equal opportunities and equal treatment (paragraphs 1-3, all)

- ▶ Article 29 The right to information and consultation in collective redundancy procedures
- ▶ Article 30 The right to protection against poverty and social exclusion
- ▶ Article 31 The right to housing (paragraphs 1-3, all).

Period covered: 1/7/1999 -

The preceding statement concerns Article(s) : A

■ *Declaration contained in the instrument of ratification deposited on 29 May 1998 - Or. Engl.*

Sweden considers that Preferential treatment shall not be considered as incompatible with Article E of the Charter.

Period covered: 1/7/1999 -

The preceding statement concerns Article(s): E

**THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

■ *Declaration contained in the instrument of ratification deposited on 6 January 2012 - Or. Engl.*

In accordance with Part III, Article A, of the Charter, the Republic of Macedonia declares that it considers itself bound by the following Articles and paragraphs of Part II of the Charter:

- ▶ Article 1;
- ▶ Article 2;
- ▶ Article 3, paragraphs 2 and 4 ;
- ▶ Article 4, paragraphs 2, 3 and 5 ;
- ▶ Article 5 ;
- ▶ Article 6 ;
- ▶ Article 7, paragraphs 1-4 and 6-10 ;
- ▶ Article 8 ;
- ▶ Article 11;
- ▶ Article 12;
- ▶ Article 13;
- ▶ Article 15, paragraphs 1 and 2 ;
- ▶ Article 16;
- ▶ Article 17;
- ▶ Article 19, paragraphs 1, 5, 6 and 8 ;
- ▶ Article 20;
- ▶ Article 21;
- ▶ Article 24;
- ▶ Article 26;
- ▶ Article 27, paragraph 3 ;

- ▶ Article 28; and
- ▶ Article 29.

Period covered: 1/3/2012 -

The preceding statement concerns Article(s) : A

#### **TURKEY**

■ *Declaration contained in the instrument of ratification deposited on 27 June 2007 - Or. Engl.*

In accordance with Part III, Article A, of the European Social Charter (revised), the Republic of Turkey declares that it considers itself bound by the following articles, paragraphs and sub-paragraphs of Part II of the revised Charter:

- ▶ Article 1
- ▶ Article 2, paragraphs 1, 2, 4, 5, 6 and 7
- ▶ Article 3
- ▶ Article 4, paragraphs 2, 3, 4 and 5
- ▶ Articles 7 to 31.

Period covered: 1/8/2008 -

The preceding statement concerns Article(s) : A

#### **UKRAINE**

■ *Declaration contained in the instrument of ratification deposited on 21 December 2006 - Or. Engl.*

Ukraine undertakes to consider Part I of the Charter as the declaration of the goals which Ukraine shall be eager to achieve by every appropriate manner as outlined in the preamble to Part I of the Charter.

Ukraine considers itself bound by the following Articles and paragraphs of Part II of the Charter:

- ▶ Article 1, paragraphs 1, 2, 3, 4;
- ▶ Article 2, paragraphs 1, 2, 4, 5, 6, 7;
- ▶ Article 3, paragraphs 1, 2, 3, 4;
- ▶ Article 4, paragraphs 2, 3, 4, 5;
- ▶ Article 5;
- ▶ Article 6, paragraphs 1, 2, 3, 4;
- ▶ Article 7, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10;
- ▶ Article 8, paragraphs 1, 2, 3, 4, 5;
- ▶ Article 9;
- ▶ Article 10, paragraphs 1, 2, 3, 4, 5;
- ▶ Article 11, paragraphs 1, 2, 3;
- ▶ Article 14, paragraphs 1, 2;



- ▶ Article 15, paragraphs 1, 2, 3;
- ▶ Article 16;
- ▶ Article 17, paragraphs 1, 2;
- ▶ Article 18, paragraphs 1, 2, 3, 4;
- ▶ Article 20;
- ▶ Article 21;
- ▶ Article 22;
- ▶ Article 23;
- ▶ Article 24;
- ▶ Article 26, paragraphs 1, 2;
- ▶ Article 27, paragraphs 1, 2, 3;
- ▶ Article 28;
- ▶ Article 29;
- ▶ Article 30;
- ▶ Article 31, paragraphs 1, 2.

Period covered: 1/2/2007 -

The preceding statement concerns Article(s): Af



## III. Explanatory reports

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### A. Explanatory report to the 1988 Additional Protocol

#### Introduction

1. In the Declaration on Human Rights of 27 April 1978, the Member States of the Council of Europe decided “to give priority to the work undertaken in the Council of Europe of exploring the possibility of extending the lists of rights of the individual, notably rights in the social, economic and cultural field, which should be protected by European conventions or any other appropriate means”.
2. Further to this declaration, the Committee of Ministers of the Council of Europe initiated extensive consultations with a number of steering committees which were invited to draw up opinions on the possibility of including new economic and social rights in instruments such as the European Convention on Human Rights and the European Social Charter (hereafter “the Charter”).
3. The Steering Committee for Social Affairs (CDSO) was instructed to take the lead in this process with regard to the Charter.
4. Having been instructed in 1980, in its initial terms of reference (Decision No. CM/174/240180), to “undertake a review of the rights incorporated in the European Social Charter to determine whether they should be updated or supplemented” and “to consider whether there are any rights which might be suitable for inclusion in the European Convention on Human Rights”, the CDSO was instructed in 1981 (Decision No. CM/252/250981) “to undertake the drafting of a preliminary working paper presenting in standard-setting form the various proposals for the rights to be incorporated in an additional Protocol to the European Social Charter”.
5. Subsequently, on the basis of this working paper drafted by the CDSO, the Committee of Ministers adopted a third set of terms of reference (Decision No. CM/219/190183) asking the CDSO to “prepare a preliminary draft for a Protocol to the European Social Charter”.
6. The CDSO carried out this task at meetings which it held in March, July and October 1983 and again in April, July and October 1984 and adopted the text of a preliminary draft additional protocol including an appendix forming an integral part of it.

7. At their 378th meeting, the Ministers' Deputies (November-December 1984) considered it necessary to consult management and labour and instructed (386th meeting, June 1985) the CDSO to re-examine the preliminary draft additional protocol in the light of the views expressed by the European Trade Union Confederation (ETUC) and the Union of Industries of the European Community (UNICE) on the occasion of the annual meeting of the Liaison Committee between the Council of Europe and management and labour (LCML) held on 18 and 19 February 1985.

8. Furthermore, in response to the wish expressed by the Assembly in its Recommendation 1022 (1986) on the European Social Charter for "a political appraisal", the Ministers' Deputies (394th meeting, March 1986) decided to consult the Assembly on the text of the preliminary draft additional protocol before finalising the position of the Committee of Ministers on the matter.

On 26 January 1987, the Assembly adopted Opinion No. 131 (1987) proposing some amendments to the preliminary draft both as regards the wording of the rights proposed and also the conditions for ratification of the future protocol and the scope of its application to persons *ratione personae*.

9. The Committee of Ministers adopted the Additional Protocol to the Charter on 26 November 1987 during its 81st session; this Protocol was opened for signature on 5 May 1988.

## General remarks

10. The Protocol is to be regarded as an instrument which, although in some respects is an "extension" of the Charter, is nonetheless legally independent of it.

11. Its structure has deliberately been modelled on that of the Charter; thus there is the same sub-division into a Part I, containing a general statement of rights and principles having the force of "aims", and a Part II presenting the same rights in the form of detailed rules and stating explicitly the Parties' undertakings. Equally, the articles which follow have been grouped into Parts III, IV and V, corresponding to those parts of the Charter with the same numbering.

12. For the same reasons of harmony, the introductory sentences to Parts I and II of the Protocol are identical to those appearing in the Charter.

13. The Protocol, however, takes into account developments in labour legislation, the definition of social policies and, to some extent, terminology, since the Charter was drawn up. For this reason, new expressions have sometimes been used, the exact meaning of which has been indicated where necessary; on the other hand, when the same concepts are used, they should as a rule be interpreted in association with the corresponding provision of the Charter.

## Part I

14. As stated above, this part enunciates the right and principles guaranteed in accordance with the corresponding articles of Part II.

15. The wording of Part I and of Article 5, paragraph 1.a, of Part III of the Protocol reproduces that of Part I and Article 20 of the Charter respectively. Thanks to the

flexible drafting of these texts, they have been accepted by a number of states, not all of which have the same concept of economic and social rights and, in particular, of the way in which they are exercised.

16. In the introductory paragraph to Part I, it will be noted that the Parties acknowledge the aim of their policy to be “the attainment of conditions in which the following rights and principles may be effectively realised”. In other words, a state may choose not to intervene directly if, according to its legal and institutional system, this is the best way of attaining the “conditions in which the [...] rights” in question “may be effectively realised”, without the need to express any reservations whatsoever to this end.

17. Whilst right No. 1 opens with the words “All workers”, rights Nos. 2 and 3 begin “Workers”. The latter wording was chosen because Articles 2 and 3 provide for the possible exclusion from their scope undertakings employing less than a certain number of workers and further allow the rights in question to be exercised by delegation. It was therefore deemed preferable to avoid any inconsistency between the enunciation of the rights in Part I and the conditions of their exercise stipulated in the corresponding articles in Part II.

18. The term “workers” in right No. 1 in Part I shall be taken to include unemployed persons, persons seeking employment, those undergoing vocational training and all other potential workers.

19. Rights Nos. 2 and 3 refer to the concept of “undertaking”, which is defined in the appendix (see paragraphs 68 and 69 below).

## Part II

### ■ Article 1, paragraph 1

20. The obligation on the Parties under paragraph 1 is, *inter alia*, to “ensure” or to “promote” the application of the right to equal treatment; this is to allow for the fact that the obligation in question may be met as much by government action (legislation, regulations, etc.) as by action by employers and labour (collective agreements) or individuals (bilateral agreements and contracts). The obligation to ensure equal treatment may further be met both by judicial processes and by such other appropriate means as exist or may be instituted by each Party.

21. The list of fields in which the provision is applicable reflects developments since the Charter’s adoption. Reference is made, for instance, to occupational resettlement, a concept which does not appear as such in the Charter. The expression “occupational resettlement” covers several situations: the resumption of employment after a voluntary or involuntary break, moving from one job to another without a break, possibly after retraining. The term “retraining” covers any supplementary training to enable workers to adapt their knowledge and skills to industrial, technological and scientific progress.

22. The expression “terms of employment and working conditions” refers to all rights and situations associated with the specific position of the worker in his or her occupational relations and working environment. As stated, however, in the appendix, social security matters “may be excluded” (see paragraph 67 below).

23. It was understood that by the expression “terms of employment [...] including remuneration;” in the third sub-paragraph of paragraph 1, the equal treatment intended by this provision is wider in scope than the principle of “equal pay for work of equal value” in Article 4, paragraph 3, of the Charter. “Remuneration” shall, moreover, be understood to mean basic or minimum wages or salary plus all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter’s employment.

#### ■ Article 1, paragraph 2

24. Within the meaning of this paragraph, the protection afforded women is that guaranteed by current provisions in matters of pregnancy, confinement and post-natal care. The word “particularly” means, however, that other kinds of protection, essential in other situations, are admissible.

25. The protective provisions referred to are not only those of domestic legislation but also those resulting from international law. Articles 8 and 17 of the Charter are therefore not affected as such by this article of the Protocol (see also Article 8 of the Protocol – “Relations between the Charter and this Protocol”). It is understood that where several texts coexist, the provision most favourable to the persons concerned shall prevail. It is, however, acknowledged that in this particular context (equality between the sexes) it will sometimes be difficult to establish which measure is the most favourable to women, as opinions may differ. Account will need to be taken of changing attitudes in this regard.

#### ■ Article 1, paragraph 3

26. This provision takes into account the need to expedite the elimination of continuing *de facto* inequalities generally affecting women. The specific measures permissible but not obligatory under this provision shall be transitional and repealed gradually once equality has been achieved.

#### ■ Article 1, paragraph 4

27. As stated in the appendix, this paragraph allows Parties to exclude occupations without requiring them to embody a list thereof in laws or regulations. The Parties would, however, need to take care to state in the reports that they will submit under Article 6, whether any activities – and if so, which ones – are reserved to persons of a particular sex and the reasons for and criteria governing such reservation. The Parties will bear in mind that the intention is to gradually reduce the number of excluded activities to a strict minimum.

28. This paragraph also refers to the “context in which [certain occupations] are carried out” as a factor which may warrant their being reserved to workers of a particular sex. Such circumstances should ordinarily be quite exceptional. The accessibility of an occupational activity to persons of either sex or its restriction to persons of a particular sex is to be determined by the “nature” of the work. The words “context in which [certain occupations] are carried out” are accordingly to be construed restrictively.

#### ■ Articles 2 and 3

29. The conjunction “or” used in the expression “workers or their representatives” is not exclusive. It simply means that the rights afforded by these two provisions may

be exercised by workers, or by their representatives, or by both, and the fact that they are conferred upon one group does not mean that they cannot be conferred upon the other, as stipulated in the articles themselves.

30. The expression “in accordance with national legislation and practice” in the introductory sentence of each of these two articles covers:

- i. the adoption or encouragement of the “measures” envisaged to ensure the exercise of the rights mentioned in the two articles;
- ii. the designation of such workers’ representatives as may be associated with the exercise of those rights.

31. A definition of “workers’ representatives” is given in the appendix. It is drawn from Article 3 of the International Labour Organisation (ILO) Convention No. 135 concerning protection and facilities to be afforded to workers’ representatives in the undertaking, so as to harmonise the definitions contained in the various international instruments.

32. With regard to point 30.i above, the Parties may naturally proceed by means of legislation or regulations but may also leave workers’ representatives and employers to arrange the implementation of the provision by means of collective agreements, other agreements or any other form of voluntary negotiation. Implementation must, however, be effective and adequate.

33. In particular the Parties may leave management and labour to decide the level at which workers or their representatives are normally informed and consulted and take part (Articles 2 and 3): undertaking, production unit, sector or branch, or even local regional or national level, etc.

34. With regard to point 30.ii above, it shall likewise be permissible for Parties, in the above-mentioned conditions, to leave workers and their organisations to prescribe procedures and rules for the designation of representatives having access to information, consultation and participation in the determining of working conditions in the undertaking and for deciding at which level (local, regional, national, undertaking, branch, etc.) these rights are to be exercised.

35. The “national practice” mentioned earlier – which includes collective agreements and other contracts or agreements between employers and workers’ representatives – also covers all customary practices between management and labour as well as existing or future judicial decisions in the matters referred to in the two articles.

36. The expression “certain number of workers to be determined by national legislation or practice” in Article 2, paragraph 2, and Article 3, paragraph 2, implies that the number in question may be determined in legislation or regulations, result from agreements between the Parties or be the result of long-standing custom, etc., although these methods are not necessarily mutually exclusive.

## ■ Article 2, paragraph 1

37. The term “undertaking” is defined in the appendix. It should be noted that, although the undertaking should have the power to make decisions regarding its market policy, it is not essential for workers to be informed at the place at which the

undertaking's management makes such decisions. On the contrary, this provision allows the Parties complete discretion to fix, or to leave management and labour to determine freely, the various levels of information and consultation, which need not coincide with the decision-making level. In the case of, for instance, decentralised undertakings, information and consultation should in any event, to be effective, occur in the various production units if they are also practised at the decision-making centres. See also the comment in the appendix about the "establishments of the undertaking".

38. With regard to multinational undertakings, the definition of the term "undertaking" shall be understood to apply to each production unit enjoying decision-making powers and located in the territory of a Party.

39. Sub-paragraph a of this paragraph stipulates that only information about the economic and financial situation of the undertaking must be communicated (subject to the proviso about secrecy and confidentiality). Other information, for example about industrial property or manufacturing or trade secrets, need not be disclosed.

40. This restriction supplements the general restriction which may be applied to the exercise of the rights set forth in this Protocol pursuant to Article 31 of the Charter, to which Article 8 of the Protocol refers.

41. It goes without saying that under this provision the possibility of refusing to disclose certain information or of requiring confidentiality may naturally be included not only in legislation or regulations but also in collective agreements or other agreements between employers and workers' representatives.

42. The expression "and in a comprehensible way" in sub-paragraph a has been inserted following a proposal by the Assembly in Opinion No. 131, which considered it useful to describe more precisely the kind of information to be disclosed.

43. In order to be effective, "consultation" in the relevant fields should be preceded by the furnishing of appropriate "information": the scope of consultation is thus coterminous with that of the information provision, the only restrictions being those provided in sub-paragraph b, emphasised by the use of the co-ordinating conjunction "and" at the end of sub-paragraph a.

## ■ Article 2, paragraph 2

44. This paragraph makes it possible for the Parties to apply the provisions on information and consultation of workers only to undertakings employing more than a certain number of workers. This option was included because it appeared that for reasons of efficiency and having regard also to the special circumstances associated with the size of certain undertakings, the establishment of specific information and consultation structures was, in many countries, envisaged or required only when the number of employees exceeded a certain minimum. The establishment of such structures is generally not obligatory in undertakings employing fewer workers than the number stipulated in legislation, regulations or agreements in force between the Parties. Moreover, in small undertakings, information and consultation processes often exist in fact and operate readily, making the introduction of rigid and sometimes complex procedures unnecessary.



45. The Parties have accordingly been given the option of providing for the creation of information and consultation structures or systems only when the number of employees exceeds a certain level. If this option is exercised, the threshold (or thresholds) will need to be indicated in the reports to be submitted under Article 6. In the case of undertakings with fewer employees than the thresholds(s), the Parties will not, on the other hand, be required to explain information and consultation procedures but may communicate such information thereon as is in their possession.

46. It should further be noted that only the criterion of the undertaking's size (number of employees) is mentioned in this article, as other criteria relating to the undertaking's nature or activities may be covered by the appendix to the Protocol (Articles 2 and 3, paragraph 4), and/or by Article 31 of the Charter, to which Article 8 of the Protocol refers. The possibility that undertakings may also be excluded because collective agreements or other agreements applying to them contain no provisions relating to information or consultation is, on the other hand, covered by Article 7 of the Protocol. In this case, however, the workers not afforded this right must be a minority or, more exactly, those enjoying the right to be informed and consulted must constitute the great majority of the workers concerned in the country in question.

#### ■ Article 3, paragraph 1

47. The matters listed in this article are frequently covered by collective agreements or other agreements between employers and workers' representatives.

48. Sub-paragraph c comes from a proposal of the Assembly (see Opinion No. 131) and, for a better understanding of the text, a certain number of the services and facilities thus referred to have been listed in the appendix.

49. This article in no way prejudices the right to bargain collectively provided for in Article 6 of the Charter, as is clear from Article 8 of the Protocol.

50. The expression "to take part in" covers all situations in which workers or their representatives are in any way whatsoever associated with the procedures for making decisions or taking certain measures, without, however, enjoying a right of joint decision-making or of veto over decisions still the responsibility of the head of the undertaking.

51. The contribution to the "supervision of the observance" of health and safety regulations is to be effected pursuant to the rules in force in each country and without prejudice to the jurisdiction and responsibilities of the bodies and authorities vested with the necessary powers. The role of workers or their representatives is not to replace the bodies responsible for this supervision but rather to ensure that supervision is as effective as possible.

#### ■ Article 3, paragraph 2

52. The earlier comments on the analogous provision in Article 2 also apply here.

#### ■ Article 4

53. The use in this article of the expression "in particular" indicates that the provisions enumerated are not exhaustive. The means indicated are therefore intended

simply for guidance. The Parties are free to adopt any other measures appropriate to the full achievement of the aim referred to in paragraph 4 of Part I and repeated in the introductory sentence of this article.

#### ■ Article 4, paragraph 1

54. The expression “full members” means that elderly persons must suffer no ostracism on account of their age, since the right to take part in society’s various fields of activity is not granted or refused depending on whether an elderly person has retired or is still vocationally active or whether such a person is still of full legal capacity or is subject to some restrictions in this respect (*diminutio capitis*).

55. The concept of “adequate resources” is to be interpreted in the light of Article 13 and, if necessary, Article 12 of the Charter. It is moreover understood that there is no inconsistency between the concept of “social assistance” used in Article 13 of the Charter and the concept of “social protection” embodied in Article 4 of the Protocol.

#### ■ Article 4, paragraph 2

56. The ability of elderly people to remain in their familiar surroundings should be assessed in relation to their psychological and physical state, their living conditions, the standard of their accommodation, etc.

57. The “services” referred to in sub-paragraph 2.b include, where appropriate, admission to specialised institutions for elderly persons. This provision therefore assumes the existence of an adequate number of institutions and should be interpreted in the light of the introduction to the article, whereby each Party undertakes to adopt or promote appropriate measures either on its own or in co-operation with relevant public or private organisations.

#### ■ Article 4, paragraph 3

58. This paragraph specifically concerned with elderly persons living in institutions should be read in conjunction with the other paragraphs of Article 4. It follows that the measures advocated in paragraphs 1 and 2 are also applicable to persons living in institutions, but only in so far as this mode of life does not render their implementation impossible or manifestly irrelevant.

59. Respect for privacy is mentioned only in relation to elderly persons living in institutions, a situation warranting special mention. Everyone in all circumstances is naturally entitled to respect for his or her private life as guaranteed by the European Convention on Human Rights.

### Other provisions of the Protocol

60. In addition to the “substantive” articles, the Protocol contains a number of supplementary provisions whose purpose is:

- a. to stipulate the extent of the undertakings subscribed to by the Parties (Article 5);
- b. to recall the supervision procedure (Article 6);
- c. to stipulate the means of implementing the Protocol (Article 7);
- d. to explain the relationship between the Protocol and the Charter (Article 8);

- e. to lay down the conditions for the signature, ratification, entry into force and denunciation of the Protocol, its territorial application and the notifications relating to these matters (Articles 9 to 12);
- f. to stipulate that the appendix forms an integral part of the Protocol (Article 13).

61. These provisions call for no special comment; their wording is clear. Furthermore, they follow the model final clauses for conventions and agreements concluded within the Council of Europe.

62. It should, however, be pointed out that Article 7, which enunciates in its paragraph 2 the exclusions Parties may avail themselves of, pursuant to paragraph 2 of Articles 2 and 3, is largely based on Article 33 of the Charter but nevertheless departs from it to clarify the various modes of implementation envisaged.

63. In practice, however, the enjoyment of the rights set forth in Articles 2 and 3 may be guaranteed only to the great majority of workers concerned and therefore need not necessarily be afforded to all workers.

64. On the other hand, all the persons mentioned in Articles 1 and 4 must be guaranteed the rights set out there. There is no possibility of leaving a minority of workers or elderly persons outside the scope of the laws, regulations, collective agreements, etc., by means of which the implementation of the undertakings given in these articles is fulfilled.

## **Appendix to the Protocol**

65. The appendix, which forms an integral part of the Protocol, includes a number of definitions, comments and interpretations of and on the “substantive” articles of the Protocol.

66. As regards “persons protected”, it is pointed out that in its Opinion No. 131 the Assembly proposed not to restrict the protection of the four new rights to nationals of the Parties. Since the Protocol is a legal instrument distinct from the Charter, there was no obligation from a legal point of view to make the scope of its application to persons identical to that laid down in the Charter. It was considered, nevertheless, that the close relationship created between the two instruments militated in favour of a degree of harmonisation and the need to have an identical field of application to persons won the day. It was stressed that the extension of the application of the Protocol to any persons of whatever nationality was not legally excluded and that in practice most of the rights falling within the social or labour field by their very nature benefit in principle and without distinction all persons lawfully residing or working regularly in the territory of a Party.

67. The provision of the appendix relating to Article 1 allow the exclusion of, from “terms of employment and working conditions”, social security matters within the meaning of ILO Convention No. 102 concerning minimum standards of social security, that is to say its nine traditional branches. It was agreed that this text is to be construed as also allowing the exclusion, from the field of application of Article 1, of conditions of employment genuinely linked to social security matters and other benefits mentioned.

68. Under the heading “Articles 2 and 3”, paragraph 4 of the appendix has been inserted, *inter alia*, to meet the situation in the Federal Republic of Germany where certain categories of undertakings with an “orientation” (*Tendenzbetriebe*) are excluded from the scope of the 1972 Act on the Organisation of Undertakings or from certain of its provisions. These are “companies and establishments that directly and predominantly:

1. pursue political, coalition, religious, charitable, educational, scientific or artistic objects; or
2. serve purposes of publishing or expressing opinions covered by the second sentence of section 5 (1) of the Basic Law (Constitution).”

69. Under the heading “Articles 2 and 3”, paragraph 5 of the appendix refers to “establishments of the undertaking”. In fact an undertaking may consist of one or more production units economically and legally bound to a single management centre. Such production units then constitute as many component establishments of the undertaking, and it is understood that where within a state rights Nos. 2 and 3 are effectively exercised within the various establishments of the undertaking in question, the Party concerned shall be deemed to fulfil its obligations under these provisions.

## **B. Explanatory report to the 1991 Amending Protocol**

### **Background**

1. On 5 November 1990 an informal ministerial conference on human rights was held in Rome. One of the topics discussed was the European Social Charter, with the result that the Committee of Ministers of the Council of Europe was invited to take the necessary measures so that a detailed study of the role, contents and operation of the European Social Charter might be undertaken as soon as possible.

2. At their 449th meeting (November-December 1990), the Ministers’ Deputies decided to authorise the convening of an *ad hoc* committee, the Committee on the European Social Charter (Charte-Rel), which would have the task of making proposals for improving the effectiveness of the European Social Charter and more particularly the functioning of its supervisory machinery.

3. The Committee was composed of experts designated by each member state. In addition, representatives of the Parliamentary Assembly, ILO, ETUC and UNICE took part in its meetings, but without the right to vote. The Committee of Independent Experts and the Governmental Committee as well as several other Council of Europe committees also participated in this work.

4. At its first meeting (February 1991), the Committee decided to concentrate, in the first instance, on the improvement of the supervisory machinery before addressing the reform of the substance of the Charter. As concerns the improvement of the supervisory machinery, its efforts resulted in three reforms which together make up a coherent whole: the present Protocol; the draft Additional Protocol laying down a system of collective complaints; the change in the reporting procedure, which the Committee of Ministers decided in September 1992 to introduce for a trial period of four years.

5. The Charte-Rel Committee adopted the draft Protocol at its third meeting (September 1991) and decided to communicate the text to the Committee of Ministers.
6. The Committee of Ministers, to which Parliamentary Assembly Recommendation 1168 (1991) had also been referred, adopted the text of the Protocol on 16 October 1991 and agreed that it should be opened for signature on 21 October 1991 in Turin, at a ministerial conference commemorating the 30th anniversary of the signature of the European Social Charter.

## General structure of the Protocol

7. At the very outset of its work, the Charte-Rel Committee was unanimous on two preconditions for any significant improvement in the functioning of the Charter:
  - a. a political will should be clearly expressed in the supervisory process. The main weakness of the present functioning of the system of supervision lay in the absence of any political sanction. The Committee of Ministers ought to adopt individual recommendations on the basis of Article 29 of the Charter – a step which it had so far never taken;
  - b. a substantial and rapid increase in the resources available for implementing the Charter, particularly the resources of the Secretariat, was required.
8. A consensus also emerged on various other points:
  - a. the Governmental Committee ought to be retained;
  - b. it was essential to clarify the functions and competences of the various supervisory organs, particularly those of the Committee of Independent Experts and of the Governmental Committee;
  - c. according to its own representatives, the role of the Parliamentary Assembly ought to be revised: it should cease to be a supervisory organ in the strict sense of the term and become a political body for stimulation and discussion;
  - d. the length of the supervisory procedure ought in any event to be reduced;
  - e. it was necessary to improve the participation of the social partners within the national framework;
  - f. efforts should be made to promote the Charter and make it better known, especially at national level.
9. The discussion was devoted for the most part to the clarification of the respective powers of the Committee of Independent Experts and the Governmental Committee. The text finally adopted is based on the idea that, of these two bodies, the Committee of Independent Experts alone would be competent to make a legal assessment of whether the national legislation, regulations and practices of a Contracting Party complied with its undertakings under the Charter. The role of the Governmental Committee would be to examine national situations and provide a specific viewpoint based on social, economic and other policy considerations. It could select the most problematical situations for consideration by the Committee of Ministers, suggesting, where appropriate, that the Ministers adopt one or more recommendations for the attention of this or that state. In this context,

the Governmental Committee would not be a political organ *per se*, but rather a guide assisting the Committee of Ministers in reaching its decisions. Through its role as a forum of governmental experts examining the reasons for the various states' main difficulties in the implementation of the provisions of the Charter, the Governmental Committee could play an important part in instigating measures to ensure social progress in Europe.

10. These considerations<sup>24</sup> had several consequences, the main ones being as follows:

- a. for the Committee of Independent Experts: increase in the number of members; modified procedure for election of members;
- b. for the Governmental Committee: to consider the more frequent use of paragraph 2 of Article 27 of the Charter, under the terms of which the Governmental Committee may consult international non-governmental organisations having consultative status with the Council of Europe in respect of questions with which such organisations are particularly qualified to deal;
- c. for the Committee of Ministers: adoption of individual recommendations; modification of the majority provided for under Article 29;
- d. for the Parliamentary Assembly: new role (see paragraph 8.c above);
- e. changes necessary prior to the conclusions of the Committee of Independent Experts, above all, gathering information as full and as balanced as possible. In this connection, special mention may be made of the possibility for the Committee of Independent Experts to refer directly to the Contracting Parties to request additional or more detailed information and to hold meetings with governmental representatives.

11. Not all these proposals required amendments to the Charter in order to be implemented. Nevertheless, in the light of past experience, the Charte-Rel Committee felt that several of the proposals should be incorporated into the text of the Charter.

## Comments

### ■ Article 1

12. This article amends Article 23. Apart from purely technical changes, it introduces a new system for communicating copies of governmental reports and observations on these reports.

#### *Paragraph 1*

13. Compared with the original text, the amended text states that when submitting their reports to the Secretary General governments shall send a copy to national organisations of employers and workers; the copy may of course be sent in the national language before being translated into one of the official languages of the Council of Europe.

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24. To which must be added the taking into account of the recent increase in the number of Contracting Parties (see below, paragraph 26).

14. The last two sentences replace the existing paragraph 2. Henceforth, both sides of industry can send their observations on the governmental reports directly to the Secretary General of the Council of Europe, while governments will also have the chance to submit their comments.

#### *Paragraph 2*

15. This paragraph is new. It provides that certain international non-governmental organisations (INGOs) shall be informed. This provision, which is mainly inspired by the important role which INGOs may play in developing the Charter and giving it fresh impetus, should be read in conjunction with Article 27, paragraph 2, and with the draft Additional Protocol introducing a system of collective complaints. There is merely a duty to inform: in contrast to the national social partners mentioned in paragraph 1, these INGOs will not have an opportunity to pass comments on governments' reports.

#### *Paragraph 3*

16. This paragraph is also new. With the aim of helping to promote the Charter and improve knowledge about it, provision is made for reports and comments to be communicated on request, without this implying a duty for the national authorities or the Council of Europe to make these documents the subject of an actual publication.

### ■ **Article 2**

17. This article amends Article 24 pertaining to the examination of governmental reports by the Committee of Independent Experts, whose powers and functions it defines.

#### *Paragraph 1*

18. This paragraph reproduces the text of the existing Article 24 with some technical changes.

#### *Paragraph 2*

19. Like the two following paragraphs, this paragraph is new and represents one of the essential provisions of the Protocol. In conjunction with paragraphs 3 and 4 of the new Article 27, it is intended to express in the text of the Charter the new allocation of powers between the Committee of Independent Experts and the Governmental Committee (see paragraph 9 above). It therefore clearly states that the task of the Committee of Independent Experts is to assess national law and practice in relation to provisions under the Charter from a legal standpoint.

#### *Paragraph 3*

20. In this paragraph, provision is made for practical measures to introduce greater flexibility into the procedure, especially by helping to avoid misunderstandings – which cause tension and delays – between the Committee of Independent Experts and governments.

21. Accordingly, when examining a particular report, the Committee may get in touch directly with the government concerned in order to obtain information or clarifications without having to wait for the government's next report.

22. Similarly, the Committee may also hold a meeting with representatives of a Contracting Party. It was nevertheless considered that such meetings should remain the exception and that they should not be of a compulsory character.

23. Informing employers and workers (on a national and international level) in accordance with the last sentence may be done in various ways. Their organisations should at least be informed by the government concerned of the holding and outcome of the meeting.<sup>25</sup> Moreover, it would be possible for a government to invite representatives of the organisations in its country, which satisfy the criteria of paragraph 1 of Article 23, to attend the meeting of the Committee of Independent Experts together with its own representatives.

#### *Paragraph 4*

24. Like paragraph 3 of Article 23 as amended, this paragraph is designed to promote the Charter and encourage better participation by the various bodies concerned, by providing for the widest possible publicity of the relevant work.

### **Article 3**

25. As indicated above (paragraph 10), certain provisions in the Protocol are the direct result of the new distribution of powers between the Committee of Independent Experts and the Governmental Committee. The amendments to Article 25 are an illustration of this change. This article refers to the membership of the Committee of Independent Experts whose title is given official status here.

#### *Paragraph 1*

26. Between October 1988 and October 1991, six new states ratified the Charter, which represents a remarkable increase compared with past events.<sup>26</sup> During the preparation of the Protocol it also became increasingly likely that the Additional Protocol of 1988 would enter into force in the near future, as in fact happened on 4 September 1992. As a result, many voices were raised to recommend, as did the Committee itself, an increase in the membership of the Committee of Independent Experts. This would enable it to have a more representative composition and to enjoy more satisfactory working conditions for coping with its workload.

27. Currently, the Committee of Independent Experts consists of “not more than seven members”. Under the terms of this paragraph 1, the number is increased to nine, which is moreover regarded as a minimum (“at least nine members”). Thus, in order to meet new needs in the future without having to amend the text of the Charter each time, it is provided that the Committee of Ministers will fix the exact number of members of the Committee of Independent Experts.

28. In order to strengthen the independence of the Experts it is provided that they will no longer be appointed by the Committee of Ministers but elected by the Parliamentary Assembly from a list drawn up by the Contracting Parties.

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25. See the new Article 27, paragraph 1, which speaks of “information communicated in accordance with paragraphs 1 of Article 23 and 3 of Article 24”.

26. The seven ratifications necessary for the Charter to enter into force were made in less than three-and-a-half years, but nineteen years were needed for seven additional ratifications.



### *Paragraph 2*

29. The term of office of members of the Committee remains at six years but, in the future, it can be renewed only once.

30. The second sentence of this paragraph and the whole of paragraph 3 of the present text of Article 25 have been deleted because they have become superfluous, since the Committee of Independent Experts is already functioning and the system of partial renewal of membership is already operative.

### *Paragraph 3*

31. This paragraph repeats the text of the existing paragraph 4, apart from a few technical changes.

### *Paragraph 4*

32. This paragraph draws on the provisions recently incorporated into the European Convention on Human Rights by Protocol No. 8 (new Article 23 and Article 40, paragraph 7; see also Article 4, paragraph 7, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment). The provisions it contains are of course intended for each member of the Committee, but also for governments of Contracting Parties when they submit candidates for election.

## ■ **Article 4**

33. This article amends Article 27<sup>27</sup> which deals with the membership and duties of the Governmental Committee, whose title is also given official status here.

### *Paragraph 1*

34. This paragraph supplements the present paragraph 1 by mentioning further documents to be communicated to the Governmental Committee, namely: the comments by national organisations of employers and workers on governmental reports; the government's comments in reply (Article 23, paragraph 1) and any further information provided on the occasion of a meeting of the Committee of Independent Experts with the representatives of a Contracting Party (Article 24, paragraph 3).

### *Paragraph 2*

35. Compared with the present text, it should be noted that the number of representatives of international non-governmental organisations who may be consulted by the Governmental Committee is no longer limited to two.<sup>28</sup> In addition, the qualifications of these INGOs are defined in more general terms, and examples have been omitted.

### *Paragraph 3*

36. Like paragraph 2 of the new Article 24, this paragraph is another essential provision of the Protocol. It defines the powers of the Governmental Committee

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27. Article 26 concerning participation of the International Labour Organisation is unchanged.

28. As indicated above in paragraph 10.b, the hope was expressed that the Governmental Committee would make more frequent use of this possibility provided under the Charter.

as described above in paragraph 9. Basically, the idea is to make a clear distinction between its powers and those of the Committee of Independent Experts, which is achieved above all in the words “on the basis of social, economic and other policy considerations”<sup>29</sup> which contrasts with the expression “from a legal standpoint”, contained in paragraph 2 of the new Article 24.

37. In the same spirit as the remarks made in paragraph 7.b above, the accent is placed here on the individual recommendations which should be adopted by the Committee of Ministers.

38. The last sentence corresponds to the existing paragraph 3, but some changes have been introduced. In view of the new powers assigned to each of the two committees, the report by the Committee of Independent Experts acquires a new status of its own and is no longer an appendix to the Governmental Committee’s report. Again with a view to promoting the Charter and making it more familiar to all those concerned (see paragraphs 16 and 24 above), the Governmental Committee’s reports will be made public.

#### *Paragraph 4*

39. This paragraph supplements the foregoing one by extending the functions of the Governmental Committee beyond those of a mere monitoring body. Accordingly, it will be able to submit proposals to the Committee of Ministers for the preparation of studies on social issues or on articles of the Charter in need of revision.

### ■ Article 5

40. This article in fact amends the original Article 29 of the Charter because, with a view to highlighting the fact that the Parliamentary Assembly will no longer intervene directly in the supervisory procedure, the order of Articles 28 and 29 has been inverted.

#### *Paragraph 1*

41. This paragraph is based on the text of Article 29 but introduces major amendments, all of which are designed to make it possible for the Committee of Ministers to adopt individual recommendations.

42. The present majority (two-thirds of the Council of Europe member states, whether or not they are Parties to the Charter), was found to constitute an obstacle, since a few abstentions might prevent the required majority from being achieved. States not party to the Charter have indeed tended to abstain. For this reason, the new rule provides that only Contracting Parties may take part in the voting and that the two-thirds majority will be based on those voting (no account being taken of abstentions).

43. In order to highlight the need for the Committee of Minister to adopt individual recommendations taking account of the proposals by the Governmental Committee, the wording has been made more binding: “shall adopt ... individual recommendations”, instead of “may ... make ... any necessary recommendations”.

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29. For purely linguistic reasons the French and English versions are not strictly identical, but their meaning is the same.

44. It is specified that the resolution adopted by the Committee of Ministers shall cover “the entire supervision cycle”<sup>30</sup> as the recommendations will concern only some of the provisions that have been monitored.

45. In accordance with what was stated above in paragraph 40 and which has been made explicit in the new Article 29, the obligation on the Committee of Ministers to consult the Parliamentary Assembly has been discarded.

#### *Paragraph 2*

46. With regard to the functions to be performed by the Committee of Ministers, this paragraph corresponds to paragraph 4 of the new Article 27.

### ■ Article 6

47. From the very outset of the work on the Protocol, the representatives of the Parliamentary Assembly on the Charte-Rel Committee<sup>31</sup> expressed the wish that the Assembly’s role should be changed: it should no longer be a supervisory body as such, systematically verifying the application of all the provisions of the Charter for all Contracting Parties; rather, it should organise periodic debates on selected topics of social policy. This change should allow the Assembly to express its point of view on the action resulting from the Charter in the light of major debates on social policy, without necessarily being tied by the timetable of the control procedure. The said procedure would thereby be simplified and speeded up.

48. This new conception of the Assembly’s role is spelt out in Article 6 of the Protocol, which in effect amends the present Article 28 of the Charter. As already pointed out (paragraph 40 above), the order of Articles 28 and 29 has been inverted to bring out more clearly that the Assembly, although still associated with the implementation of the Charter, is no longer implicated in the supervisory procedure as such.

### ■ Articles 7 to 9

49. These articles, which contain the final clauses of the Protocol, correspond to the models adopted by the Committee of Ministers of the Council of Europe.

## C. Explanatory report to the 1995 Protocol

### Background

1. The idea of setting up a system of collective complaints for the European Social Charter along the lines of the existing International Labour Organisation (ILO) arrangements is not new (see, for example, Recommendation 839 (1978) of the Parliamentary Assembly). It has been revived as part of the efforts initiated in 1991 to give a new impetus to the Charter.
2. The introduction of a system of this type is designed to increase the efficiency of supervisory machinery based solely on the submission of governmental reports.

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30. The notion of “supervision cycle” may vary according to the modifications made to the reporting procedure (see above, paragraph 4).

31. See also Resolution 967 (1991) and Recommendation 1168 (1991) of the Parliamentary Assembly.

In particular, this system should increase participation by management and labour and non-governmental organisations (already improved by the Protocol amending the Social Charter of 21 October 1991). The way in which the machinery as a whole functions can only be enhanced by the greater interest that these bodies may be expected to show in the Charter. The procedure provided for in the Protocol will also be shorter than that for examining reports. The system of collective complaints is to be seen as a complement to the examination of governmental reports, which naturally constitutes the basic mechanism for the supervision of the application of the Charter.

3. The committee set up by the Committee of Ministers in December 1990 to draw up proposals for reforming the Charter (Committee on the European Social Charter, Charte-Rel) examined this matter from the outset. At its second meeting (22-24 May 1991), it decided to set up a working party to draw up proposals on ways of establishing a collective complaints system under the Charter, and on the operation of such a system. The working party, which met on 3 and 4 July 1991, submitted most of its proposals in the form of draft articles for incorporation in a protocol to the Charter. It was agreed that all other procedural details could be laid down in rules of procedure drawn up by the body responsible for ruling on the admissibility of complaints (in this case the Committee of Independent Experts).

4. In the light of the comments submitted in particular by the Committee of Independent Experts and international organisations of employers and trade unions (UNICE and ETUC), the Charte-Rel Committee examined the report of the working party at its third meeting (3-6 September 1991) and adopted draft articles for an additional protocol to the Charter. This draft was transmitted to the Committee of Ministers.

5. Bearing in mind the decision to hold a ministerial conference in Turin on 21 and 22 October 1991 to mark the thirtieth anniversary of the signing of the European Social Charter, the Ministers' Deputies agreed that the examination of this draft "should be pursued both by the Experts, who would meet in Turin on 21 October 1991 in the morning, and by the Ministers' meeting in Turin". In the Final Resolution of the conference the Ministers – after stressing the importance, for the purposes of the effectiveness and development of the Charter, of the widest possible participation by management and labour, and stating that a majority of them considered that such participation would be strengthened by the introduction of a system of collective complaints – recommended that the Committee of Ministers "examine at their earliest opportunity a draft protocol providing for a system of collective complaints, with a view to its adoption and opening for signature".

6. In the meantime the Parliamentary Assembly had adopted Recommendation 1168 (1991). The appendix to this recommendation contained a new article 25bis on the collective complaints procedure (see also Resolution 967 (1991)).

7. The Charte-Rel Committee resumed examination of the draft protocol at its fourth meeting (3-6 February 1992), following which it decided to set up another working party, which met on 30 and 31 March 1992. The Committee finalised the text of the draft protocol at its fifth meeting (18-20 May 1992) and decided to transmit it to the Committee of Ministers for adoption.

8. After consulting the Committee of Independent Experts and the Parliamentary Assembly, the Committee of Ministers adopted the text of the Protocol on 22 June 1995 and opened it for signature on 9 November 1995.

## General structure of the Additional Protocol

9. The structure of the Protocol is simple. It basically answers two questions: who? how? Who can submit complaints and who examines them? Following which procedure?

10. The following organisations can submit complaints, sometimes subject to certain conditions: international and national organisations of employers and trade unions and other international and national non-governmental organisations (in the case of national NGOs, a declaration by the state concerned recognising this right is required).

11. The complaint is initially examined by the Committee of Independent Experts which, after determining admissibility, reviews both sides' explanations and information as well as any observations submitted by other Contracting Parties to the Protocol or by international organisations of employers or trade unions referred to in paragraph 2 of Article 27 of the Charter. The Committee then draws up a report containing, in particular, conclusions as to whether or not the state concerned has complied with the Charter. This report is transmitted *inter alia* to the Committee of Ministers and made public no more than four months later. On the basis of this report the Committee of Ministers adopts a resolution and, if the conclusions of the Committee of Independent Experts are negative, addresses a recommendation to the state concerned. The latter should provide information on the measures taken to comply with the recommendation of the Committee of Ministers in its next report to the Secretary General under Article 21 of the Charter.

## Comments

### Preamble

12. The preamble gives the main reasons why the member states of the Council of Europe decided to adopt the Protocol and the aim pursued.

13. In the second paragraph, the term "new measures" highlights the fact that improvements have already been made in the form of the first Additional Protocol (5 May 1988), the Protocol amending the Social Charter (21 October 1991) and changes to the system of governmental reports (decision of the Ministers' Deputies of September 1992, 479th meeting, item 25).

14. The last paragraph of the preamble refers implicitly to the Final Resolution of the Turin Conference (see paragraph 5 above) and also expressly mentions non-governmental organisations other than those of management and labour.

### ■ Article 1

15. The main purpose of this article is to indicate the organisations that are entitled to submit complaints solely by virtue of the fact that the Protocol is in force *vis-à-vis* the state concerned. In the introductory sentence it establishes

the principle of recognition of this right by the Contracting Parties and briefly describes the scope of complaints.

16. The organisations concerned are mentioned in three separate paragraphs.

*a. international organisations of employers and trade unions*

17. This refers to organisations that can take part in the work of the Governmental Committee as laid down in paragraph 2 of Article 27 of the Charter;

*b. other international non-governmental organisations (INGOs)*

18. By virtue of the aforementioned paragraph 2 of Article 27 of the Charter, these other organisations are also entitled to take part in the work of the Governmental Committee. The fact that they are mentioned in the Protocol highlights the originality of the European Social Charter as compared to other equivalent international systems. In fact several provisions of the Charter are not exclusively concerned with the world of work and do not fall within the direct competence of management and labour. In this connection, it should be noted that in the Amending Protocol the new paragraph 2 of Article 23 lays down special arrangements for notifying these organisations.

19. However, in contrast to the arrangements for international organisations of employers and trade unions, a mere reference to paragraph 2 of Article 27 was not deemed sufficient in the case of INGOs. Therefore, in order to be entitled to submit a complaint, an INGO must not only have consultative status with the Council of Europe, but must also appear on a special list.

20. This list is drawn up by the Governmental Committee using the following procedure, laid down by the Committee of Ministers (decision of 22 June 1995):

- ▶ INGOs which hold consultative status with the Council of Europe and consider themselves particularly competent in any of the matters governed by the Charter are invited to express their wish to be included on a special list of INGOs entitled to submit complaints;
- ▶ each application must be supported by detailed and accurate documentation aiming to show in particular that the INGO has access to authoritative sources of information and is able to carry out the necessary verifications, to obtain appropriate legal opinions, etc., in order to draw up complaint files that meet basic requirements of reliability;
- ▶ all applications are transmitted to the Governmental Committee, accompanied by an opinion of the Secretary General which reflects the degree of interest and participation shown by the INGO in its normal dealings with the Council of Europe;
- ▶ an application is considered accepted by the Governmental Committee unless it is rejected in a ballot by a simple majority of votes cast;
- ▶ inclusion on the special list is valid for a period of four years, after which it lapses unless the organisation applies for renewal in the six-month period preceding the expiry date. The procedure described above applies to renewal applications.

21. The inclusion of an INGO on this list does not relieve the Committee of Independent Experts, when examining admissibility, from the obligation to ascertain that the complaint actually falls within a field in which the INGO concerned has been recognised as being particularly competent (see paragraph 29 below).

*c. national organisations of employers and trade unions*

22. As laid down in paragraph 1 of Article 23 of the Charter, each Contracting Party must forward a copy of its report to certain of its national organisations of employers and trade unions. It is only normal that organisations of this type should be entitled to submit complaints, because they are very well informed of the situation in their country. For this reason those who drafted the Protocol considered that it would be wrong to restrict this right to the national organisations mentioned in Article 23 (that is those which are members of the international organisations referred to in paragraph 2 of Article 27).

23. To ensure the efficient functioning of the procedure established by the Protocol and in view of the very large number of trade unions operating in some states, it was deemed necessary to stipulate that the organisation must be “representative”. The Committee of Independent Experts will judge whether the organisation meets this criterion when examining whether the complaint is admissible, in the light of information and observations submitted by the state and the organisation concerned (see Article 6). In the absence of any criteria on a national level, factors such as the number of members and the organisation’s actual role in national negotiations should be taken into account.

24. It is also stipulated that, in order to be admissible, a complaint must be submitted by a national organisation within the jurisdiction of the Contracting Party concerned.

■ **Article 2**

25. The Charter does not refer specifically to national non-governmental organisations (NGOs) other than organisations of employers and trade unions. Nevertheless, for the same reasons as those invoked in respect of international non-governmental organisations (paragraph 18) and national organisations of employers and trade unions (paragraph 22), it was thought that these national NGOs should also be entitled to submit complaints. However, recognition of this right is not mandatory for parties to the Protocol, but optional: NGOs may only submit a complaint against a state if the state in question has previously issued a declaration recognising that NGOs are entitled to do so. In addition, according to paragraph 2, such declarations may be made for a specific period.

26. With the same aim of preserving the efficiency of the machinery for examining collective complaints, NGOs are subject to the same conditions as laid down for international non-governmental organisations and national organisations of employers and trade unions: they must be “representative” and particularly “qualified” in issues covered by the Charter. The Committee of Independent Experts will judge whether these criteria are met when examining whether the complaint is admissible in the light of information submitted by both parties (see Article 6 and paragraph 23 above). As in respect of INGOs (see, paragraph 21 above and paragraph 29 below),

the Committee should ascertain that the complaint actually falls within a field in which the NGO concerned is particularly competent.

27. As is the case for national organisations of employers and trade unions, NGOs must come within the jurisdiction of the state against which their complaint is made.

28. Subject to the considerations set out in the previous two paragraphs, when a state makes a declaration on the basis of this article, it recognises the right of all NGOs within its jurisdiction to submit complaints without, for example, drawing up a national list. In similar vein, it may not restrict this right to certain articles or paragraphs of the Charter.

### ■ Article 3

29. This article specifies that international and national non-governmental organisations may only submit complaints in respect of those matters regarding which they have been recognised as having particular competence.

### ■ Article 4

30. This article lays down three admissibility conditions which were deemed sufficiently important to be specifically mentioned in a separate article of the Protocol. These conditions complement those laid down in Articles 1 and 2, which specify the organisations entitled to submit complaints.

31. As indicated in paragraph 3 above, the Committee of Independent Experts may stipulate the conditions governing the admissibility of complaints in its rules of procedure. It must take account of the fact that the following was agreed in the course of negotiations within the Charte-Rel Committee:

- ▶ a complaint may be declared admissible even if a similar case has already been submitted to another national or international body;
- ▶ the fact that the substance of a complaint has been examined as part of the “normal” government reports procedure does not in itself constitute an impediment to the complaint’s admissibility. It has been agreed to give the Committee of Independent Experts a sufficient margin of appreciation in this area;
- ▶ because of their “collective” nature, complaints may only raise questions concerning non-compliance of a state’s law or practice with one of the provisions of the Charter. Individual situations may not be submitted.

### ■ Article 5

32. This article does not invite any specific comments, but two general remarks can be made.

33. The adverb “immediately” underlines that one of the advantages of the new procedure is its rapidity. This comment also applies to Articles 6 and 7, which invite the Committee of Independent Experts in several instances to prescribe time-limits for the submission of information and explanations.

34. It has been agreed that when the Committee of Independent Experts takes action under the Protocol, its membership shall be that laid down in Articles 25 and 26 of the Charter, namely with the participation of an ILO representative.



## ■ Article 6

35. This article concerns the assessment of the admissibility of complaints. The submissions of both parties must be examined: the state concerned and the organisation that lodged the complaint are invited by the Committee of Independent Experts to submit information and observations, and a complaint can only be declared admissible if the state concerned has had the opportunity to state its case. However, the article does not create an obligation for the Committee of Independent Experts to request such information, in order to permit it to reject a complaint that is manifestly inadmissible of its own volition.

## ■ Article 7

36. This article lays down the main stages in the examination of the merits of complaints. Again, heavy emphasis is placed on the fact that submissions from both parties must be examined and on its corollary, namely the need to work within reasonable time limits.

37. Paragraph 1 establishes a distinction between information and the possibility of submitting comments. All Contracting Parties to the Charter are notified that a complaint is admissible (first sentence). However (second sentence), only Contracting Parties to the Protocol may submit comments. These provisions reflect the fact that the follow-up to a complaint may be of interest to states other than the one directly concerned, while providing that those states that have not agreed to be bound by the Protocol are not entitled to submit comments.

38. Paragraph 2 takes account of the key role played by international organisations of employers and trade unions in the supervisory machinery provided for by the Charter in giving them the possibility of submitting observations on complaints lodged by other organisations.

39. Paragraph 3 makes provision for each party concerned to react to the other party's comments.

40. Paragraph 4 authorises the Committee of Independent Experts to organise hearings with representatives of the state concerned and the organisation that lodged the complaint. In view of the fact that the previous paragraphs of this article make ample provision for both parties to make submissions, hearings of this type need not be organised systematically. It is simply an option available to the Committee of Independent Experts, which is responsible for determining on the basis of the available information whether a meeting with the representatives of the parties is necessary. Meetings of this type can also be arranged at the request of one of the parties.

## ■ Article 8

41. Paragraph 1 corresponds to the final stage of the consideration of the merits of the complaint by the Committee of Independent Experts. The Committee draws up a report featuring in particular its legal assessment of the complaint. This provision must be read in the light of the new paragraph 2 of Article 24 of the Charter (Article 2 of the Protocol amending the Charter).

42. Paragraph 2 specifies to which bodies the report of the Committee of Independent Experts is to be sent and lays down rules on its publication.

43. Initially (first sub-paragraph) the report, which is transmitted to the Committee of Ministers, the organisation that lodged the complaint and the Contracting Parties to the Charter, remains confidential<sup>32</sup>.

It should be borne in mind here that the whole of the procedure for considering complaints is confidential. It was not thought necessary to specify this in the Protocol because the rules of procedure of the Committee of Independent Experts already stated that its sessions “shall be held in private. All working documents shall be confidential”. Nevertheless, this does not imply a total lack of information. In line with the procedure used within the framework of the European Convention on Human Rights, the following may be made public: the fact that a given organisation has lodged a complaint against a given state, the basis of the complaint and the decision on its admissibility.

44. Subsequently (second sub-paragraph) the report is transmitted to the Parliamentary Assembly and made public. This may take place at two different times:

- ▶ either four months after the report has been transmitted to the Committee of Ministers;
- ▶ or when the resolution referred to in Article 9 is adopted by the Committee of Ministers, if this occurs before four months have elapsed.

## ■ Article 9

45. This article deals with the role of the Committee of Ministers, which intervenes immediately after the Committee of Independent Experts.

46. The duties of the Committee of Ministers are similar to those it carries out as supervisory body in the procedure instituted by the Charter.

On the basis of the report of the Committee of Independent Experts, the Committee of Ministers adopts a resolution, by a majority of those voting. However, if the conclusions of the Committee of Independent Experts are negative, the Committee of Ministers must adopt a recommendation addressed to the state concerned. In view of the importance of this decision and in accordance with the new rule introduced by the Amending Protocol (Article 5), a two-thirds majority of those voting is required.

The Committee of Ministers cannot reverse the legal assessment made by the Committee of Independent Experts. However, its decision (resolution or recommendation) may be based on social and economic policy considerations.

47. In respect of the resolution as well as the recommendation, only the Contracting Parties to the Charter are entitled to take part in the vote.

48. The Charte-Rel Committee had foreseen that the Governmental Committee would not be involved in the procedure for examining complaints, but the Committee of Ministers decided before adopting the Protocol to add a second paragraph to this article, according to which the Committee of Ministers may decide, where the report of the Committee of Independent Experts raises new issues, by a two-thirds majority of the Contracting Parties to the Charter, to consult the Governmental Committee.

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32. See, *mutatis mutandis*, paragraph 2 of Article 31 of the European Convention on Human Rights

## ■ Article 10

49. Once the Committee of Ministers has adopted a recommendation, appropriate follow-up must be ensured. In line with the practice adopted for other international supervisory machinery (European Convention on Human Rights, ILO, Human Rights Committee, etc.), Article 10 requires the state concerned to provide information on the measures it has taken to give effect to the Committee of Ministers' recommendation.

50. This information will be contained in the "next report" that the state concerned submits to the Secretary General under Article 21 of the Charter. In other words, the state may not wait until the time when it would normally submit a report on the provision(s) concerned by the complaint; it must provide the information required in the report immediately following the decision of the Committee of Ministers.

## ■ Article 11

51. Throughout the Protocol, only the Charter itself is mentioned. This article specifies that if a state is also bound by the first Additional Protocol (5 May 1988), complaints may be submitted on the basis of the articles it has accepted.

52. If further protocols to the Charter are adopted in future, they must contain a provision specifying that this Protocol applies to the articles of these other protocols that have been accepted.

## ■ Article 12

53. In the course of the negotiations, the question arose as to whether the adoption of a system of collective complaints would be fully compatible with the wording of the appendix to the Charter concerning Part III, which states that "It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof."

54. To avoid any ambiguity, it was decided to include the present Article 12.

## ■ Articles 13 to 15

55. These articles, which contain the final clauses of the Protocol, conform to the model adopted by the Committee of Ministers of the Council of Europe.

# D. Explanatory report to the revised European Social Charter

## Introduction

1. On 5 November 1990 an Informal Ministerial Conference on human rights was held in Rome. One of the topics discussed was the European Social Charter, with the result that the Council of Europe's Committee of Ministers was invited to take the necessary steps so that a detailed study of the role, contents and operation of the European Social Charter might be undertaken as soon as possible.

2. At their 449th meeting (November-December 1990), the Ministers' Deputies decided to authorise the convening of an *ad hoc* committee, the Committee on the European Social Charter (Charte-Rel). Under its terms of reference, the Committee was instructed to make proposals for improving the effectiveness of the European Social Charter, and particularly the functioning of its supervisory machinery.

3. The Committee was composed of experts appointed by each member state. Its meetings were attended in a non-voting capacity by representatives of the Parliamentary Assembly, the International Labour Organisation, the European Trade Union Confederation and the Union of Industrial and Employers' Confederations of Europe. The Committee of Independent Experts and the Governmental Committee of the European Social Charter were also involved in the work along with several other Council of Europe committees.

4. At its twelfth meeting (10-14 October 1994), the Charte-Rel Committee adopted a draft revised European Social Charter and decided to submit it to the Committee of Ministers for adoption.

5. After consulting the Committee of Independent Experts and the Parliamentary Assembly, the Committee of Ministers adopted the text entitled the revised European Social Charter on 3 April 1996 and opened it for signature on 3 May 1996.

6. According to the practice of the Council of Europe, this explanatory report has no binding value and was drafted only with a view to explaining the content of the revised Charter. The Committee of Ministers authorised its publication when adopting the revised European Social Charter.

7. From the outset, the aim has been that amendments to the text of the Charter should not represent a lowering of the level of protection provided for therein. It was also agreed that the reform would involve taking account both of developments in social and economic rights as reflected in other international instruments and in the legislation of member states and also of social problems not covered by the other international instruments in force. Furthermore, all amendments were to be made bearing in mind the need to ensure equal treatment of men and women.

8. The revised European Social Charter takes account of developments in labour law and social policies since the Charter was drawn up in 1961. The revised Charter is a comprehensive international treaty which brings together in a single instrument all the rights guaranteed in the Charter and the 1988 Additional Protocol, along with the amendments to these rights and the new rights adopted by the Charte-Rel Committee.

The instrument has been drafted in such a way as to be autonomous, but with the same supervisory machinery as the Charter. It does not conflict with the Charter but is intended to eventually replace it.

9. The revised Charter presents Parts I and II in the same way as they are presented in the Charter and the 1988 Additional Protocol, adding the new rights at the end of each part. This presentation was deemed preferable since it had the advantage of being familiar, of avoiding confusion with the original texts and the existing case law and of facilitating the presentation of national reports. This will also allow new rights to be added in the future without changing the structure of the text.

10. The revised European Social Charter does not provide for denunciation of the former Charter. However, if a Contracting State accepts the provisions of the revised Charter, the corresponding provisions of the initial Charter and its Protocol cease to apply to that state. In this way, states are not simultaneously bound by undertakings at different levels.

11. The terminology used in the revised Charter is in conformity with the model final clauses adopted by the Committee of Ministers in 1981, in particular the term “Contracting Party” in the Charter has been replaced by “Party”.

## Part I

12. This part corresponds to Part I of the Charter. Similarly to this Part I, it contains a general statement of rights and principles setting out the aim for the policy of the Parties and each point of Part I corresponds to the Article of Part II with the same number.

13. As in the case of the Charter, Part I contains a declaration of a political nature which has to be accepted as a whole, irrespective of whether the corresponding provisions of Part II are accepted or not.

14. The wording of points 8, 15 and 17 has been brought into line with the revised Articles 8, 15 and 17. The amendments made to Articles 2, 3, 7, 10, 11, 12 and 19 have not required that any changes be made to Part I.

15. Points 20 to 23 have been taken from the 1988 Additional Protocol to the Charter and have not been amended.

16. Points 24 to 31 correspond to the new Articles contained in the revised Charter.

## Part II

17. Part II contains the economic and social rights provided for by the revised European Social Charter. As in the case of the Charter, those rights may be accepted selectively, subject to a minimum number of acceptances (see Article A below).

18. As there is no explanatory report to the Charter, it was considered preferable not to explain the rights contained in Part II of the revised Charter. Only the differences with the Charter will therefore be mentioned, as well as the new provisions set out.

19. Articles 1 to 19 reproduce the text of the corresponding Articles of the Charter with the following differences:

■ **Article 1** – The right to work

20. No amendment.

■ **Article 2** – The right to just conditions of work

21. Two paragraphs have been amended (paragraphs 3 and 4), the others remain unchanged:

### *Paragraph 3*

22. This provision provides for an increase in annual holidays, from the two weeks provided by the Charter to four weeks.

### *Paragraph 4*

23. This provision, which in the Charter provides for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations,

has been amended so as to reflect present-day policies which aim to eliminate the risks to which workers are exposed. The idea is that additional paid holidays or reduced working hours should only be provided where it has not been possible to eliminate or reduce sufficiently the risks inherent in dangerous or unhealthy occupations. This provision should be seen as a complement to the revised Article 3, which emphasises the prevention of occupational accidents.

24. Two new paragraphs have been added:

#### *Paragraph 6*

25. The obligation on the Parties under this paragraph is to ensure that workers are informed about the essential aspects of their contract or employment relationship.

26. The “essential aspects” of the contract or employment relationship of which workers shall be informed have not been specified in the provision. However, reference as to the minimum requirements in this respect may be found in European Community Directive (91/533) on an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship (Article 2). In principle the provision covers all workers, but the appendix stipulates that two exceptions can be made, namely Parties may provide that the provisions shall not apply to workers whose contract of employment covers a very short period of time or whose contract or employment relationship is of a casual or of a specific nature provided it is justified by objective considerations.

#### *Paragraph 7*

27. The general recognition of the fact that night work places special constraints on workers, both men and women led to the inclusion of this paragraph in the revised Charter. Furthermore, whereas Article 8, paragraph 4.a of the Charter provided that the employment of women workers in general for night work in industrial employment should be regulated, the corresponding provision in the revised Charter protects women only in the case of maternity. The other women previously protected by Article 8, paragraph 4.a of the Charter are therefore now covered by Article 2, paragraph 7 of the revised Charter on the same conditions as men, in conformity with the principle of equality. It should however be pointed out that the new provision does not require the existence of regulations.

28. The provision contains no definition of night work, which is to be provided by national legislation or practice.

### ■ **Article 3** – The right to safe and healthy working conditions

29. This Article contains two new paragraphs (paragraphs 1 and 4) and two paragraphs (paragraphs 2 and 3) which, together with the new preamble of the Article correspond, respectively, to Article 3, paragraphs 1 and 3 of the Charter and to Article 3, paragraph 2 and 3 of the Charter.

30. The requirement for consultation with employers’ and workers’ organisations which is contained in Article 3, paragraph 3 of the Charter has been included in the preamble of Article 3 of the revised Charter and consequently applies to the four paragraphs contained in Article 3 of this instrument.

#### *Paragraph 1*

31. This paragraph obliges the Parties to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. It emphasises that the aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health, *inter alia*, by minimising risks.

#### *Paragraph 2*

32. This paragraph corresponds to Article 3, paragraphs 1 and 3 of the Charter.

#### *Paragraph 3*

33. This paragraph corresponds to Article 3, paragraphs 2 and 3 of the Charter.

#### *Paragraph 4*

34. This provision provides that the Parties shall promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

35. The terms “occupational health services” shall include the French concept of *médecine du travail*.

36. In the appendix it is provided that for the purposes of this provision the function, organisation and conditions of operation of occupational health services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

#### ■ **Article 4** – The right to a fair remuneration

37. No amendment.

#### ■ **Article 5** – The right to organise

38. No amendment.

#### ■ **Article 6** – The right to bargain collectively

39. No amendment.

#### ■ **Article 7** – The right of children and young persons to protection

40. Three paragraphs have been amended (paragraphs 2, 4 and 7), the others remain unchanged:

#### *Paragraph 2*

41. The minimum age required by this provision for admission to employment in prescribed occupations regarded as dangerous or unhealthy, which was not specified by the Charter, has been fixed at 18 years in the revised Charter. This provision has been inspired by the Council of the European Communities Directive 94/33 on the protection of young people at work.

#### *Paragraph 4*

42. The minimum age-limit provided for by this provision for regulation of the working hours has been raised to 18 years as compared to the 16 years provided for in the Charter.

### Paragraph 7

43. The length of annual holidays with pay for young workers has been increased, from the three weeks provided in the Charter to four weeks.

### ■ Article 8 – The right of employed women to protection of maternity

44. In order to take into account the principle of equality, this Article, which corresponds to Article 8 of the Charter, has been modified so as to protect women exclusively in the case of maternity. This is a result, *inter alia*, of the changes made to the heading and to the introductory sentence. As stated in the heading of the provision it applies only to employed women.

45. Three paragraphs have been amended (1, 2 and 4), paragraph 3 remains unchanged:

#### Paragraph 1

46. As compared to the Charter, the length of maternity leave has been increased from twelve to fourteen weeks.

#### Paragraph 2

47. This provision of the revised Charter extends the minimum period of protection against dismissal for pregnant women as compared to the corresponding provision of the Charter. The period runs from the time a woman notifies her employer that she is pregnant until the end of her maternity leave.

48. There are some exceptions to the protection against dismissal during this period. These exceptions have been included in an appendix to the provision. They cover, *inter alia*, cases of serious misconduct, cases in which the enterprise ceases to operate and cases in which the period prescribed in the employment contract has expired. These exceptions correspond to the case law of the Committee of Independent Experts.

#### Paragraph 4

49. This paragraph amends Article 8, paragraph 4.a of the Charter. The basic idea behind it, which has been taken from ILO Convention No. 171 (Night Work) of 1990 and from European Community Directive 92/85 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, is that regulations on the employment of women for night work are needed only in the case of maternity. It is thus more restrictive than Article 8, paragraph 4.a of the Charter, which concerns the regulation of night work for women in general, but at the same time it is wider in its scope as it is not limited to regulating night work for women in industrial employment. Article 2, paragraph 7 offers protection for both men and women performing night work.

50. The definition of the women workers covered by the provision has been inspired by European Community Directive 92/85. "Pregnant women" in this context shall mean pregnant workers who inform their employer of their condition, in accordance with national legislation and/or practice. By "women who have recently



given birth” is meant workers who have recently given birth within the meaning of national legislation and/or national practice and who inform their employer of their condition in accordance with that legislation and/or practice. Finally, “women who are nursing their infants” refers to workers who are breastfeeding within the meaning of national legislation and/or national practice and who inform their employer of their condition in accordance with that legislation and/or practice.

#### *Paragraph 5*

51. This paragraph, which amends Article 8, paragraph 4.b of the Charter, limits the prohibition of employment of women in underground mining and in all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature to the case of maternity as defined in the preceding paragraph. It requires Parties to take appropriate measures to protect the employment rights of the women concerned. By this it has been understood that such workers should be given the possibility to transfer to suitable work, or to be granted leave from work if a transfer is not feasible, with the payment of salary or other adequate allowance and without loss of status, seniority or access to promotion.

#### ■ **Article 9** – The right to vocational guidance

52. No amendment.

#### ■ **Article 10** – The right to vocational training

53. One paragraph has been added (paragraph 4); the others remain unchanged, therefore paragraph 4 of the Charter has become paragraph 5 of the revised Charter.

#### *Paragraph 4*

54. The idea behind this new paragraph, which has been added to Article 10, is that it is necessary to adopt “special” measures for the retraining and reintegration of the long-term unemployed, as their possibilities of re-entering the labour market are particularly few.

#### ■ **Article 11** – The right to protection of health

55. One paragraph has been amended (paragraph 3); the others remain unchanged:

#### *Paragraph 3*

56. This paragraph corresponds to Article 11, paragraph 3 of the Charter, with the addition of the word “and accidents”. What is required from the Parties is to follow a policy of accident prevention, but each state will be able to decide on its own measures to that end.

#### ■ **Article 12** – The right to social security

57. One paragraph has been amended (paragraph 2); the others remain unchanged:

#### *Paragraph 2*

58. Reference is made in this paragraph to the European Code of Social Security. The difference between ILO Convention No. 102 and the European Code of Social Security relates to the minimum requirements as to how many parts must be accepted

for the ratification of these instruments (three for the Convention; six for the Code). The ratification of the revised Code requires a higher standard of social security than is required for the ratification of ILO Convention No. 102.

59. The authors of the text considered that the European Code of Social Security (Revised) could be taken into account in relation to Article 12, paragraph 3.

■ **Article 13** – The right to social and medical assistance

60. No amendment.

■ **Article 14** – The right to benefit from social welfare services

61. No amendment.

■ **Article 15** – The right of persons with disabilities to independence, social integration and participation in the life of the community

62. Article 15 has been amended.

63. The protection of the disabled afforded by this Article has been extended as compared to that afforded by Article 15 of the Charter, as it no longer applies only to vocational rehabilitation but to the right of persons with disabilities to independent social integration, personal autonomy and participation in the life of the community in general. The words “effective exercise of the right to independence” contained in the introductory sentence to the provision imply, *inter alia*, that disabled persons should have the right to an independent life.

64. Under this provision Parties must aim to develop a coherent policy for people with disabilities. The provision takes a modern approach to how the protection of the disabled shall be carried out, for example by providing that guidance, education and vocational training be provided whenever possible in the framework of general schemes rather than in specialised institutions, an approach which corresponds to that of Recommendation No. R (92) 6 of the Committee of Ministers of the Council of Europe. It not only provides the possibility, but to a large extent obliges Parties to adopt positive measures for the disabled.

65. It is understood that the term “sheltered employment” in paragraph 2 also covers working co-operatives.

■ **Article 16** – The right of the family to social, legal and economic protection

66. The text of the Article itself has not been amended, although as the protection offered to “mothers” by Article 17 of the Charter has not been maintained in the new version of Article 17 contained in the revised Charter, Article 16 of the latter instrument will now cover this group. It must be pointed out that the “mothers” in question may be single parents, but they may also be living in a couple. The protection particularly concerns women who are not covered by Article 8 and/or who are not covered by any social security scheme providing the necessary financial assistance during a reasonable period before and after confinement, as well as adequate medical care during confinement.

67. The revised Charter contains a statement in the appendix to this provision, to the effect that the protection afforded by it also covers single-parent families.

■ **Article 17** – The right of children and young persons to social, legal and economic protection

68. Article 17 has been amended.

69. Whereas the general protection of children in the Charter is contained in Article 7, which refers almost exclusively to the protection of children at work, this Article of the revised Charter offers protection for children and young persons outside the context of work and addresses the special needs arising from their vulnerability.

70. This provision protects children, irrespective of such factors as their birth status and the marital status of their parents. In confirmation of the case law of the Committee of Independent Experts, according to which certain rights such as the right of children to inheritance are covered by Article 17 of the Charter, the word “legal” has been added to its title.

71. The appendix to Article 17 defines the scope of the provision in that it covers all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier. The provision covers these children without prejudice to the other specific provisions provided by the Charter, particularly Article 7.

*Paragraph 1*

72. The word “parents” in paragraph 1.a should be understood as also including legal guardians or other individuals legally responsible for the child.

*Paragraph 2*

73. Under this paragraph, children and young persons have the right to access to free primary and secondary education, which does not imply that they have a right to exercise this right for example in a private school.

74. It follows from the appendix that this paragraph does not imply an obligation to provide compulsory education up to the age of 18 years. The reason that there is no mention of compulsory education in the paragraph itself is that in some states only primary education is compulsory, whereas in others secondary education is also compulsory.

■ **Article 18** – The right to engage in a gainful occupation in the territory of other Parties

75. No amendment.

■ **Article 19** – The right of migrant workers and their families to protection and assistance

76. Paragraphs 1 to 10 have not been amended.

*Paragraph 6*

77. Only the appendix to paragraph 6, which gives the definition of the term “family of a foreign worker”, has been amended as compared to the appendix to the corresponding provision of the Charter. Instead of covering the migrant worker’s wife, it now covers the spouse of the migrant worker, whether a wife or a husband. Furthermore, the appendix now provides that unmarried children of migrant workers

are covered as long as they are considered to be minors by the receiving state and are dependent on the migrant worker. This amendment has been added as the age of majority is 18 years in most Contracting Parties, whereas the Charter provides for an age-limit of 21 years for the entry of children of migrant workers. The words “at least” have been maintained to indicate that states may decide to extend the notion of the family of the migrant worker.

78. Two new paragraphs have been added:

#### *Paragraph 11*

79. This paragraph has been considered important for the protection of migrant workers' health and safety at work and for the guarantee of their rights in other respects relating to work, as well as in facilitating their integration and that of their families.

#### *Paragraph 12*

80. The underlying reason for this paragraph is the importance for the children of migrant workers of maintaining their cultural and linguistic heritage, *inter alia*, in order to provide them with a possibility of reintegration if and when the migrant worker returns home.

81. Articles 20 to 23 correspond to the provisions of Articles 1 to 4 of the Additional Protocol of 1988. Paragraphs 2, 3 and 4 of Article 1, paragraph 2 of Article 2 and paragraph 2 of Article 3 have been moved to the appendix for the purposes of harmonisation. This change does not affect the nature and scope of the legal obligations accepted under these provisions.

82. The explanatory report to the Additional Protocol of 1988 remains relevant.

83. Articles 24 to 31 are new provisions which guarantee the following rights:

#### ■ **Article 24** – The right to protection in cases of termination of employment

84. This provision, which must be accepted in its entirety, sets out two general principles:

- a. the right not to be dismissed unless there are valid grounds;
- b. the right to adequate compensation or other relief in cases of unfair dismissal.

85. It further establishes the right for a worker who considers that his rights under paragraph a have been interfered with to an appeal to obtain, if appropriate, his rights under paragraph b.

86. The provision has been inspired by ILO Convention No. 158 (Termination of Employment) of 1982. As to the nature of the impartial body mentioned in the last paragraph of the Article, reference is made to Article 8 of the ILO Convention.

87. The appendix clarifies the terms “termination of employment” and “terminated” which shall mean termination of employment at the initiative of the employer.

88. The second paragraph of the appendix deals with the scope *ratione personae* of the provision. It makes it possible for the Parties to exclude some categories of employed persons from its scope.

89. The third paragraph of the appendix contains a non-exhaustive list of non-valid grounds for termination of employment.

90. The fourth paragraph of the appendix clarifies that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

■ **Article 25** – The right of workers to the protection of their claims in the event of the insolvency of their employer

91. This provision has been inspired by ILO Convention No. 173 (Protection of Workers' Claims (Employers' insolvency)) of 1992 and of European Community Directive 80/987 on the approximation of the laws of the member states relating to the protection of employees in the event of the insolvency of their employer. It lays down the general principle of the right of workers to protection of their claims in the event of the insolvency of their employer.

92. It provides not only for the possibility of a guarantee institution, but also for any other form of protection. The possibility of a combination of the existence of privileges and of an organisation to guarantee the payment of salaries is not excluded by this provision. In fact, a guarantee institution alone ensures the protection of workers as it secures the payment of salaries owed provided that they are superior to the assets of the enterprise. The establishment of such an institution, which will take over the rights of the workers to whom it has paid an advance, is perfectly compatible with a system of privileges.

93. The first paragraph of the appendix prescribes that certain categories of workers may be excluded by reason of the special nature of their employment relationship. The workers concerned are particularly public employees and managerial staff in small undertakings.

94. The second paragraph of the appendix states that the term "insolvency" must be determined by national law and practice. It is understood that this term shall include situations in which proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of his creditors, but may also apply to other situations in which workers' claims cannot be paid by reason of the financial situation of the employer, for example, where the amount of the employer's assets is recognised as being insufficient to justify the opening of insolvency proceedings.

95. The third paragraph of the appendix sets out the minimum requirement according to which claims shall be protected. The "other types of paid absence" referred to in sub-paragraph c have the same sense as in the ILO Convention.

96. Finally, the fourth paragraph of the appendix provides that national laws or regulations may limit the protection of workers' claims to a prescribed amount, which must nevertheless be of a socially acceptable level.

■ **Article 26** – The right to dignity at work

97. The purpose of this Article is to guarantee workers the right to dignity at work and in connection with work. It emphasises the promotion of awareness and

prevention of sexual harassment and victimisation, but does not require that Parties ensure protection against such conduct. In addition, it follows from the appendix that Parties do not need to enact legislation. However, they are required to take “all appropriate measures” to protect workers.

98. The two paragraphs contained in the Article may be accepted separately.

#### *Paragraph 1*

99. This paragraph deals exclusively with sexual harassment, which may be defined as unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of workers, including the conduct of superiors and colleagues.

#### *Paragraph 2*

100. This paragraph aims at forms of victimising conduct affecting the right to dignity at work (victimisation, defined as bullying) other than sexual harassment and has been defined in the text of the provision itself. The definition has been taken from existing national regulations dealing with this problem and comprises recurrent reprehensible or distinctly negative and offensive acts by superiors and colleagues affecting the dignity of a worker in the workplace or in relation with work. An example illustrating this would be that of a worker who for reasons of hostility on the part of the employer and/or his colleagues, is systematically excluded from discussions relating to the organisation of work to which his colleagues are invited to take part. Another example could be not giving a worker an office or duties corresponding to his grade and functions for similar reasons.

101. The appendix specifies that this paragraph does not cover sexual harassment.

■ **Article 27** – The right of workers with family responsibilities to equal opportunities and equal treatment

102. This provision provides for equality of opportunity and treatment for workers with family responsibilities. It has been inspired by ILO Convention No. 156 (Workers with Family Responsibilities) of 1981 as well as Recommendation No. 165 (Workers with Family Responsibilities) of 1981.

103. The appendix to this Article gives a definition of men and women workers with family responsibilities. It refers to national legislation for a definition of the terms “dependent children” and “other members of their immediate family who clearly need their care and support”.

#### *Paragraph 1*

104. The term “appropriate” in this paragraph shall mean suitable to national conditions and possibilities.

105. Sub-paragraph b corresponds to Article 4, paragraph b of the ILO Convention.

■ **Article 28** – The right of workers’ representatives to protection in undertaking and facilities to be accorded to them

106. This provision of the revised Charter aims to protect workers’ representatives in the enterprise, a group which is not covered by Article 5 unless the representative is

also a trade union representative. The provision has been inspired by ILO Convention No. 135 (Workers' Representatives) of 1971.

107. A definition of the term "workers' representatives" is given in the appendix to the Article which describes it as meaning persons who are recognised as such under national legislation or practice. This definition is based on that of the appendix to Articles 21 and 22. It is understood that national legislation or practice may provide that workers' representatives are elected representatives or trade union delegates.

108. Sub-section b of the Article, which corresponds to Article 2 of the ILO Convention, provides that workers' representatives shall be afforded such facilities as will enable them to carry out their functions. The only limitation in the context of the revised Charter is that account shall be taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned. Examples of facilities to be granted to workers' representatives may be found in ILO Recommendation No. 143 (Workers' Representatives) of 1971.

■ **Article 29** – The right to information and consultation in collective redundancy procedures

109. Under this Article the Parties undertake to ensure that employers inform and consult workers' representatives prior to collective redundancies. When drafting this Article the Committee examined European Community Directive 92/56 of 1992 amending Directive 75/129 on the approximation of the laws of the member states relating to collective redundancies as well as ILO Convention No. 158 (Termination of Employment) of 1982. The information and consultation shall concern the possibilities of avoiding collective redundancies, limiting their number or mitigating their consequences. Recourse to social measures providing aid for redeploying or retraining the workers concerned is mentioned as an example of ways of mitigating the consequences of collective redundancies.

110. It is understood that recourse to social measures in this context is not solely the responsibility of the employer.

111. A definition of the term "workers' representatives" is given in the appendix to the Article as meaning persons recognised as such under national legislation or practice. This definition is based on that of the appendix to Articles 21 and 22.

■ **Article 30** – The right to protection against poverty and social exclusion

112. This Article provides for a comprehensive and co-ordinated approach, with relief of poverty and social exclusion as the essential and explicit aim. It also provides that measures corresponding to this approach are reviewed and adapted to new situations.

113. The purpose of the Article is not to repeat the juridical aspects of the protection covered by other Articles of the revised Charter although Parties may naturally refer to information given in respect of other provisions when reporting under this provision.

114. The term "poverty" in this context covers persons who find themselves in various situations ranging from severe poverty, which may have been perpetuated for

several generations, to temporary situations entailing a risk of poverty. The term “social exclusion” refers to persons who find themselves in a position of extreme poverty through an accumulation of disadvantages, who suffer from degrading situations or events or from exclusion, whose rights to benefit may have expired a long time ago or for reasons of concurring circumstances. Social exclusion also strikes or risks to strike persons who without being poor are denied access to certain rights or services as a result of long periods of illness, the breakdown of their families, violence, release from prison or marginal behaviour as a result for example of alcoholism or drug addiction.

115. It must be noted that the Article does not expressly mention the guarantee of minimum resources. The reason is that such protection is already provided for by Article 13 of the revised Charter and covered by this Article where reference is made in paragraph a to “effective access to [...] social assistance”.

116. Among the obligations subscribed to under Article 30, a series of measures is included, which may or may not imply financial benefits, and which concern both persons in a situation of exclusion and those who risk finding themselves in such a situation. States subscribing to this provision are encouraged to restrict financial benefits to those who cannot help themselves by their own means.

117. The review of mechanisms under paragraph b of the Article is of a general character and each Party shall decide how it should be organised, depending on national conditions. This review may, in order for the measures mentioned in the provision to be effective, include consultations with the social partners and various other organisations, including organisations representing persons who find themselves in a situation of poverty or social exclusion.

### ■ **Article 31** – The right to housing

118. In order to ensure a right to housing, this provision obliges Parties to take measures in so far as possible aiming to progressively eliminate homelessness, to promote access to housing of an adequate standard and to make the price of housing accessible to those without adequate resources. By housing of an “adequate standard” is meant housing which is of an acceptable standard with regard to health requirements. For a definition of the terms “without adequate resources” reference is made to Article 13.

119. It will be for the competent authorities of each state to decide, at national level, on appropriate housing standards.

## **Part III**

### ■ **Article A** – Undertakings

120. Article A, concerning undertakings, follows the same pattern as the corresponding provision, that is Article 20 of the Charter.

121. As is the case in the Charter, paragraph 1.a obliges states to consider themselves bound by all the aims put forward in Part I.

122. Paragraph 1.b determines the extent of the hard core of the revised Charter which comprises Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20. In relation to the Charter, two new Articles, 7 and 20, have been added in view of their particular importance.



123. Consequently, the number of hard core Articles which have to be accepted by Parties has been increased to six.

124. Following a proposal from the organisations representing management and labour, the Committee had originally planned to make Articles 5 and 6 of the revised Charter compulsory. This would have meant that no state could have ratified the revised Charter without agreeing to be bound by these two provisions. This was motivated by the particular and fundamental importance which these two provisions have always had for the protection of economic and social rights. However, the Committee finally decided not to make acceptance of Articles 5 and 6 compulsory, in order not to detract from the existing flexibility of this legal instrument, which is entirely constructed on an à la carte basis. The Committee also considered that making acceptance of Articles 5 and 6 compulsory might slow down the ratification of the revised Charter. It therefore decided against doing so, with a view to enabling more states to accept the new and amended provisions in the revised Charter. However, states which ratify the revised Charter must take all possible steps to accept Articles 5 and 6 as rapidly as possible.

125. Paragraph 1.c relates to the corresponding provision in Article 20 of the Charter. It establishes the minimum number of Articles or paragraphs which a state must accept on ratification of the revised Charter. The Committee thought it preferable to keep the same proportion between the minimum number of provisions which must be accepted and the total number of provisions contained in the revised Charter. Accordingly, it decided that states must accept not less than sixteen Articles, instead of ten as previously, or sixty-three paragraphs, instead of forty-five as previously.

126. Paragraphs 2, 3 and 4 of Article A reiterate, *mutatis mutandis*, the corresponding provisions of the Social Charter.

#### ■ **Article B** – Links with the European Social Charter and the Additional Protocol of 1988

127. The purpose of paragraph 1 of Article B is to ensure that the undertakings entered into by states under the Charter are replaced by those which they have accepted under the revised Charter, upon ratification of the latter. In practice this means that, for states which have ratified the revised Charter, Parts I and II of the latter will replace Parts I and II of the Charter. For reasons of clarity and legal certainty, it is essential that states should not be bound by two sets of substantive provisions, some of which may be at variance as a result of the revision of the Charter itself.

128. Paragraph 2 has another specific purpose, namely to ensure that when states ratify the revised Charter they do not implicitly denounce certain provisions of the Charter. States which accepted more than the minimum number of provisions established by Article 20 of the Charter might be tempted, when ratifying the revised Charter, not to be bound by certain provisions of the revised Charter corresponding to provisions of the Charter which they had previously accepted. This might apply, for example, to provisions with which in the opinion of the supervisory bodies the states in question do not comply. Of course, it will always be possible for states to denounce certain provisions of the Charter, in accordance with the relevant provisions thereof, before ratifying the revised Charter. However, the denunciation must be explicit, not implicit.

129. For this purpose, the appendix to Article B, paragraph 2 specifies which provisions of the revised Charter correspond to the provisions of the Charter. The term “correspond” is used here in the sense of “to replace”. Generally speaking, each Article of the revised Charter corresponds to the Article with the same number in the Charter. However, there are some exceptions, which are listed in the appendix. The appendix specifies which undertakings in the new Charter must be accepted in order to respect the principle of correspondence laid down in paragraph 2. As regards the Protocol, Articles 20, 21, 22 and 23 of the revised Charter correspond to Articles 1, 2, 3 and 4 of the Protocol.

## Part IV

### ■ Article C – Supervision of compliance with the undertakings contained in this Charter

130. Given that the two Charters are to co-exist, at least during a transitional period, the drafters of the revised Charter thought it essential that the two legal instruments be supervised in the same manner. Consequently, they did not wish to create separate supervision machinery for the revised Charter and instead simply specified in Article C that undertakings entered into under the revised Charter would be subject to the same supervision procedure as that provided for in the Charter.

131. Furthermore, this provision is of an open-ended nature and the supervisory procedure will therefore be the same as that which applies to the Charter at any given time. In so doing, the drafters of the revised Charter wished to adopt a neutral attitude with regard to the Turin Protocol amending the Charter’s supervision machinery. In view of some states’ reservations and difficulties in accepting the new supervision procedure set out in this Protocol, they decided that the revised Charter should not interfere with this issue. Consequently, before the Turin Protocol comes into force, the revised Charter will use the supervisory machinery applicable to the Charter, and after it comes into force, it will use the new supervision procedure. In addition, since states which ratify the revised Charter are still Parties to the Charter, the Turin Protocol will only come into force when it has been ratified by all twenty states which are currently Parties to the Charter. The revised Charter therefore has no influence on the number of ratifications necessary for the entry into force of the Turin Protocol.

### ■ Article D – Collective complaints

132. The Committee considered it necessary to include a provision in the revised Charter providing that a state which had ratified the Additional Protocol providing for a system of collective complaints, before ratifying the revised Charter, should be obliged to accept the supervision of its obligations under the revised Charter in accordance with the procedure set out in the Protocol. It is important that ratification of the revised Charter should not in practice result in denunciation of the Protocol on collective complaints. In addition, given that the Parties’ undertakings in Parts I and II of the Charter are replaced by the undertakings in the revised Charter, it would be logical for a state which has ratified the Protocol on collective complaints to accept that such complaints should cover the undertakings entered into under the revised Charter.

133. Paragraph 2 is intended to allow states which ratify the revised Charter before ratifying the Protocol on collective complaints to agree to be bound by the latter by declaration. The main purpose of this provision is to prevent states from having to submit too many legal instruments to their national parliaments for ratification. With a view to simplification, a state may therefore declare itself bound by the Protocol on collective complaints when it ratifies the revised Charter.

134. It is obvious, however, that the provisions of paragraph 2 can only apply once the Protocol on collective complaints has come into force.

## Part V

### ■ Article E – Non-discrimination

135. This new Article of the revised Charter confirms the case law of the Committee of Independent Experts in respect of the Charter, that is that the non-discrimination clause in the preamble to the Charter applies to all the provisions of the Charter. Accordingly, the revised Charter does not allow discrimination on any of the grounds listed in this Article in respect of any of the rights contained in the instrument.

136. The Article has been based on Article 14 of the European Convention on Human Rights which contains a more extensive enumeration of grounds than the preamble to the Charter. The grounds enumerated in the Article are the same as those contained in the preamble to the Charter, with the addition of some grounds mentioned in the Convention. However, with respect to some of these latter grounds, the Committee of Independent Experts has already indicated in its case law that they apply to the rights guaranteed under the Charter. The words “such as” contained in the provision indicate that the list of grounds on which discrimination is not permitted is not exhaustive. It is understood that this provision prohibits, *inter alia*, the refusal to employ women on grounds of pregnancy. It also provides for non-discrimination in access to health care. These are merely two examples. The appendix to the new Article provides that differential treatment based on an objective and reasonable justification shall not be deemed to be discriminatory. An objective and reasonable justification may be such as the requirement of a certain age or a certain capacity for access to some forms of education. Whereas national extraction is not an acceptable ground for discrimination, the requirement of a specific citizenship might be acceptable under certain circumstances, for example for the right to employment in the defence forces or in the civil service.

137. In addition, it is understood that this provision must not be interpreted so as to extend the scope *ratione personae* of the revised Charter which is defined in the appendix to the instrument and which includes foreigners only in so far as they are nationals of other parties lawfully resident or working regularly within the territory of the Party concerned.

### ■ Articles F – Derogations in time of war or public emergency

### ■ Article G – Restrictions

### ■ Article H – Relations between the Charter and domestic law or international agreements

138. These three Articles correspond, *mutatis mutandis*, to the provisions of Articles 30, 31 and 32 of Part V of the Charter.

#### ■ **Article I** – Implementation of the undertakings given

139. The model for this provision has been Article 7 of the Additional Protocol to the Charter of 1988. The first paragraph provides that without prejudice to the methods of implementation foreseen in Articles 1 to 31 of Part II of the revised Charter, this provision may be implemented by any of the means enumerated in the paragraph. This composition has been chosen so as not to interfere with the case law of the Committee of Independent Experts according to which a certain form of implementation, such as legislation, is sometimes required. The word “shall” indicates that the method chosen must be efficient.

140. The second paragraph provides that in respect of the provisions enumerated therein, the undertakings deriving from these provisions are considered as being fulfilled as long as they are applied to the great majority of the workers concerned. This paragraph contains all the provisions included in Article 33 of the Charter and Article 7, paragraph 2 of the Additional Protocol to the Charter, with the addition of Article 2, paragraph 7 of the revised Charter.

#### ■ **Article J** – Amendments

141. Having noted that Article 36 of the Charter had never been used, *inter alia*, because it was very restrictive, the Committee wanted to introduce an amendment clause into the revised Charter which would allow for the subsequent development of the treaty. This provision is based on texts already used by the Council of Europe for other European treaties.

142. According to paragraph 2, all amendments shall be examined by the Governmental Committee, before being submitted for approval to the Committee of Ministers after consultation with the Parliamentary Assembly. The Committee of Ministers shall take its decision by a two-thirds majority; after approval by the Committee of Ministers, the text shall be communicated to the Parties for acceptance.

143. If the amendment relates to Parts I and II of the revised Charter it shall enter into force when three states have informed the Secretary General that they accept it. In this connection, it should be noted that such amendments must be intended to extend the rights guaranteed by the Charter. In addition, the appendix to this provision stipulates that the term “amendment” also covers the addition of new Articles containing new rights; this issue had been raised at a Charte-Rel Committee meeting.

144. On the other hand, amendments to Parts III to VI shall not enter into force until they have been accepted by all the parties to the revised Charter.

145. It was also agreed that member states of the Council of Europe which are parties neither to the Charter nor to the revised Charter should be able to participate in work on amending the revised Charter, but that this would be for the Committee of Ministers to decide once an amendment procedure had commenced.

## **Part VI**

146. Part VI contains the text of the final clauses of the revised Charter. It is modelled on the final clauses adopted by the Committee of Ministers of the Council of Europe for treaties drawn up within the Organisation, although it does also reproduce some of the provisions appearing in Part VI of the Charter.

## **Appendix**

### **Scope of the revised European Social Charter in terms of persons protected**

147. The scope *ratione personae* of the Charter has been defined in the appendix according to which the Charter includes foreigners “only in so far as they are nationals of other Contracting Parties lawfully resident or working regularly within the territory of the Contracting Party concerned”.



# IV. European Committee of Social Rights<sup>33</sup>

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## A. Composition (1st May 2015)

<b>List of Members</b> .....	<b>Term of Office</b>
Mr Giuseppe PALMISANO (Italian) President Professor of International Law and EU law Director of the Institute for International Legal Studies National Research Council of Italy, Rome (Italy).....	31/12/2016
Mrs Monika SCHLACHTER (German) Vice-President Professor of Civil Law, Labour and International Law Director of Legal Studies Institute for labour law and industrial relations in the European Community University of Trier (Germany) .....	31/12/2018
Mr Petros STANGOS (Greek) Vice-President Professor of European law Holder of the Jean Monnet Chair “European human rights law” School of Law, Department of International studies Aristotle University, Thessaloniki (Greece) .....	31/12/2020
Mr Lauri LEPPIK (Estonian) General Rapporteur Professor of Social Policy Tallinn University (Estonia).....	31/12/2016
Mr Colm O’CINNEIDE (Irish) Reader in Law Faculty of Laws University College, London (United Kingdom).....	31/12/2016
Mrs Birgitta NYSTRÖM (Swedish) Professor of Private Law, especially Labour Law Faculty of Law University of Lund (Sweden) .....	31/12/2018

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33. During the 158th session (16-20 November 1998), the Committee of Independent Experts of the European Social Charter decided to henceforth adopt the name of the European Committee of Social Rights (see Conclusions XIV-2, p. 22).

Mrs Elena MACHULSKAYA (Russian) Professor Department of Labour and Social Law Lomonosov State University, Moscow (Russian Federation) .....	31/12/2016
Mrs Karin LUKAS (Austrian) Senior Legal Researcher and Head of Team Ludwig Boltzmann Institute of Human rights, Vienna (Austria).....	31/12/2016
Mrs Eliane CHEMLA (French) Conseillère d'Etat, Conseil d'Etat, Paris (France).....	31/12/2018
Mr József HAJDÚ (Hungarian) Dean for International Affairs and Science University of Szeged (Hungary) .....	31/12/2018
Mr Marcin WUJCZYK (Polish) Assistant Professor in labour law and social policy Jagiellonian University, Cracow (Poland).....	31/12/2018
Mrs Krassimira SREDKOVA (Bulgarian) Professor of Labour Law and Social Security University of Sofia (Bulgaria) .....	31/12/2020
Mr Raul CANOSA USERA (Spanish) Professor of Constitutional Law University Complutense, Madrid (Spain) .....	31/12/2020
Mrs Marit B. FROGNER (Norwegian) Judge Labour Court of Norway, Oslo (Norway).....	31/12/2020
Mr François VANDAMME (Belgium) Former Director International Affairs, Federal Public Service Employment, Labour and Social Dialogue, Brussels (Belgium) Former visiting professor, College of Europe (Bruges, 1998-2012, «Enjeux sociaux et gouvernance de l'Europe») Former invited «Maître de conférences» (2008-2014) in Labour Law, Catholic University of Louvain, Louvain-la-Neuve, (Belgium)	

## **B. Election of members of the Committee**

### **1. Increase in the number of members from seven to nine**

■ *Decision adopted by the Committee of Ministers in March 1994 at the 509th meeting of the Ministers' Deputies*

1. The Representatives to the Committee of Ministers, representing the Contracting Parties to the Charter, agreed unanimously to increase from seven to nine the number of members of the Committee of Independent Experts, it being understood that no further increase will be envisaged outside the context of a modification of Article 25 of the Charter.



## 2. Increase in the number of members from nine to fifteen

■ *Decision 4.2 adopted by the Committee of Ministers during the 751st meeting of the Ministers' Deputies (2 and 7 May 2001)*

- A. The Deputies, in their composition limited to the representatives of the Contracting Parties to the European Social Charter or to the revised Charter,<sup>34</sup> agreed unanimously to increase from nine to fifteen the number of members of the European Committee of Social Rights in the following manner:
  - a. creation of three seats for a term of office starting on 1 August 2001 and ending on 31 December 2004;
  - b. subsequent creation of three seats on a date to be determined by the Deputies taking into account the criteria appearing in Document GR-H(2001)9, point 12.<sup>35</sup>

■ *Decisions 4.2 adopted by the Committee of Ministers at the 816th meeting of the Ministers' Deputies (13 November 2002)*

The Deputies, recalling their decision (751st meeting, 2 May 2001, item 4.2) to increase from nine to fifteen the number of members of the European Committee of Social Rights, in their composition limited to the representatives of the Contracting Parties to the European Social Charter or to the revised Charter,<sup>36</sup>

1. agreed unanimously to:
  - a. create immediately one seat (in Group V) with a term of office starting on 1 January 2003 and ending on 31 December 2006;
  - b. create subsequently two seats (in Groups IV and V) with a term of office starting on 1 January 2005 and ending on 31 December 2010;

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34. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

35. If no unanimous agreement is found on the immediate increase of six seats, the creation of three new seats may be deferred. The decision to increase from 9 to 15 seats could be taken, but only the creation of 3 new seats would be implemented immediately. It would be up to the Deputies to decide, from amongst the six new seats, which ones to create first and which to create later. In this case, the Secretariat suggests the following solution: the immediate creation of three seats:

- 1 in Group I;
- 1 in Group III;
- 1 in Group V.

Later on, 1 seat can be created in Group IV and 2 seats in Group V.

The date or dates of creation are to be decided by the Deputies depending on the criteria agreed by the Deputies, for example: the increase in the number of states linked to the Charter or the revised Charter (currently 28), the increase in the number of ratifications of the revised Charter (currently 9) and the development in the number of collective complaints (10 cases registered so far).

36. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

## **European Social Charter – European Committee of Social Rights (ECSR) – Procedure for the election of five members**

### **Decisions**

#### The Deputies

1. adopted the following procedure for filling the five seats on the European Committee of Social Rights falling vacant on 31 December 2014, the terms for these seats beginning on 1 January 2015 and ending on 31 December 2020:

- a. each Contracting Party to the European Social Charter or Revised European Social Charter may submit to the Secretary General of the Council of Europe, no later than 26 September 2014, the name of a candidate it deems suitable for the vacant seats, bearing in mind that these seats concern Groups II (two seats), III (one seat) and IV (two seats), and having regard to Article 25 of the Charter as it appears in Article 3 of the Protocol amending the European Social Charter and to the agreed rules concerning nationality,<sup>37</sup> and taking into account Recommendation Rec(81)6 of the Committee of Ministers adopted on 30 April 1981;<sup>38</sup>
- b. the Secretary General will then forward the list of nominations to the Committee of Ministers which will hold an election by secret ballot at one of its meetings in the autumn of 2014;
- c. the candidate or candidates obtaining the simple majority of the votes within the meaning of Article 10.4 of the Rules of Procedure for the meetings of the Ministers' Deputies (i.e. half of the number of the Deputies entitled to vote, plus one) and the highest number of votes will be declared elected;
- d. if one seat, or more, remain(s) vacant after the first vote, there will be a second round of voting. The candidate(s) having obtained the highest number of votes will be declared elected;

2. agreed, for the purposes of this election, to allocate the 47 member States as follows:<sup>39</sup>

**Group I (three seats):** *no seats vacant*

**Armenia, Austria, Czech Republic, Germany, Hungary, Liechtenstein, Slovakia and Switzerland.**

**Group II (three seats):** *two seats vacant*

**Azerbaijan, Belgium, Bulgaria, France, Luxembourg, Republic of Moldova, Monaco, Netherlands, Romania and Turkey.**

37. The Committee may consist of no more than one member of any particular nationality.

38. The recommendation covers the participation of men and women in an equitable proportion in committees and other bodies set up in the Council of Europe.

39. States that have ratified the Charter or Revised Charter are shown in bold type in the text.

**Group III (three seats):** *one seat vacant*

Denmark, Finland, Iceland, Ireland, Norway, Sweden and United Kingdom.

**Group IV (three seats):** *two seats vacant*

Albania, Andorra, Cyprus, Georgia, Greece, Italy, Malta, Portugal, San Marino and Spain.

**Group V (three seats):** *no seats vacant*

Bosnia and Herzegovina, Croatia, Estonia, Latvia, Lithuania, Montenegro, Poland, Russian Federation, Serbia, Slovenia, “the former Yugoslav Republic of Macedonia” and Ukraine.

## C. Rules

(adopted during the 201st session on 29 March 2004 and revised during the 207th session on 12 May 2005, during the 234th session on 20 February 2009, during the 250th session on 10 May 2011, during the 251st session on 28 June 2011, during the 266th session on 12 September 2013, during the 268th session on 6 December 2013 and during the 273<sup>rd</sup> session on 9 September 2014).

The European Committee of Social Rights, committee of independent experts established pursuant to the European Social Charter

hereby, on 29 March 2004, adopts the following Rules which enter into force on this same date and replace the Rules adopted on 9 September 1999 except in respect of collective complaints currently under examination which remain regulated by the Rules of 9 September 1999:

### PART I: THE COMMITTEE

#### ■ Rule 1: Composition

The Committee is composed of 15 members in conformity with the decision of the Ministers’ Deputies applying Article 25 paragraph 1 of the European Social Charter as amended by the Turin Protocol.<sup>40</sup>

#### ■ Rule 2: Role of the Committee

1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter.
2. It adopts conclusions within the framework of the reporting procedure and decisions under the collective complaints procedure.

### PART II: MEMBERS OF THE COMMITTEE

#### ■ Rule 3: Duties of Committee Members

1. Members shall perform their duties in conformity with the requirements of independence, impartiality and availability inherent in their office and shall keep secret the Committee’s deliberations.

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40. Decision taken during the 751<sup>st</sup> meeting of the Ministers Deputies (2-7 May 2001).

2. The President shall take any necessary measures in case members do not perform their duties as provided above.

■ **Rule 4:** Solemn declaration

1. Before taking up duties, each member of the Committee shall, at the first meeting of the Committee at which the member is present after election, make the following declaration:

2. "I solemnly declare that I will exercise my functions as a member of this Committee in conformity with the requirements of independence, impartiality and availability inherent in my office and that I will keep secret the Committee's deliberations."

■ **Rule 5:** Incompatibility

1. Members of the Committee shall not during their term of office perform any function which is incompatible with the requirements of independence, impartiality or availability inherent in their office.

2. If it appears that a member of the Committee has agreed to undertake functions which may be regarded as incompatible with the provisions of paragraph 1, he/she is obliged to draw the consequences thereof. Failing this, as well as in cases of a violation of the provisions of Rule 3, the Committee is, on the basis of a report by the President, required to take a decision on the situation.

■ **Rule 6 :** Term of Office – Resignation

1. The duration of the term of office of members of the Committee is six years. The date of take up of office shall be fixed by the Committee of Ministers.

2. A member's resignation shall be notified in writing to the President who shall transmit it to the Secretary General of the Council of Europe.

■ **Rule 7:** Order of precedence

1. Members of the Committee shall take precedence after the President, the Vice-President(s) and General Rapporteur according to the length of time they have been in office.

2. Members having the same length in office shall take precedence according to age.

3. Re-elected members shall take precedence having regard to the total length of time they have been in office, including the previous term of office.

## **PART III: PRESIDENCY AND BUREAU OF THE COMMITTEE**

■ **Rule 8:** Elections

1. The Committee shall elect the President, one or more Vice-Presidents and a General Rapporteur, who shall together constitute the Bureau of the Committee. The members of the Bureau shall be elected for a period of two years. Until such time as the President is elected, the meeting shall be chaired by the outgoing President or the oldest member of the Committee present.

The members of the Bureau are eligible for re-election.

2. If a member of the Bureau withdraws from office before his/her term of office in the Bureau has expired, the Committee shall elect a successor for the remainder of that term.

3. Elections shall be held for each position by secret ballot. Only the members present shall take part. The member who has obtained an absolute majority of the votes cast shall be elected. If no member receives such majority, a second ballot shall take place. The member receiving the most votes shall then be elected. In the event of a tie, the longest serving member shall be elected. If the members concerned have the same length of time in office, the oldest of them shall be elected.

#### ■ **Rule 9:** President and Vice-Presidents

1. The President shall direct the work and chair the meetings of the Committee. He or she retains all his voting and other rights as a member of the Committee. He or she fulfils all other functions bestowed on him by these Rules and by the Committee.

2. In these Rules, the term "President" shall refer to any member fulfilling the office of President.

3. The Vice-President shall take the place of the President if the latter is unable to carry out his/her duties or if the office of President is vacant. If the Committee has elected another or several other Vice-Presidents, each of them shall replace the other Vice-Presidents if they are unable to carry out their duties or if their offices are vacant according to the order of precedence laid down in Rule 8. If the President and Vice-President(s) are at the same time unable to carry out their duties or if their offices are at the same time vacant, the duties of President shall be carried out by another member of the Committee according to the order of precedence laid down in Rule 8.

4. The President may delegate certain of his/her duties to the Vice-President(s).

#### ■ **Rule 10:** Role of the General Rapporteur

The General Rapporteur ensures the consistency of the conclusions and decisions on the various articles and informs the Committee about the case law if necessary.

#### ■ **Rule 11:** Role of the Bureau

1. The Bureau shall direct the work of the Committee and shall perform all other functions conferred upon it by these Rules and by the Committee.

2. If one or more members of the Bureau are temporarily unable to carry out their duties, they shall be replaced by other members of the Committee whether or not they are members of the Bureau in accordance with the rules of precedence laid down in Rule 8.

## **PART IV: THE REPRESENTATIVE OF THE INTERNATIONAL LABOUR ORGANISATION**

#### ■ **Rule 12:** Participation

1. Having regard to Article 26 of the European Social Charter, the Committee holds an annual exchange of views with a senior official of the International Labour Office.

2. The Secretariat exchanges information with the International Labour Office and keeps the Committee informed of developments within the International Labour Organisation

## **PART V: THE SECRETARIAT**

### **■ Rule 13: Staff**

The Secretary General shall provide the Committee with the necessary staff, including the Executive Secretary to the Committee, as well as with the administrative and other services required for the fulfilment of its duties.

## **PART VI: THE WORKING OF THE COMMITTEE**

### **■ Rule 14: Sessions**

1. The Committee shall fix the number and dates of its sessions, taking into account existing budgetary allocations. The sessions shall be convened by the Executive Secretary in accordance with the President's instructions.

2. The draft agenda is prepared by the Executive Secretary in agreement with the President.

3. The notice of each session shall indicate its place, date and starting time and its probable duration, and be accompanied by the draft agenda. Except in cases of emergency, the notice shall be sent to the members at least one month before the starting date of the session.

4. Members who are unable to attend a session shall give notice thereof, as soon as possible, to the Executive Secretary, who shall inform the President.

### **■ Rule 15: Secrecy**

Subject to the provisions of Rule 33, the sessions and deliberations of the Committee shall be held in private. All working documents are destined for the use of the Committee only.

### **■ Rule 16: Quorum and voting**

1. A quorum for holding a session of the Committee shall be constituted by a majority of members entitled to sit. Each member shall have one vote. The decisions of the Committee shall be taken by a majority of those present.

2. The President shall have the deciding vote only in respect of decisions relating to collective complaints (admissibility, merits, immediate measures and striking out of the list).

3. When a decision has been taken by the Committee on a particular question, that question shall be re-examined only if a member of the Committee so requests and if that request is approved by a two-thirds majority of votes cast.

### **■ Rule 17: Synopsis and Notes of the Session**

1. After each session, the Executive Secretary shall prepare a draft synopsis for submission to the members of the Committee, who shall adopt the final text at the end of the session. This document shall be public.

2. After the end of each session, the Executive Secretary will produce Notes of the session, reporting the deliberations of the Plenary Committee and the work of sub-committees with a view to their examination by the Plenary Committee at the next session. These Notes are destined for the use of the Committee only and are not public.

■ **Rule 18:** Working languages

The working languages of the Committee shall be English and French, without prejudice to the application of Rule 24 of the present Rules.

## **PART VII: THE PROCEDURE FOR EXAMINATION OF REPORTS**

■ **Rule 19:** Rapporteurs

The Committee shall designate a Rapporteur for each provision of the 1961 Charter, the 1988 Additional Protocol to the Charter and the Revised Charter.

■ **Rule 20:** Sub-Committees

1. The Committee may form sub-committees, composed of members of the Committee, with a view to preparing its conclusions.
2. The meetings of the sub-committees are chaired by a member of the Bureau or by default by another member chosen by the sub-committee.
3. A sub-committee will meet when at least three members are present.

■ **Rule 21:** Meetings with representatives of States

1. The Committee may decide to organise meetings with representatives of a State, as provided for in Article 24 paragraph 3 of the Charter as amended by the 1991 Amending Protocol, either on its own initiative or at the request of the State concerned. The Committee shall decide whether or not to act upon a request made by a State.
2. The international organisations of employers and trade unions referred to in Article 27 paragraph 2 of the Charter shall be informed of the meetings and will, in certain cases, be invited to participate. In this case, they are invited to inform their national member organisations.
3. National organisations of employers and trade unions may also be invited to participate in these meetings on condition that the State concerned agrees.

■ **Rule 22:** Adoption of conclusions

1. After each session, the Executive Secretary will prepare the provisional conclusions emanating from the work of the sub-committees for their adoption by the Plenary Committee.
2. The Committee shall adopt the conclusions in respect of each State Party at the end of each year.
3. Any member of the Committee may formulate a separate opinion, dissenting or concurrent, which will be appended to the Committee's conclusions.

4. Following adoption of the conclusions, the Committee shall instruct the Executive Secretary to transmit them to the States and to make them public

## **PART VIII: THE COLLECTIVE COMPLAINTS PROCEDURE**

### **CHAPTER 1 – INTRODUCTION**

#### **■ Rule 23: Submission of complaints and signature**

1. Collective complaints submitted under the 1995 Additional Protocol providing for a system of collective complaints shall be addressed to the Executive Secretary acting on behalf of the Secretary General of the Council of Europe.
2. Complaints shall be signed by the person(s) with the competence to represent the complainant organisation.

#### **■ Rule 24: Languages**

1. Complaints made by the organisations listed in Article 1 paragraphs a and b of the Protocol shall be submitted in one of the official languages of the Council of Europe.
2. Complaints made by organisations listed in Article 1 paragraph c and Article 2 paragraph 1 of the Protocol may be submitted in an official language of the State concerned other than one of the official languages of the Council of Europe. For these complaints, the Executive Secretary is authorised in his correspondence with the complainants to use a language other than one of the official languages of the Council of Europe.

#### **■ Rule 25: Representatives of the States and of the organization that lodged the complaint**

1. The States shall be represented before the Committee by the agents they appoint. These may have the assistance of advisers.
2. The organisations referred to in paragraphs 2 and 3 of the Protocol shall be represented by a person appointed by the organisation to this end. They may have the assistance of advisers.
3. The names and titles of the representatives and of any advisers shall be notified to the Committee.

#### **■ Rule 26: Order in which to examine a complaint**

Complaints shall be registered with the Secretariat in the order in which they are received. The Committee shall deal with complaints in the order in which they become ready for examination. It may, however, decide to give priority to the examination of a particular complaint.

#### **■ Rule 27: Role of the Rapporteur**

1. For each complaint, the President shall appoint a member of the Committee to act as Rapporteur.



2. The Rapporteur shall follow the proceedings. He or she shall inform the Committee at each of its sessions of the progress of the proceedings and of the procedural decisions taken by the President since the previous session.
3. The Rapporteur shall elaborate a draft decision on admissibility of the complaint for adoption by the Committee, followed by, as the case may be, a draft decision on the merits. Once the latter has been adopted, it will feature in the report to the Committee of Ministers as provided for in Article 8 of the Protocol.

■ **Rule 28:** Role of the President

1. The President shall take the decisions provided for in Rules 29, 31,32, 32A and 36.
2. The President shall set the time limits mentioned under Article 6 and under Article 7 paragraphs 1, 2 and 3 of the Protocol. He or she may grant, in exceptional cases and following a well-founded request, an extension of these time limits.
3. The President may, in the name of the Committee, take any necessary measures in order to ensure the proper functioning of the procedure.
4. The President may especially, in order to ensure that complaints are dealt with within a reasonable time, decide to convene additional sessions of the Committee.

## CHAPTER II – EXAMINATION OF THE ADMISSIBILITY OF THE COMPLAINT

■ **Rule 29:** Observations on the admissibility

1. Before the Committee decides on admissibility, the President may ask the respondent State for written observations, within a time limit that he or she decides, on the admissibility of the complaint.
2. If the President considers it appropriate, to ensure that complaints are processed within a reasonable time, he or she may, on the Rapporteur's proposal, ask the respondent State to make written submissions on the merits of the case on the assumption that the complaint will be declared admissible, at the same time as its observations on the admissibility of the complaint.
3. The President may also ask the organisation that lodged the complaint to respond, on the same conditions, to the observations made by the respondent State.
4. The Committee has the possibility of declaring any complaint either admissible or inadmissible, without having invited the government concerned to submit observations, when it considers that the admissibility conditions are either manifestly fulfilled or manifestly unfulfilled.

■ **Rule 30:** Examination by the Committee

1. The Rapporteur shall within the shortest possible time limit elaborate a draft decision on admissibility. It shall contain:
  - a. a statement of the relevant facts;
  - b. an indication of the issues raised by the complaint under the Charter;
  - c. a proposal on the admissibility of the complaint.

2. The Committee's decision on admissibility of the complaint shall be accompanied by reasons and be signed by the President, the Rapporteur and the Executive Secretary. Each member of the Committee may express a separate opinion, concurring or dissenting, which shall be joined to the Committee's decision.
3. The Committee's decision on admissibility of the complaint shall be notified to the complainant organisation and to the respondent State.
4. When the complaint is admissible, the decision is also transmitted to the Parties to the Protocol as well as to State Parties to the Revised Social Charter who have made a declaration under Article D paragraph 2.
5. The decision shall be made public and published on the internet site of the Council of Europe.
6. The publication of the decision on the internet site of the Council of Europe will be regarded as the notification of other States Parties to the Charter who have not accepted the collective complaints procedure.
7. In respect of complaints lodged by national organisations of employers or national trade unions or non-governmental organisations, the publication of the decision on the internet site of the Council of Europe will be regarded as notification of the international organisations of employers or trade unions referred to in Article 27§2 of the 1961 Charter.
8. Case documents are also published on the internet site of the Council of Europe. Appendices which are not in electronic format may be consulted at the Secretariat.

### CHAPTER III – EXAMINATION OF THE MERITS OF THE COMPLAINT

#### ■ **Rule 31:** Written procedure between the Parties

1. If a complaint has been declared admissible, the Committee asks the respondent State to make written submissions on the merits of the complaint within a time limit which it fixes.
2. The President then invites the organisation that lodged the complaint to submit, on the same conditions, a response to these submissions.
3. The President may then invite the respondent State to submit a further response.
4. The President when he considers this appropriate and after consultation with the Rapporteur shall decide that the written procedure is closed. Following this decision, the parties may only submit further documents with good reason.

#### ■ **Rule 32:** Third Party Intervention

1. The States Parties to the Protocol as well as the States having ratified the Revised Charter and having made a declaration under Article D paragraph 2 shall be invited to make comments within the same time limit as that decided above under paragraph 1 of Rule 31.
2. The international organisations of employers and trade unions referred to in Article 27 paragraph 2 of the Charter shall be invited to make observations on complaints lodged by national organisations of employers and trade unions or by non-governmental organisations.

3. The observations submitted in application of paragraphs 1 and 2 shall be transmitted to the organisation that lodged the complaint and to the respondent State.
4. Any information received by the Committee in application of Article 7 paragraphs 1, 2 and 3 of the Protocol shall be transmitted to the respondent State and to the organisation that lodged the complaint.

■ **Rule 32A:** Request for observations

1. Upon a proposal by the Rapporteur, the President may invite any organisation, institution or person to submit observations.
2. Any observation received by the Committee in application of paragraph 1 above shall be transmitted to the respondent State and to the organisation that lodged the complaint.

■ **Rule 33:** Hearing

1. The hearing provided for under Article 7§4 of the Protocol may be held at the request of one of the parties or on the Committee's initiative. The Committee shall decide whether or not to act upon a request made by one of the parties.
2. The respondent State and the organisation that lodged the complaint shall be invited to the hearing.
3. The hearing shall be public unless the President decides otherwise.
4. The States and organisations referred to in Article 7 of the Protocol and who have indicated that they wish to intervene in support of the complaint or for its rejection are invited to take part in the hearing.

■ **Rule 34:** Participation in the deliberations

1. Any member who is not present at the hearing cannot participate in the deliberations on the merits of the complaint.
2. Any member who has not participated in the essential parts of the deliberations shall not vote on the decision on the merits.
3. The President shall take any decisions necessary regarding paragraph 2 of this Rule.

■ **Rule 35:** The Committee's decision on the merits

1. The Committee's decision on the merits of the complaint contained in the report provided for in Article 8 of the Protocol shall be accompanied by reasons and be signed by the President, the Rapporteur and the Executive Secretary. Any separate opinions shall be appended to the Committee's decision.
2. The report containing the decision on the merits is transmitted to the parties to the procedure, who may not publish it before the expiry of the time limit provided in Article 8 of the Protocol.
3. The report containing the decision shall be transmitted to the Committee of Ministers.
4. The Committee's decision on the merits of the complaint shall be made public at the moment of the adoption of a resolution by the Committee of Ministers in

conformity with Article 9 of the Protocol or at the latest four months after the report was transmitted to the Committee of Ministers.

5. When the decision becomes public, it is published on the internet site of the Council of Europe.

6. The publication of the decision on the internet site of the Council of Europe will be regarded as transmission to the Parliamentary Assembly.

## CHAPTER IV – IMMEDIATE MEASURES

### ■ **Rule 36:** Immediate measures

1. As from the adoption of the decision on the admissibility of a collective complaint or at any subsequent time during the proceedings before or after the adoption of the decision on the merits the Committee may, at the request of a party, or on its own initiative, indicate to the parties any immediate measure the adoption of which seems necessary with a view to avoiding the risk of a serious irreparable injury and to ensuring the effective respect for the rights recognised in the European Social Charter.

2. In case of a request for immediate measures made by a complainant organisation, the request shall specify the reasons therefore, the possible consequences if it is not granted, and the measures requested. A copy of the request shall forthwith be transmitted to the respondent State. The President shall fix a date for the respondent State to make written submissions on the request of immediate measures.

3. The Committee's decision on immediate measures shall be accompanied by reasons and be signed by the President, the Rapporteur and the Executive Secretary. It shall be notified to the parties. The Committee may request information from the respondent State on the implementation of the immediate measures.

## CHAPTER V – PUBLIC NATURE OF THE PROCEDURE

### ■ **Rule 37:** Public nature of the case documents

The text of each registered complaint as well as any appendices and also all submissions, responses or observations submitted by virtue of Rules 31, 32, 35 and 36 shall be public on their transmission to the Committee, unless the Committee decides otherwise on a case by case basis.

### ■ **Rule 38:** Secrecy of deliberations

All documents prepared for the deliberations of the Committee are destined for the use of the Committee only and shall never be made public, except under the conditions laid down in Rule 15.

## CHAPTER VI – STRIKING OUT A COMPLAINT

### ■ **Rule 39:** Striking out a complaint

If the conditions for upholding a complaint are no longer met, the Committee may take a decision to strike it out of the list of pending complaints.

## CHAPTER VII – MEASURES REQUIRED TO BRING THE SITUATION INTO CONFORMITY

### ■ **Rule 40:** Measures required to bring the situation into conformity

In cases where a violation has been found, the Committee will examine information presented by the respondent State in every subsequent report on the provisions concerned in the complaint regarding the measures taken to bring the situation into conformity.

## PART IX: AMENDMENTS TO THE RULES OF PROCEDURE

### ■ **Rule 41:** Amendments

Any rule may be amended by a majority of Committee members during a session of the Committee, on the basis of a proposal by a member of the Committee. The proposed amendment shall be submitted in writing at least one month before the session at which it is to be discussed. The proposal shall be communicated to all members of the Committee at the earliest possible moment.



# V. Governmental Committee

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## A. Composition

### European Social Charter

■ **Article 27** – Sub-committee of the Governmental Social Committee<sup>1</sup>

1. The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a sub-committee of the Governmental Social Committee of the Council of Europe.

2. The sub-committee shall be composed of one representative of each of the Contracting Parties. It shall invite no more than two international organisations of employers and no more than two international trade union organisations as it may designate to be represented as observers in a consultative capacity at its meetings. Moreover, it may consult no more than two representatives of international non-governmental organisations having consultative status with the Council of Europe, in respect of questions with which the organisations are particularly qualified to deal, such as social welfare, and the economic and social protection of the family.

■ Decision on the participation of member states from central and eastern European signatories to the Social Charter in meetings of the Governmental Committee

*Adopted by the Committee of Ministers on 22 October 1992 at the 482nd meeting of the Ministers' Deputies*

The Deputies

1. agreed that observers from member states from central and eastern Europe, having signed the European Social Charter, can be invited to attend meetings of the Governmental Committee, for the purpose of preparing the ratification of this instrument;[...]

■ Decision to invite signatory states to participate as observers in meetings of the Governmental Committee

*Adopted by the Committee of Ministers on 17 December 1998 at the 653rd meeting of the Ministers' Deputies*

The Deputies

Decided to invite signatory States of the European Social Charter or the revised European Social Charter to take part as observers in the meetings of the Governmental Committee of the European Social Charter.

*Adopted by the Committee of Ministers on 23 November 2011 at the 1127th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the decision taken by the Ministers' Deputies, including the representatives of the Contracting Parties to the European Social Charter (hereafter, the "Charter"), at their 1112th meeting on 19 April 2011, approving the new intergovernmental committee structure as presented by the Secretary General in documents SG/Inf(2011)9 rev1 and SG/Inf(2011)9 rev1 add;

Recalling that this decision implies the suppression of the Committee of Experts on Social Security (hereafter, "CS-SS"), formerly designated to carry out the duties laid down in Articles 2 paragraph 3, 74 paragraph 4, and 78 paragraph 3 of the European Code of Social Security (hereafter, the "Code") and further foresees that those tasks formerly exercised by the CS-SS will be henceforth carried out by the Governmental Committee of the European Social Charter (hereafter, the "Governmental Committee");

Referring to Article 1(1)b of the Code;

Desiring to facilitate the implementation of this decision by adopting the necessary complementary decisions,

Agrees that:

1. the Governmental Committee will carry out, as from 1 January 2012, the task of following up the implementation of the provisions referred to in Article 1(1)b of the Code;
2. the Governmental Committee will exercise this task under the following modalities:
  - a. the number of days for which the Governmental Committee meets will be increased as appropriate so that it can fulfil the tasks assigned to it under the Code, within the limits of budgetary appropriations;<sup>41</sup>
  - b. Contracting Parties to the Code which are not Parties to the Charter will be invited as full participants exclusively to the parts of the meeting dealing with the Code;
  - c. member states which are not Contracting Parties to the Code but currently participate in meetings of the CS-SS, will be invited to the parts of the meeting of the Governmental Committee dealing with the Code;
  - d. each national delegation to the Governmental Committee will be composed of one delegate for which travelling and subsistence expenses will be at the charge of the Council of Europe budget and by any additional experts at the charge of the Contracting Party concerned;
  - e. nothing in this resolution will prejudice the voting rights of states in respect of the Charter or the Code;

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41. In 2011, the Governmental Committee held two meetings of four days each; in 2012 and 2013, it will hold two meetings of five days each per year – in principle, eight days will be dedicated to its tasks under the Charter and two days to its tasks under the Code.



- f. two observers from the European social partners (one from the European Trade Union Confederation (ETUC), one either from Business Europe or from the International Organisation of Employers (IOE), according to an agreement between the two employers' organisations) will be invited to the meetings of the Governmental Committee with their travelling and subsistence expenses at the charge of the Council of Europe budget;
- g. the International Labour Organisation (ILO) will be invited to send one representative to the part of the meetings of the Governmental Committee that concerns the exercise of its tasks under the Code, for whom the travelling and subsistence expenses will be at the charge of the Council of Europe budget.

## **B. Rules of procedure of the Governmental Committee of the European Social Charter and the European Code of Social Security**

*adopted by the Committee at its 125th meeting (2012)*

### **CHAPTER I: GENERAL PROVISIONS**

#### **Article 1: Membership of the Committee**

1 The Committee is composed of a representative of each Party to the European Social Charter, whether the 1961 version or the revised 1996 (hereinafter the "Charter") version and to the European Code of Social Security (hereinafter the "Code").

2 Concerning the performance of duties related to the Charter, the Committee is composed of Contracting Parties to the Charter and signatory states participating as observers.

3 Concerning the performance of duties related to the Code, the Committee is composed of Contracting Parties to the Code and other Member States of the Council of Europe participating as observers.

4 Arrangements for defrayal of expenses are set in out Resolution CM/Res(2011)26 of the Committee of Ministers as well as in the Decision of the Committee of Ministers adopted on 22 October 1992, at the 482nd meeting of the Ministers' Deputies.

5 At the invitation of the Committee of Ministers, states enjoying observer status with the Council of Europe<sup>42</sup> as well as other non-member states<sup>43</sup> may send a representative to attend the meetings dealing with the Code as an observer (without voting rights or defrayal of expenses).

#### **Article 2: Participation of international organisations of employers and of trade unions**

1 The invitation issued in accordance with Article 27 paragraph 2 of the European Social Charter to international organisations of employers and of trade unions shall

42. At 1 January 2012, these countries are: Canada, Holy See, Japan, Mexico and United States of America.

43. Until 1 January 2012, Australia and New Zealand were invited to the former Committee of Experts on Social Security.

be valid for four years; unless it is expressly withdrawn by the Committee at the end of this period, it shall be considered to have been tacitly renewed.

2 These organisations shall participate in the Committee's discussions in a consultative capacity and shall receive all the documents referred to in Article 4, paragraph 3.

3 These organisations are invited to take part in the work of working groups and any other committee activities.

4 Travel and subsistence expenses of one representative of the European Trade Union Confederation (ETUC) and one representative of *Business Europe* or the International Organisation of Employers (IOE) shall be borne by the Council of Europe budget.

### ■ **Article 3:** Bureau of the Committee

1 The Committee shall elect a Bureau by a majority of "votes cast", as defined in Article 13 paragraph 3 below, for a two year period, composed of a Chair and first and second Vice-Chairs, and at least two other members. They shall be eligible for re-election. One of the two Vice-Chairs shall be an expert in the field of the European Code of social security.

2 The Chair shall direct the work and chair sessions of the Committee; he/she shall participate in votes as a representative.

3 If the Chair is unable to act, he/she shall be replaced by the first Vice-Chair; if the latter is unable to act, he/she shall be replaced by the second Vice-Chair.

4 When the situation under examination concerns the Party represented by the Chair, the Chair shall be replaced by the Vice-Chair.

### ■ **Article 4:** Secretariat

1 The Secretary General or his/her representative may at any time make an oral or written statement on any matter under consideration.

2 The Secretary General shall provide the Committee with the necessary staff and facilities.

3 The Secretariat shall be responsible for the preparation and distribution of all documents to be examined by the Committee.

### ■ **Article 5:** Convening of meetings

1 Committee meetings shall be convened according to the same procedure as the one applicable to Council of Europe steering committees.

2 Letters of invitation shall, in general, be sent at least four weeks before the date set for the start of the meeting.

### ■ **Article 6:** Appointment of representatives

Each Party shall communicate to the Secretariat of the Council of Europe, whenever possible at least two weeks before the date set for the start of the meeting, the name and address of the representative or the experts it has appointed.

## ■ **Article 7:** Meetings

1 The Committee shall fix the dates of its meetings in consultation with the Secretariat.

2 When a meeting has been convened, any request for postponement must reach the Secretariat not less than three weeks before the date originally set for the start of the meeting. A decision in favour of postponement shall be considered to have been taken if a majority of Parties notify the Secretariat of their agreement not less than ten days before the date previously set.

3 Meetings shall be held at the seat of the Council of Europe in Strasbourg, unless the Committee decides otherwise.

## ■ **Article 8:** Agenda

The agenda shall be adopted at the beginning of each meeting on the basis of a draft prepared by the Secretariat.

## ■ **Article 9:** Languages

1 The official languages of the Committee shall be those of the Council of Europe.

2 Non-official languages may be used, in accordance with the rules in force in the Council of Europe.

3 Working documents submitted to the Committee in a language other than one of the official languages should be translated by the issuing Party if the Committee considers it necessary. If a written translation is required by the Committee, only the essential parts of the document need be translated.

## ■ **Article 10:** Meeting conditions

Meetings shall be held in private.

## ■ **Article 11:** Meeting reports

At the end of each meeting, the Secretariat shall draft a report for adoption by the Committee at the start of the following meeting.

## ■ **Article 12:** Quorum

The Committee shall be validly constituted when at least two-thirds of the representatives of Contracting Parties to the Charter and to the Code are present (in conformity with Article 1 paragraph 1).

## ■ **Article 13:** Voting

1 Without prejudice to the provisions of Articles 16 and 23, the Committee shall take decisions by a two-thirds majority of the votes cast.

2 Procedural questions shall be decided by a majority of the votes cast. If any question arises as to whether a matter is procedural or not, it shall not be treated as procedural unless the Committee so decides by a two-thirds majority of the votes cast.

3 "Votes cast" means the votes of representatives voting for or against; representatives abstaining on a vote are considered not to have cast a vote.

## CHAPTER II: EUROPEAN SOCIAL CHARTER

### ■ **Article 14:** Role of the Committee concerning the Charter

Following the request made in the Final Resolution of the Ministerial Conference in Turin and in the decision of the Committee of Ministers of 11 December 1991 that the supervisory bodies apply the amending Protocol as far as possible before its entry into force, the Committee shall not make legal interpretations of the provisions of the Charter and shall undertake the responsibilities provided for in Article 4 of the Amending Protocol<sup>44</sup>.

### ■ **Article 15:** Consultation with certain international non-governmental organisations

1 At the beginning of each year, the Secretariat shall communicate to the Committee the list of international non-governmental organisations with participatory status with the Council of Europe, as referred to in Article 27 paragraph 2 of the European Social Charter.

2 If the Committee decides to consult these organisations, in accordance with Article 27 paragraph 2 of the European Social Charter, it shall determine the date and form of such consultation.

### ■ **Article 16:** Examination of non-conformity conclusions

#### *A – Procedure*

a The Committee shall consider the non-conformity conclusions of the European Committee of Social Rights provision by provision.

b Having regard to the Committee's workload, the Bureau may decide that the national situations that are subject of a conclusion of non-conformity of the European Committee of Social Rights for the first time will not be examined at the Committee's meetings, unless a representative expressly requests such an examination.

This decision of the Bureau shall be adopted before the beginning of the examination of a thematic group by the Committee and shall be valid for the whole duration of this particular examination period. The Secretariat shall inform the Committee of the Bureau's decision not later than two months before the beginning of the meeting.

In such cases, the representatives concerned are invited to inform the Committee by e-mail sent to the Secretariat, in English or in French, about the measures taken or planned to bring the situations into conformity with the Charter.

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44. Article 4 (paragraphs 3 and 4) reads as follows :

*"3. The Governmental Committee shall prepare the decisions of the Committee of Ministers. In particular, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties, it shall select, giving reasons for its choice, on the basis of social, economic and other policy considerations the situations which should, in its view, be the subject of recommendations to each Contracting Party<sup>3</sup> concerned, in accordance with Article 28 of the Charter. It shall present to the Committee of Ministers a report which shall be made public.*

*4. On the basis of its findings on the implementation of the Social Charter in general, the Governmental Committee may submit proposals to the Committee of Ministers aiming at studies to be carried out on social issues and on articles of the Charter which possibly might be updated."*

This information shall appear in the Committee's meeting report and in the report to the Committee of Ministers.

If this information is not submitted by 31 July, the national situations concerned will nevertheless be examined at the Committee's meeting.

c The Committee shall vote on each non-conformity conclusion of the European Committee of Social Rights, unless it decides by consensus not to proceed to a vote. The first vote shall be on whether to make a recommendation to the Party concerned; the Committee shall then observe the same voting rules as the Committee of Ministers, namely a two-thirds majority of votes cast and a simple majority of the Parties.

d Where there is no majority in favour of a recommendation, the Committee shall then vote on whether to address a warning to the Party concerned (two-thirds majority of votes cast). A warning serves as an indication to the Party concerned that, unless it takes steps to comply with its obligations under the Charter, the Committee may propose a recommendation the next time this provision is examined.

e Where the Committee does not propose a recommendation or a warning in response to a non-conformity conclusion it may consider it necessary to express an opinion on the relevant national situation or conclusion in its report to the Committee of Ministers.

f The Committee's vote on a national situation shall be final unless a representative expressly requests a further vote at the end of that part of the cycle.

g In so far as the examination concerns a Party submitting its first report, which is the subject of the first set of conclusions of the European Committee of Social Rights, the Committee shall issue a warning rather than a recommendation in the case of non-conformity conclusions.

#### *B – Selection criteria*

The selection criteria are as follows:

- a Does the provision in question belong to the hard core of the Charter or the revised Charter?
- b Is the provision one that has been updated by the revised Charter?
- c In which cycle was the situation first criticised?
- d Are a significant number of persons unprotected and what are the consequences of non-compliance for those involved?
- e How serious does the European Committee of Social Rights consider the situation to be?
- f Have the social partners expressed an opinion on the seriousness of this type of breach?
- g What was the Committee's position in response to the previous conclusion of the European Committee of Social Rights on this point? Was a recommendation adopted by the Committee of Ministers?
- h Is the country taking or planning to take measures to modify the situation in question?

- i Does the situation in question also concern another provision of the Charter?
- j What has the Committee decided in similar situations?

■ **Article 17:** Examination of deferrals for lack of information

*A – Procedure*

a The Committee shall not examine at meetings national situations on which a conclusion has been deferred following a question asked by the European Committee of Social Rights for the first time, unless a representative expressly requests such an examination. These situations shall nevertheless be referred to in the working document and the report to the Committee of Ministers, for information. The representatives concerned may, however, submit written information to the Secretariat which they would like to be included in the report of the Committee.

b The Committee shall vote on each situation on which the European Committee of Social Rights has repeatedly had to defer a conclusion for lack of information. A warning is adopted by a two-thirds majority of votes cast. A warning is addressed in respect of a deferred conclusion for repeated lack of information to encourage the Party concerned to submit all relevant information in its next reports. Here again, the Party concerned shall be informed that if information is not supplied, a proposal for a recommendation may follow in the next cycle.

*B – Selection criteria*

The selection criteria are as follows:

- a In which cycle did the European Committee of Social Rights first find it impossible to reach a conclusion because of lack of information?
- b Did the Committee address a warning or propose a recommendation? Was a recommendation adopted?
- c What practical reasons have been given by the Party concerned to explain its failure to respond?
- d Has there been a failure to submit national reports and information requested within the time limit?
- e Has there been a failure to submit national reports to the social partners and comments made by social partners?

■ **Article 18:** Follow up of individual recommendations

Parties shall report on the measures taken to comply with the recommendations made by the Committee of Ministers when they submit their reports.

■ **Article 19:** Report to the Committee of Ministers

1 The report shall describe developments since the previous supervision cycle, showing positive and negative changes in national situations.

2 The report shall include general observations on the measures taken by Parties to comply with recommendations of the Committee of Ministers and proposals for individual recommendations to be addressed to Parties by the Committee of Ministers.

3 The Committee shall comment on the national reports and the conclusions of the European Committee of Social Rights, and in particular the general introduction to the conclusions. The report shall include an introduction describing developments since the previous supervision cycle and, if appropriate, making suggestions on the application of Article 4 paragraph 4 of the amending Protocol.

4 Only proposals for first recommendations shall be appended to the draft resolution ending the supervision cycle; the renewal of recommendations still to be acted on shall simply be mentioned in the draft resolution.

5 At the request of the organisations referred to in Article 2, paragraph 1, of the present Rules, their observations made orally at the various meetings shall be appended to the Committee's report.

6 The Committee shall adopt an abridged report containing a general part and an extract from the detailed report on the national situations concerning which it is proposed to ask the Committee of Ministers to adopt or renew recommendations.

#### ■ **Article 20:** Absence of a Party representative

If a Party representative is absent during the last meeting of the year, the Committee shall examine the situation in the Party concerned and take any decisions it considers appropriate.

### CHAPTER III: EUROPEAN CODE OF SOCIAL SECURITY

#### ■ **Article 21:** Role of the Committee concerning the Code

The Committee, in accordance with sub-paragraph b of Article 1, paragraph 1 of the Code, shall carry out the tasks set out in Article 2 paragraph 3, in Article 74 paragraph 4 and in Article 78 paragraph 3.

#### ■ **Article 22:** Participation of International governmental organisations

1 The International Labour Office (ILO) is invited to appoint a representative to the part of the meetings of the Committee that concerns the exercise of its tasks under the Code, for whom the travelling and subsistence expenses will be at the charge of the Council of Europe budget.

2 The European Commission is invited to appoint a representative to attend the meetings of the Committee dealing with the Code as an observer (without voting rights or defrayal of expenses).

3. The Organisation for Economic Co-operation and Development (OECD) and the International Social Security Association (ISSA) are invited to appoint a representative to attend the meetings of the Committee dealing with the Code as an observer, (without voting rights or defrayal of expenses).

#### ■ **Article 23:** Annual supervision of the application of the accepted parts of the Code

- 1 In accordance with Article 74 paragraph 5 of the Code, the Committee shall:
  - a) examine:
    - ▶ the annual reports on application of the Code, referred to in Article 74 paragraph 1;

- ▶ the further information requested by the Secretary General, in accordance with Article 74 paragraph 2;
  - ▶ the conclusions of the Committee of Experts of the International Labour Organisation for the application of conventions and recommendations referred to in Article 74 paragraph 4;
- b) draft a report for the Committee of Ministers containing its conclusions for each Contracting Party.

2 Where there is no consensus, the conclusions shall be adopted by the Committee by vote. Only Contracting Parties shall take part in the vote.

In the event of a vote, the Committee shall decide by a two-thirds majority of the votes cast, and a simple majority of the Contracting Parties.

■ **Article 24:** Biennial supervision of the application of the non-accepted parts of the Code

The Committee shall examine the conclusions of the Group of Independent Experts on the non-accepted provisions of the Code, drafted on the basis of the reports submitted by the Contracting Parties to the Secretary General every two years in application of Article 76 of the Code.

■ **Article 25:** Alternative procedure for ratification of the Code

1 The Committee shall examine the report which any signatory wishing to avail itself of sub-paragraph b of Article 2, paragraph 2 (adoption of minimum standards for three risks only) must submit to the Secretary General in accordance with the provisions of Article 78.

2 The Committee, bearing in mind the provisions of Article 2 paragraph 3, shall submit to the Committee of Ministers a report specifying whether the state concerned fulfils the criteria required by the Code to use the alternative ratification procedure.

3 The Committee shall decide by a two-thirds majority of the votes cast.

■ **Article 26:** Promoting ratification of the Code

The Committee shall be responsible for enhancing awareness and promoting ratification of the Code, in particular by assisting those member states wishing to ratify it, in the examination of the legal, financial and administrative consequences thereof.

■ **Article 27:** Co-operation and technical assistance

1 The Committee shall be responsible for analysing the conclusions of the Code's supervisory mechanism in order to identify the needs and priorities at national level, with a view to proposing practical solutions.

2 The Committee shall be responsible for identifying any difficulties which states may encounter in complying with certain provisions of the Code in order to propose ways of overcoming those difficulties, including by providing the necessary technical assistance.

■ **Article 28:** Developments in national social security legislation

The Committee shall be responsible for examining developments in national social security legislation and monitoring changing pan-European trends in the social



security field. It shall regularly hold discussions on topical issues and best practice and, where appropriate, prepare reports which may be brought to the attention of the Committee of Ministers.

## **CHAPTER IV: FINAL PROVISIONS**

### **■ Article 29: Amendments to the Rules of Procedure**

- 1 These rules shall enter in force on the day of their adoption and may be amended at any time.
- 2 Amendments shall be adopted by a two-thirds majority of the votes cast. Only the representatives of the Contracting Parties to the Charter and to the Code may vote.



# VI. Committee of Ministers

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## A. Composition

### Statute of the Council of Europe

#### ■ Article 14

Each member shall be entitled to one representative on the Committee of Ministers and each representative shall be entitled to one vote. Representatives on the Committee shall be the Ministers for Foreign Affairs. When a Minister for Foreign Affairs is unable to be present or in other circumstances where it may be desirable, an alternate may be nominated to act for him, who shall, whenever possible, be a member of his government.

### Rules of Procedure for the meetings of the Ministers' Deputies

#### ■ Article 1 – Appointment of the Ministers' Deputies

In accordance with Article 14 of the Rules of Procedure of the Committee of Ministers, each Minister for Foreign Affairs shall appoint a Deputy to act on his behalf outside the meetings held at the level of the Ministers for Foreign Affairs.

#### ■ Article 2 – Powers of the Committee of Ministers meeting at the Deputy level

1. The Committee of Ministers meeting at the Deputy level – hereinafter referred to as “the Deputies” – is empowered to deal with all matters within the competence of the Committee of Ministers and to take decisions on its behalf.
2. Decisions taken by the Deputies shall have the same force and effect as decisions taken by the Committee of Ministers meeting at the level of the Ministers for Foreign Affairs.
3. The Deputies shall, however, not take decisions on any matter which, in the view of one or more of them, should by reason of its political importance be dealt with by the Committee of Ministers meeting at ministerial level.

## **B. Council of Europe Ministerial Conference on the European Social Charter (Turin, 21-22 October 1991)**

### **1. Final resolution**

The Ministers participating in the Ministerial Conference meeting in Turin on 21 and 22 October 1991 on the occasion of the 30th anniversary of the European Social Charter,

1. Considering that the aim of the Council of Europe is the achievement of greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;
2. Recalling to mind that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil or political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;
3. Stressing the importance of the European Social Charter as an instrument for safeguarding and promoting basic social rights in Europe;
4. Welcoming the ratification of the Charter by twenty member States of the Council of Europe to date, and noting with satisfaction the work undertaken in other States with a view to ratifying the Charter as soon as possible;
5. Expressing the hope that the first additional Protocol to the Charter, opened for signature on 5 May 1988, may enter into force in the near future;
6. Welcoming the follow-up action taken on the results of the Ministerial Conference on Human Rights by the Committee of Ministers in setting up the Committee on the European Social Charter with the task of making proposals for improving the effectiveness of the Charter and the functioning of its supervisory machinery;
7. Thanking the Italian Government for taking the initiative of convening, on the occasion of the 30th anniversary of the Charter, a ministerial conference which provides an opportunity to examine the results achieved by this Committee;
8. Noting that this Committee's work has resulted in the adoption, by the Committee of Ministers, of an Amending Protocol to be opened for signature at the present conference, and in the preparation of an optional draft additional protocol providing for a system of collective complaints;
9. Convinced that the entry into force of the Amending Protocol will contribute decisively towards improving the supervisory machinery of the Charter;
10. Stressing the important improvement for the effectiveness and development of the Charter which would result from the fullest possible participation by the social partners, and noting that a majority of Ministers consider

that such participation would be strengthened by the establishment of a system of collective complaints;

11. Considering that, in order to give full effect to the efforts being made, it would be timely to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;
12. Taking note of Resolution 967 and Recommendation 1168 on the future of the Social Charter of the Council of Europe, unanimously adopted by the Parliamentary Assembly respectively on 28 June and 24 September 1991;

Express the firm hope that the political will, which made it possible for the first time to adopt an Amending Protocol to the European Social Charter, can be maintained for the implementation and further development of this reform;

Urge the member States of the Council of Europe to become Parties at the earliest possible opportunity to the Amending Protocol to the European Social Charter;

Request both the States party to the Charter and the supervisory bodies to envisage the application of certain of the measures provided for in this Protocol before its entry into force, in so far as the text of the Charter will allow;

Draw the attention of the Committee of Ministers of the Council of Europe to the fact that an appreciable and rapid strengthening of the resources available to the Charter is a precondition of any significant improvement in the functioning of this instrument;

Call on the organs concerned to reflect on the revision of the reporting procedure, particularly as regards its frequency;

Recommend that the Committee of Ministers of the Council of Europe:

- a. examine at their earliest opportunity a draft protocol providing for a system of collective complaints, with a view to its adoption and opening for signature;
- b. take the necessary steps for the immediate implementation of measures for improving the Charter which do not require any amendment to its text;
- c. extend in 1992 the terms of reference originally assigned to the Committee on the European Social Charter to allow the task of giving fresh impetus to the Charter to be completed.

## **2. Decision relating to the application of the 1991 Amending Protocol**

*Adopted by the Committee of Ministers on 11 December 1991 at the 467th meeting the Ministers' Deputies*

The Deputies

...

4. requested the States party to the Charter and the supervisory bodies to envisage the application of certain of the measures provided for in this Protocol before its entry into force, in so far as the text of the Charter will allow.

## **C. Decision on voting in the Committee of Ministers**

*Adopted by the Committee of Ministers in April 1993 at the 492nd meeting of the Ministers' Deputies*

The Deputies

1. agreed unanimously to the introduction of the rule whereby only the Representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter.

## **D. Decision on the adoption of recommendations under the European Social Charter**

*Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies*

The Deputies specified that following their decision, adopted at the 492nd meeting (April 1993, item 15) whereby "only the Representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter," Recommendations under the European Social Charter are adopted by a majority of two-thirds of the Deputies casting a vote and a majority of the Contracting Parties to the Charter, (Article 9, paragraph 4 taken together with Article 10, paragraph 3 of the Rules of Procedure for the meetings of the Deputies).

## **E. Rules of Procedure for the adoption of recommendations under the European Social Charter**

*Adopted by the Committee of Ministers on 17 December 1998 at the 653rd meeting of Ministers' Deputies*

1. If the chairmanship of the Committee of Ministers is held by the representative of a State concerned by a draft recommendation, that representative shall step down from the Chair during the discussion on the draft recommendation.
2. When the Committee of Ministers acts as a control organ of the application of the Charter, only the representatives of those States which have ratified it shall vote.
3. A recommendation pursuant to the European Social Charter shall be adopted by a two-thirds majority of the Deputies voting and a majority of the Charter Contracting Parties (Article 9, paragraph 4 combined with Article 10, paragraph 3 of the Ministers' Deputies' Rules of Procedure).
4. A proposal for a recommendation shall only be put to the vote at the express request of the Contracting Party concerned. Where no vote has been requested, the recommendation shall be regarded as adopted.
5. A Contracting Party may request a debate within the Committee of Ministers on the subject of a proposed recommendation by the Governmental Committee. Prior to the debate, the Contracting Party is invited to submit its written observations.

## VII. Parliamentary Assembly

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### Letter from the President of the Assembly to the Chairman of the Ministers' Deputies

Strasbourg, 3 September 1992

Dear Mr Chairman,

Further to the decision taken by the Ministers' Deputies at their 203rd meeting, I have received the 11th report of the Governmental Committee for the Social Charter on the 2nd group of States for the period 1987-1988.

As you know, the Assembly has taken the view, in Resolution 967 and Recommendation 1168 (1991) on renewal of the Social Charter, that reports of the Governmental Committee and the Committee of Independent Experts should henceforth be made available to it as a basis *inter alia* for preparing periodical social policy debates, not for communication of its views on a particular set of conclusions of the Independent Experts' Committee as currently provided for under Article 28 of the Charter.

This view reflects the position agreed by governments and expressed in Article 6 of the Amending Protocol opened for signature at the Ministerial Conference in Turin, 21-22 October 1991. In the Final Resolution of the Conference, Ministers took note of Resolution 967 and Recommendation 1168 and of their unanimous adoption by the Parliamentary Assembly. Moreover, they requested the supervisory bodies to envisage the application of certain of the measures provided for in the Amending Protocol, before its entry into force, in so far as the text of the Charter would allow.

Accordingly, I am transmitting the 11th report of the Governmental Committee (2nd Group of States) for the period 1987-1988, together with the corresponding conclusions of the Committee of Independent Experts, to the Social, Health and Family Affairs Committee of the Assembly for information. This information will form a basis for the preparation of the next major social policy debate of the Assembly. The conclusions of this debate may accordingly be regarded as incorporating the views of the Assembly on the 11th control cycle (2nd group of States) for the period 1987-1988.

Miguel Angel MARTINEZ





## VIII. Reporting system

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### **A. Decisions on the submission of national reports under the European Social Charter in accordance with Article 21 (1961)**

#### **1. Decision to provisionally divide the states into two groups**

*Adopted by the Committee of Ministers on 27 January 1984 at the 336th meeting of the Ministers' Deputies*

The Deputies

- i. decided that, for the presentation of reports as provided for in Article 21 of the European Social Charter, the Contracting Parties of the Charter would be divided into two groups, with:
  - a. the Governments of Denmark, Iceland, Ireland, Norway, the Netherlands, Sweden and the United Kingdom being asked to submit a report in the even years, beginning in 1984;
  - b. the Governments of Austria, Cyprus, France, the Federal Republic of Germany, Italy and Spain reporting in the odd years, beginning in 1985;

on the understanding that this procedure would be introduced on a trial basis for a period of 6 years;

#### **2. Renewal of the decision to divide the Contracting States into two groups**

*Adopted by the Committee of Ministers in October 1989 at the 429th meeting of the Ministers' Deputies*

The Deputies agreed to renew definitively the decision to divide the Contracting States into two approximately equal groups for the submission of the reports provided for in Article 21 of the European Social Charter

#### **3. Decision on the adoption of a system for the presentation of reports for a trial period of four years**

*Adopted by the Committee of Ministers on 17 September 1992 at the 479th meeting of the Ministers' Deputies*

The Deputies

1. approved, for a trial period of four years, the new system for submission of the reports of the European Social Charter, as set out in the following table.

Proposal of the Charte-Rel Committee concerning the reporting system

Year X	Year X + 1	Year X + 2	Year X + 3	Year X + 4
3 hard-core (1.5.6)	3 hard-core (12, 13, 16, 19)	3 hard-core (1.5.6)	3 hard-core (1.5.6)	3 hard-core (1.5.6)
3 other Articles (2, 3, 4)	3 other Articles (7, 17, 18)	3 other Articles (9, 10, 15)	3 other Articles (2, 3, 4)	3 other Articles (2, 3, 4)
+	+	+	+	+
negative conclusions adjournments and additional information referring to Articles 9, 10 and 15	negative conclusions adjournments and additional information referring to Articles 8, 11 and 14	negative conclusions adjournments and additional information referring to Articles 2, 3 and 4	negative conclusions adjournments and additional information referring to Articles 7, 17 and 18	negative conclusions adjournments and additional information referring to Articles 9, 10 and 15

2. agreed that certain States Parties to the Charter could continue to submit their reports in accordance with the current procedure (reports every two years on all the accepted provisions);

3. invited all the States Parties to the Charter, with the exception of those countries wishing to continue with the current procedure, to report in accordance with the following conditions on the provisions indicated for year x:

- ▶ in 1992
  - all the States would report on the articles set for the year x.
  - States in the first group would also report on provisions which had given rise to negative conclusions, adjournments or requests for additional information by the Committee of Independent Experts during cycle XII-1.
- ▶ in 1993
  - all States would report on the articles selected for year X + 1.
  - States in the second group would also report on provisions which had given rise to negative conclusions, adjournments or requests for additional information by the Committee of Independent Experts during cycle XII-2.
- ▶ in 1994
  - the new system would apply fully.

In the case of States belonging to the second group, the deadline for the submission of reports could if necessary be extended to 30 November 1992;

4. agreed that States which have ratified the Charter recently will submit full reports twice, on a biennial basis, in accordance with the timetable set out in the following calendar:

Belgium: 1st report in 1993; 2nd in 1995

Finland: 1st report in 1994; 2nd in 1996

Luxembourg:	1st report in 1994; 2nd in 1996
Malta:	1st report in 1991; 2nd in 1993
Portugal:	1st report in 1994; 2nd in 1996
Turkey:	1st report in 1992; 2nd in 1994

#### **4. Decision reached after the four-year period**

*Adopted by the Committee of Ministers on 19 October 1995 at the 547th meeting of the Ministers' Deputies*

The Deputies

1. agreed to consider at a later meeting, after consulting the members of the Governmental Committee of the European Social Charter, the proposals relating to Article 21 of the European Social Charter, put forward in particular by the United Kingdom and Finland, with the aim of reaching a unanimous agreement between the Contracting Parties;
2. decided, in application of Article 21 of the European Social Charter, that in the meantime, if a contrary decision is not reached, the Contracting Parties to the Charter would submit their reports on the application of those provisions of the Charter which they had accepted in accordance with the following rules:
  - ▶ 30 June 1996 (cycle XIII-5): full reports from Finland, Luxembourg and Portugal and reports on the application of the Additional Protocol (first reports: Italy, Norway; second reports: Finland, the Netherlands and Sweden);
  - ▶ 30 June 1997 (cycle XIV-1), then every two years: full reports from the first group of States (Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Iceland, Malta, Spain);
  - ▶ 30 June 1998 (cycle XIV-2), then every two years: full reports from the second group of States (Finland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Sweden, Turkey, the United Kingdom).

#### **5. Decision on the new system for the presentation of reports**

*Adopted by the Committee of Ministers in September 1996 at the 573rd meeting of the Ministers' Deputies*

The Deputies, having observed that there is a unanimous agreement of the Contracting Parties to the European Social Charter,

1. approved the new system of presentation of reports under the European Social Charter as it appears in the table below;
2. agreed that this system will apply from the XIVth cycle of supervision (30 June 1997);
3. agreed that the new Contracting Parties to the Charter and to the Additional Protocol of 1988 will submit complete reports twice, on a two year basis, before applying the new system.

## 6. Table showing supervision cycles (in application of the European Social Charter (1961))

Table showing the system for the presentation of reports on the application of the European Social Charter (1961)

Reference period	Date of submission of reports	Provisions	Conclusions of the European Committee of Social Rights	Governmental Committee Report	Committee of Ministers Decision
XVII-2 1999-2002	either 30 June 2003, or 31 March 2004 <sup>45</sup>	Non-hard core: Articles 1 para. 4, 2, 3, 4, 9, 10 and 15 + Articles 2 and 3 of the Additional Protocol	31 December 2004	October 2005	December 2005
XVIII-1 2003-2004	30 June 2005 <sup>46</sup>	Hard core: Articles 1, 5, 6, 12, 13, 16 and 19 (except Article 1 para. 4)	28 February 2006	October 2006	December 2006
XVIII-2 2001-2004	either 30 June 2005, or 31 March 2006 <sup>45</sup>	Non-hard core: Articles 7, 8, 11, 14, 17 and 18 + Articles 1 and 4 of the Additional Protocol	31 December 2006	October 2007	December 2007
XIX-1 2005-2006	30 June 2007 <sup>46</sup>	Hard core: Articles 1, 5, 6, 12, 13, 16 and 19 (except Article 1 para. 4)	28 February 2008	October 2008	December 2008
XIX-2 2003-2006	either 30 June 2007, or 31 March 2008	Non-hard core: Articles 1 para. 4, 2, 3, 4, 9, 10 and 15 + Articles 2 and 3 of the Additional Protocol	31 December 2008	October 2009	December 2009

### B. System for the presentation of reports on the application of the revised European Social Charter (1996)

Adopted by the Committee of Ministers at the 689th meeting of the Ministers' Deputies on 24-25 November 1999

— The Committee of Ministers adopted the system for the presentation of reports on the revised European Social Charter, as explained in the document CM(99)157 [below]

1. During their informal meeting in May 1999, the European Committee of Social Rights, (committee of independent experts) and the Governmental Committee of

45. Latvia: First full report in March 2004 and second full report in March 2006.

46. Croatia: First full report in June 2005 and second full report in June 2007.

the Social Charter discussed the matter of the presentation of reports on the application of the revised European Social Charter, with a view to making a proposal to the Committee of Ministers on the subject.

2. At its 92nd meeting in September 1999, the Governmental Committee adopted the proposal below and decided to transmit it to the Committee of Ministers with a view to its adoption.

3. It should be recalled that the revised Charter entered into force on 1 July 1999.

4. The system for the presentation of reports accepted by the two Committees is as follows:

- ▶ report every two years on the hard core provisions (30 June of odd years)
- ▶ report every four years on the other provisions (31 March of even years, alternatively report on half the provisions concerned)

5. The hard core provisions are articles 1, 5, 6, 7, 12, 13, 16, 19 and 20.

6. The other provisions are divided into two groups:

- ▶ 2, 3, 4, 9, 10, 15, 21, 22, 24, 26, 28, 29 (12 articles and 33 paragraphs)
- ▶ 8, 11, 14, 17, 18, 23, 25, 27, 30, 31 (10 articles and 25 paragraphs)

7. The first reports will be submitted:

- ▶ 30 June 2001 for the hard core
- ▶ 31 March 2002 for the first part of the other provisions
- ▶ 30 June 2003 for the hard core
- ▶ 31 March 2004 for the second part of the other provisions

8. In order to simplify states' work as well as that of the supervisory bodies, that states are not required to submit two full reports, as was the case under the 1961 Social Charter, before submitting the partial reports described in point 4 above.

9. In order to avoid too long a delay between the entry into force of the Charter for a state and the date when the supervisory bodies will have been in a position to examine all provisions accepted by it, it has been agreed that the first report concerning non hard core provisions should exceptionally cover all of these provisions. These reports are featured in bold in the table below.

10. The system is shown in the table below.

*Table showing the system for the presentation of reports on the application of the revised European Social Charter (1996)*

Publication of conclusions	Date for submission of reports	Provisions <sup>47</sup>	Reference period <sup>48</sup>	Portugal, Finland, Albania	Armenia and Belgium	Azerbaijan and Andorra
2006	30 June 2005	Hard core: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20 (except Article 1 para. 4)	2003-2004	1st report		
2007	31 March 2006	Non-hard core: Articles 1 para. 4, 2, 3, 4, 9, 10, 15, 21, 22, 24, 26, 28 and 29	2001-2004	<b>2nd report</b> <sup>49</sup>	<b>1st report</b> <sup>49</sup>	
2008	30 June 2007	Hard core: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20 (except Article 1 para. 4)	2005-2006	3rd report	2nd report	1st report
2009	31 March 2008	Non-hard core: Articles 8, 11, 14, 17, 18, 23, 25, 27, 30 and 31	2003-2006	4th report	3rd report	<b>2nd report</b> <sup>57</sup>
2010	30 June 2009	Hard core: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20 (except Article 1 para. 4)	2007-2008	5th report	4th report	3rd report
2011	31 March 2010	Non-hard core: Articles 1 para. 4, 2, 3, 4, 9, 10, 15, 21, 22, 24, 26, 28 and 29	2005-2008	6th report	5th report	4th report

47. States concerned (by order of ratification): Sweden, France, Romania, Slovenia, Italy, Bulgaria, Estonia, Cyprus, Ireland, Norway, Lithuania, Moldova.

48. To be adapted according to the date of entry into force of the revised European Social Charter in respect of each State.

49. The reports featured in bold indicate the first report covering exceptionally all non-hard core provisions (item 9 of document CM(99)157).

## C. New system for the presentation of reports on the application of the European Social Charter as from 31 October 2007

### Decision

The Deputies, having observed that there is unanimous agreement of the States Parties to the Charter and the revised Charter, adopted the new system of presentation of reports under the European Social Charter which is as follows:

1. States shall present a report annually on a part of the provisions of the Charter (whether it be the 1961 Charter or the 1996 revised Charter), the provisions having been divided into four thematic groups. In this way, each provision of the Charter will be reported on once every four years. The four groups of provisions shall be composed as follows:

<b>Group 1 Employment, training and equal opportunities</b>	<b>Group 2 Health, social security and social protection</b>	<b>Group 3 Labour rights</b>	<b>Group 4 Children, families, migrants</b>
- Article 1 - Article 9 - Article 10 - Article 15 - Article 18 - Article 20 - Article 24 - Article 25	- Article 3 - Article 11 - Article 12 - Article 13 - Article 14 - Article 23 - Article 30	- Article 2 - Article 4 - Article 5 - Article 6 - Article 21 - Article 22 - Article 26 - Article 28 - Article 29	- Article 7 - Article 8 - Article 16 - Article 17 - Article 19 - Article 27 - Article 31

2. The reports shall be presented on 31 October of each year. The European Committee of Social Rights shall be invited to publish its conclusions before the end of the following year.
3. The system enters into force as from 2007<sup>50</sup>
4. There will no longer be full reports for states having recently ratified the 1961 Social Charter and there will no longer be reports on all the non-hard core provisions for states having recently ratified the 1996 revised Social Charter.

## D. New system for the presentation of reports on the application of the European Social Charter as from 31 October 2014

### European Social Charter – Governmental Committee of the European Social Charter and the European Code of Social Security – Ways of streamlining and improving the reporting and monitoring system of the European Social Charter

*(Decisions 4.7 adopted by the Committee of Ministers during their 1196th meeting (2-3 April 2014) - (CM(2014)26))*

<sup>50</sup>. The last report under the present system was due by 31 March 2006.

The Deputies, noting that there is a unanimous agreement of the States Parties to the European Social Charter and the revised European Social Charter,

1. adopted the proposals of the Governmental Committee of the European Social Charter and the European Code of Social Security on the ways of streamlining and improving the reporting and monitoring system of the European Social Charter, as they appear in Part I of document CM(2014)26;

2. adopted the proposals on a simplified reporting system for submission of national reports for States having accepted the collective complaints procedure, as they appear in Part II of document CM(2014)26.

## **PART II of the document CM(2014)26**

### **PROPOSED SIMPLIFICATION OF THE REPORTING SYSTEM OF THE EUROPEAN SOCIAL CHARTER FOR STATES WHICH HAVE ACCEPTED THE COLLECTIVE COMPLAINTS PROCEDURE SUBMITTED BY THE SECRETARIAT UPON REQUEST BY THE GOVERNMENTAL COMMITTEE**

1. This proposal was drawn up by the Secretariat at the request of the GC (see PART I, C.3).

2. The GC adopted a series of measures simplifying and enhancing the Charter reporting system and forwarded these to the GR-SOC with a view to their adoption by the Ministers' Deputies.

3. During this process, the GC agreed to the proposal that the reporting procedure should be simplified for States Parties to the Charter which are bound by the collective complaints procedure. It asked the Secretariat to prepare a proposal to this effect and to forward it to the GR-SOC for discussion with a view to its approval.

4. This proposal is based on the following principles:

- ▶ a significant simplification for States which have accepted the collective complaints procedure and hence are subject to a more comprehensive examination of their national situation by the ECSR and therefore have a greater workload than other States Parties;
- ▶ a relatively simple and predictable system so that there is no discussion or ambiguity about the exact nature of the States Parties' reporting obligations;
- ▶ a system that is manageable over time, particularly for States Parties which accept the collective complaints procedure in future.

5. For this purpose, the proposal is that States which have accepted the collective complaints procedure will submit a simplified report every two years.

6. To prevent this simplification from causing excessive fluctuations in the workload of the ECSR and the GC from year to year, it is proposed to divide the 15 States which have accepted the collective complaints procedure into two groups.

7. The groups would be composed by distributing the States according to the number of complaints registered against them (from the highest to the lowest), as follows:

- ▶ Group A, made up of eight States: France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland, Finland



- ▶ Group B, made up of seven States: Netherlands, Sweden, Croatia, Norway, Slovenia, Cyprus, Czech Republic

8. The system would function as follows:

	Normal report	Simplified report
October 2014 Provisions from Group 4 Children, families, migrants	All states except the ones from group A	States from group A
October 2015 Provisions from Group 1 Employment, training and equal opportunities	All states except the ones from group B	States from group B
October 2016 Provisions from Group 2 Health, social security and social protection	All states except the ones from group B	States from group B
October 2017 Provisions from Group 3 Labour rights	All states except the ones from group A	States from group A
October 2018 Provisions from Group 4 Children, families, migrants	All states except the ones from group B	States from group B
October 2019 Provisions from Group 1 Employment, training and equal opportunities	All states except the ones from group A	States from group A
October 2020 Provisions from Group 2 Health, social security and social protection	All states except the ones from group A	States from group A
October 2021 Provisions from Group 3 Labour rights	All states except the ones from group B	States from group B
etc.		

9. States which draw up a simplified report would be required to state what follow-up action has been taken in response to the decisions of the ECSR on collective complaints and reply to any questions put in the event of deferrals for the relevant provisions.

10. As new states accept the collective complaints procedure, they would be assigned on an alternating basis to Group B then Group A, then to Group B again, and so on.

11. The new system would enter into force for all States which have already accepted the procedure from October 2014 onwards and, for other states, one year after acceptance.

## E. Forms

### a. For the reports submitted in pursuance of the European Social Charter (1961) and the Additional Protocol of 1988<sup>51</sup>

#### I. Introduction

The reports drawn up on the basis of this Form should give, for each accepted provision of the 1961 European Social Charter and of the 1988 Additional Protocol, any pertinent information on measures adopted to ensure its application, mentioning in particular:

1. the legal framework – any laws or regulations, collective agreements or other provisions that contribute to such application; as well as where relevant pertinent national case-law – relevant decisions by courts and other judicial bodies;
2. measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework;
3. pertinent figures, statistics or any other relevant information enabling an evaluation of the extent to which these provisions are applied.

In order to clarify the issues covered by the provision, the indications resulting from the interpretation of the relevant article by the European Committee of Social Rights, as summarised in the Digest of Case-law (latest version available on [www.coe.int/T/E/Human\\_Rights/Esc/](http://www.coe.int/T/E/Human_Rights/Esc/)) should be taken into account, as appropriate.

When referring to the interpretation of the European Committee of Social Rights, the decisions of the Governmental Committee based on social, economic and other policy considerations should be taken into account, as appropriate.

States party' reports should be accompanied by the principal laws and regulations on which the application of the accepted provisions of the Charter is based. These may be sent in hard copy or electronically and in their original language. However, a translation into one of the official languages of the Council of Europe may be asked for in exceptional circumstances.

The replies of the governments should, wherever appropriate, specify explicitly:

- a. whether they are only concerned with the situation of nationals or whether they apply equally to the nationals of the other Parties;
- b. whether they are valid for the national territory in its entirety;
- c. whether they apply to all categories of persons included in the scope of the provision.

The information required, especially statistics, should, unless otherwise stated, be supplied for the period covered by the report.

Where statistics are requested for any provision, it is understood that, if complete statistics are lacking, governments may supply data or estimates based on ad hoc studies, specialised or sample surveys, or other scientifically valid methods,

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51. Adopted by the Committee of Ministers on 26 March 2008 at the 1022nd meeting of the Ministers' Deputies.

whenever they consider the information so collected to be useful and ensuring that the administrative effort required to collect data is in proportion with the desired acquisition of information. In order to guarantee an overall coherent assessment, the European Committee of Social Rights makes reference to Eurostat figures every time a common indicator is applied to all Parties (e.g. median equivalised income, at-risk-of-poverty threshold value, etc). Eurostat statistics concerning employment, education and the like are also referred to for comparison with national figures or for replacing the latter when missing.

Please note that the first State report following the entry into force of the Charter in respect of the State concerned should contain detailed information on all relevant aspects of the provision, whereas for subsequent reports it will suffice to up-date the information on the legal framework given in previous reports. However, each report should contain appropriate explanations and/or information relating to developments of the situation in practice during the reference period. In addition, it is recalled that each report, except the first report, shall contain replies to any questions raised by the European Committee of Social Rights in its conclusions, whether questions of a general nature addressed to all States (such questions appear in the “general introduction”) or specific questions contained in the conclusions proper in respect of each State for each provision.

Please indicate the national organisations to which copies of the report have been communicated in accordance Article 23 of the Charter.

The report should be submitted by E-mail to [social.charter@coe.int](mailto:social.charter@coe.int) or be appended on a CD-Rom and in Word format. If this is not possible, the Parties are requested to submit their reports in five copies and the appendices in two copies.

## **II. Provisions of the 1961 European Social Charter and the 1988 Additional Protocol**

### **■ Article 1 – The right to work**

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

#### **Appendix to Article 1§2**

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

## *Information to be submitted*

### ■ Article 1§1

1. Please describe national employment policy and the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information, in particular: the GDP growth rate; trends in employment covering all sectors of the economy: employment rate (persons in employment as a percentage of the population aged 15-64 years), youth employment rate; activity rate (total labour force as a percentage of the population aged 15 years and over); unemployment rate, long-term unemployment rate, youth unemployment rate; employment status (employed, self-employed); all figures should be broken down by gender; employment policy expenditure as a share of GDP, including the relative shares of 'active' (job creation, training, etc.) and 'passive' (financial compensation, etc.) measures.

### ■ Article 1§2

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 1§3

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide indicators, estimated if necessary, on the functioning and the performance of the employment services in practice, including the number of vacancies registered by employment services; placement rate (placements made by the employment services as a share of notified vacancies).

### ■ Article 1§4<sup>52</sup>

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

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52. The conformity of national situations with this provision is assessed with reference to Articles 9, 10 and 15 of the Charter due to the links between these provisions. Consequently, where a state has accepted Articles 9, 10 and 15 reference may be made to the information provided in respect of these Articles. Where a state has not accepted one or more of the provisions of Articles 9, 10 or 15, the ECSR will assess the conformity of the situation under Article 1§4.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* A policy of full employment should be pursued by means of economic measures conducive to creating and preserving jobs and assisting those who become unemployed in finding jobs.

*Paragraph 2:* This paragraph covers three different issues:

1. the prohibition of all forms of discrimination in employment,
2. the prohibition of forced or compulsory labour,
3. the prohibition of any practice that might interfere with workers' right to earn their living in an occupation freely entered upon.

Under Article 1, paragraph 2, legislation should prohibit any discrimination in employment on grounds of sex, race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The law should make the prohibition of discrimination effective. It must at least provide for:

- ▶ the power to set aside, rescind, abrogate or amend any provision contrary to the principle of equal treatment which appears in collective agreements, in employment contracts or in firms' own regulations;
- ▶ protection against dismissal or other retaliatory action by the employer against an employee who has lodged a complaint or taken legal action;
- ▶ appropriate and effective remedies in the event of an allegation of discrimination; remedies available to victims of discrimination must be adequate, proportionate and dissuasive.

As regards discrimination on grounds of nationality while States party may make foreign nationals' access to employment on their territory subject to possession of a work permit, they cannot ban nationals of States party, in general, from occupying jobs for reasons other than those set out in Article G of the Charter.

Forced or compulsory labour in all its forms must be prohibited. The definition of forced or compulsory labour is based on Article 4 of the European Convention on Human Rights and on ILO Convention 29 on forced labour: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Article 2§1.. It also covers the coercion of a worker to carry out work he previously freely agreed to do, but which he subsequently no longer wanted to carry out. It may also under certain circumstances cover prison work.

Several other practices may give rise to issues under Article 1§2 including the length of service to replace military service.

*Paragraph 3:* Free and effective employment services should be guaranteed. Basic placement services such as registration of job-seekers and notification of vacancies must be provided free of charge.

*Paragraph 4:* Vocational guidance, continuing vocational training for all workers should be guaranteed. Persons with disabilities should receive specialised guidance and training.<sup>61</sup>

For a list of selected other international instruments in the same field, see Appendix.<sup>53</sup>

## ■ **Article 2** – All workers have the right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of two weeks' annual holiday with pay;
4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

### *Information to be submitted*

#### ■ **Article 2§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics and factual information, in particular: average working hours in practice for each major professional category; any measures permitting derogations from legislation regarding working time.

#### ■ **Article 2§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

<sup>53</sup>. The conformity of national situations with this provision is assessed with reference to Articles 9, 10 and 15 of the Charter due to the links between these provisions. Consequently, where a state has accepted Articles 9, 10 and 15 reference may be made to the information provided in respect of these Articles. Where a state has not accepted one or more of the provisions of Articles 9, 10 or 15, the ECSR will assess the conformity of the situation under Article 1§4.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 253

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 254

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 255

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Establishment of reasonable limits on daily and weekly working hours through legislation, regulations, collective agreements or any other binding means; weekly working hours should be progressively reduced to the extent permitted by productivity increases; flexibility measures regarding working time must operate within a precise legal framework and a reasonable reference period for averaging working hours must be provided.

*Paragraph 2:* The right to public holidays with pay should be guaranteed; work on public holidays should only be allowed in special cases; work performed on a public holiday should be paid at least at double the usual rate.

*Paragraph 3:* The right to a minimum of two weeks of annual holiday with pay should be guaranteed; annual leave may not be replaced by financial compensation; days lost to illness or injury during annual leave should be allowed to be taken at another time.

*Paragraph 4:* Application of preventive measures to eliminate the risks in inherently dangerous or unhealthy occupations; where it has not yet been possible to eliminate or sufficiently reduce these risks some form of compensation should be ensured to those workers exposed to such risks, in particular reduced working hours or additional paid holidays.

*Paragraph 5:* The right to a weekly rest period coinciding, as far as possible, with the day traditionally recognised as a day of rest should be guaranteed; weekly rest periods may not be replaced by compensation and cannot be given up.

For a list of selected other international instruments in the same field, see Appendix.

### ■ **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 Contracting Parties undertake:

1. to issue safety and health regulations;
2. to provide for the enforcement of such regulations by measures of supervision;
3. to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health.

#### *Information to be submitted*

### ■ **Article 3§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework in consultation with employers' and workers' organisations.

### ■ **Article 3§2**

1. Please describe the enforcement of safety and health regulations. Please specify the nature of, reasons for and extent of any reforms.
2. Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information on: the number of accidents at work, including fatal accidents, in absolute figures as well as in terms of standardised accident rates per 100,000 workers; on the number of health and safety inspection visits by the labour inspectorate and the proportion of workers and companies covered by the



inspections; and on the number of breaches to health and safety regulations and the nature and type of sanctions imposed.

### ■ Article 353

1. Please describe the consultation with employers' and workers' organisations on measures intended to improve industrial safety and health. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the consultation with employers' and workers' organisations.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* The implementation of an occupational health and safety policy must include the adoption of framework legislation dealing with all aspects of health, safety and working conditions, as well as the adoption of regulations on specific risks concerning dangerous agents and substances (in particular, asbestos, ionising radiation and chemical substances). All workers – including temporary and self-employed workers –, all workplaces and all sectors of activity must be covered by occupational health and safety regulations.

*Paragraph 2:* States party must provide for the enforcement of health and safety regulations by measures of supervision. Compliance with this undertaking is assessed by taking into account developments in the number and frequency of work accidents and occupational diseases, as well as the setting up and maintenance of an effective inspection system (that is, conducting a “minimum number of inspections on a regular basis” and putting in place an efficient and dissuasive system of penalties in the event of breaches of the regulations).

*Paragraph 3:* Authorities shall consult employers' and workers' organisations when formulating national policies and strategies in this area. The health and safety regulations must be drawn up in consultation with employers' and workers' organisations.

For a list of selected other international instruments in the same field, see Appendix.

### ■ Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage fixing machinery, or by other means appropriate to national conditions.

#### **Appendix to Article 4§4**

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

#### **Appendix to Article 4§5**

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

### *Information to be submitted*

#### **■ Article 4§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures on national net average wage<sup>54</sup> (for all sectors of economic activity and after deduction of social security contributions and taxes; this wage may be calculated on an annual, monthly, weekly, daily or hourly basis); national net minimum wage, if applicable, or the net lowest wages actually paid (after deduction of social security contributions and taxes); both net average and minimum net wages should be calculated for the standard case of a single worker; information is also requested on any additional benefits such as

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54. The concept of wage, for the purpose of this provision, relates to remuneration – either monetary or in kind – paid by an employer to a worker for time worked or work done. Remuneration should cover, where applicable, special bonuses and gratuities. The Committee's calculations are based on net amounts, i.e. after deduction of taxes and social security contributions. The national net average wage is that of a full-time wage earner, if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as manufacturing industry or for several sectors.

tax alleviation measures, or the so-called non-recurrent payments made available specifically to a single worker earning the minimum wage as well as on any other factors ensuring that the minimum wage is sufficient to give the worker a decent standard of living; the proportion of workers receiving the minimum wage or the lowest wage actually paid.

Where the above figures are not ordinarily available from statistics produced by the States party, Governments are invited to provide estimates based on ad hoc studies or sample surveys or other recognised methods.

#### ■ Article 4§2

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics (estimates, if necessary) or any other relevant information, in particular: methods used to calculate the increased rates of remuneration; impact of flexible working time arrangements on remuneration for overtime hours; special cases when exceptions to the rules on remuneration for overtime work are made.

#### ■ Article 4§3<sup>55</sup>

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply detailed statistics or any other relevant information on pay differentials between men and women not working for the same employer by sector of the economy, and according to level of qualification or any other relevant factor.

#### ■ Article 4§4

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### ■ Article 4§5

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

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55. States party that have accepted Article 1 of the 1988 Additional Protocol to the European Social Charter do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 1 of the 1988 Additional Protocol.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Wages must guarantee a decent standard of living to all workers. The net minimum wage must amount to at least 60% of the net national average wage.

*Paragraph 2:* The right to an increased remuneration rate for overtime work should be guaranteed to workers; where leave is granted to compensate for overtime, it should be longer than the overtime worked.

*Paragraph 3:* The right to equal pay without discrimination on grounds of sex should be expressly provided for in legislation. Appropriate and effective remedies should be provided in the national legislation in the event of alleged wage discrimination on grounds of sex.

*Paragraph 4:* The right of all workers to a reasonable period of notice for termination of employment should be guaranteed.

*Paragraph 5:* The right of all workers to their wage being subject to deductions only in circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award) should be guaranteed.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 5 – The right to organize**

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

#### *Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **Scope of the provision as interpreted by the ECSR**

Trade unions and employers' associations must be free to organise without prior authorisation, and initial formalities such as declaration and registration must be simple and easy to apply. These organisations must be independent where anything to do with their organisation or functioning is concerned. They must be free to form federations and join similar international organisations.

Workers must be free not only to join but also not to join a trade union. Domestic law must guarantee the right of workers to join a trade union and include effective punishments and remedies where this right is not respected. The same rules apply to employers' freedom to organise.

Trade unions and employers' organisations must have broad autonomy where anything to do with their internal structure or functioning is concerned. They are entitled to perform their activities effectively and devise a work programme. Any excessive interference by a State constitutes a violation of Article 5.

Domestic law may restrict participation in various consultation and collective bargaining procedures only to representative trade unions.

Article 5 applies to the public and private sectors. States party are entitled to restrict or withdraw the right of the armed forces to organise. Restrictions may be placed on the right of the police to organise, but they may not be deprived of all their trade union prerogatives.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 6 – The right of workers to bargain collectively**

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

### **Appendix to Article 6§4**

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

## *Information to be submitted*

### ■ **Article 6§1**

1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ **Article 6§2**

1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectoral level, as appropriate.

### ■ **Article 6§3**

1. Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or factual information, in particular: information on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, inter alia, compulsory arbitration.

### ■ **Article 6§4**

1. Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Promotion of joint consultation between employees and employers or the organisations that represent them on all matters of mutual interest on national, regional or sectoral and enterprise level in the private and public sector (including the civil service).

*Paragraph 2:* Promotion of the right of employee's and employer's organisations to free and voluntary collective bargaining and conclusion of collective agreements; right of public officials to participate in the determination of their working conditions.

*Paragraph 3:* Promotion of voluntary and independent conciliation, mediation and/or arbitration procedures in order to facilitate the resolution of collective conflicts concerning the conclusion of a collective agreement or the modification, through collective bargaining, of conditions of work contained in an existing collective agreement as well as for resolving conflicts which may arise between the public administration and its employees.

*Paragraph 4:* Guarantee whether in law or case-law of the right to call and participate in a strike in connection with a conflict of interests between employers and employees including public officials.

Procedural requirements in connection with the exercise of the right to strike (e.g. peace obligation, prior approval by workers, cooling-off periods, etc.) shall not excessively limit the right to strike.

A strike should not be considered a violation of the contractual obligations of the striking employees entailing a breach of their employment contract. It should be accompanied by a prohibition of dismissal.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 7 – The right of children and young persons to protection**

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;
8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

#### **Appendix to Article 758**

It is understood that a Contracting Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work.

#### *Information to be submitted*

##### **Article 751**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

##### **Article 752**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.



### ■ Article 7§3

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 7§4

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply any relevant statistics or other information on the proportion of workers not covered by these limits and the reasons why they are not covered and state whether any particular measures have been taken to assist young persons under 16 who do not benefit from any restrictions on their working hours.

### ■ Article 7§5

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply any relevant statistics or other information on the remuneration of young workers as well as on other appropriate allowances for apprentices and the adult reference wage or salary.

### ■ Article 7§6

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

### ■ Article 7§7

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 7§8

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7§9

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7§10

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Scope of the provisions as interpreted by the ECSR

*Paragraph 1:* Minimum age for employment in all sectors of the economy, including agriculture, and all work places, including family undertakings and private households, set at 15 years, subject to exceptions for children employed in prescribed light work with no risk of harm to their health, morals or education.

*Paragraph 2:* Minimum age for employment in prescribed occupations regarded as dangerous or unhealthy, which must be specified in legislation, must be set at a higher age, though exceptions are allowed if such work is essential for vocational training purposes, subject to strict conditions.

*Paragraph 3:* Prohibition of the employment of children still subject to compulsory education in work that would deprive them of the full benefit of their education. National legislation must limit working hours in school term time and offer sufficient leisure time during school holidays.

*Paragraph 4:* Limits, in legislation, regulations, contracts or practice, in the working hours of persons under 16 years of age to take account of their development needs, and particularly their need for vocational training.

*Paragraph 5:* Right of young workers and apprentices to a fair wage or other appropriate allowances, determined with reference to the basic or minimum wage paid to adults, after deduction of social security contributions and taxes.

*Paragraph 6:* Right of young persons for time spent in vocational training during normal working hours to be treated, with the consent of the employer, as part of the working day.

*Paragraph 7:* Employed persons under 18 years to be entitled to a minimum of three weeks' annual holiday with pay, subject to the same arrangements as those applicable to the annual paid holidays of adults (Article 2, paragraph 3..

*Paragraph 8:* Persons under 18 years of age shall not be employed in night work, with the exception of certain occupations provided for by national laws or regulations.

*Paragraph 9:* Persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to compulsory and regular medical examinations.

*Paragraph 10:* Article 7, paragraph 10, guarantees the right of children to protection against all forms of exploitation and against the misuse of information technologies. This Article covers also the trafficking of human beings since this is a form of exploitation. This Article is interpreted by the Committee as akin to the right to life and dignity, similar to the rights guaranteed by the European Convention on Human Rights.

States party must take specific measures to prohibit and combat all forms of sexual exploitation of children. This prohibition must be accompanied by an adequate supervisory mechanism and sanctions.

States party must prohibit the use of children in other forms of exploitation such as, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or the removal of organs. States party must also take measures to prevent and assist street children.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 8** – The right of employed women to protection

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;
2. to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

4.
  - a. to regulate the employment of women workers on night work in industrial employment;
  - b. to prohibit the employment of women workers in underground mining, and, as appropriate, on all other work which is unsuitable for them by reason of its dangerous, unhealthy, or arduous nature.

*Information to be submitted*

■ **Article 8§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information in order to demonstrate that the level of maternity benefit is adequate.

■ **Article 8§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

■ **Article 8§3**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

■ **Article 8§4**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

**Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* guarantees the right of employed women to maternity leave of at least 12 weeks for all categories of employees. In all cases there must be a compulsory period of postnatal leave of no less than six weeks which may not be waived by the woman concerned. Maternity leave must be accompanied by

the continued payment of the individual's wage or salary or by the payment of social security benefits or benefits from public funds. A benefit must be adequate and must be equal to the salary or close to its value.

*Paragraph 2:* provides that it must be unlawful to ordinarily dismiss female employees from the time they notify the employer of their pregnancy to the end of their maternity leave. In cases of dismissal contravening this provision of the Charter, national legislation must provide for adequate and effective remedies, employees who consider that their rights in this respect have been violated must be able to take their case before the courts.

*Paragraph 3:* all employed mothers who breastfeed their babies must be granted time off for this purpose. Time off for nursing should in principle be granted during working hours should be treated as normal working time and remunerated as such. Time off for nursing must be granted at least in principle until the child reaches the age of nine months.

Paragraph 4:

- a. does not require States party to prohibit night work, but to regulate it in order to limit the adverse effects on the health of women;
- b. prohibits the employment of women in underground work in mines. This applies to extraction work proper. Certain other activities, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents, must be prohibited or strictly regulated depending on the risks posed by the work.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 9** – The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including school children, and to adults.

#### *Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply any relevant statistics or other information on public spending on vocational guidance services, their geographical distribution and the institutions

that provide them, their staffing levels and the qualifications of those staff, and the number of persons served and their characteristics, in terms of age, sex, educational level and occupation.

### **Scope of the provision as interpreted by the ECSR**

Article 9 establishes a right to vocational guidance in the education system, with information on training and access to that training, and concerning the labour market, with information on vocational training and retraining and career planning.

In assessing vocational guidance services, the main factors taken into account are their specific responsibilities, how they are organised and operate, how much is spent on them, their staffing and the number of persons served. Vocational guidance is particularly concerned with young persons who have left school, job seekers and the unemployed.

Vocational guidance for persons with disabilities is dealt with under Article 15 of the Charter for countries that have accepted both provisions.

Such guidance must be provided by a sufficient number of qualified staff, such as trained counsellors, psychologists and teachers, to a significant number of persons and receive appropriate State financing. The information available and the means used to disseminate it must reach the widest possible audience.

Finally, everyone, including non-nationals, must be granted equal treatment regarding vocational guidance. Pursuant to the Appendix to the Charter, nationals of other States party lawfully resident or working regularly in the country concerned must be granted equal treatment. This means that length of residence or employment conditions and reciprocity agreements are incompatible with this provision of the Charter.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 10** – Everyone has the right to appropriate facilities for vocational training.

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
  - a. adequate and readily available training facilities for adult workers;

- b. special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
- 4. to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - a. reducing or abolishing any fees or charges;
  - b. granting financial assistance in appropriate cases;
  - c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

*Information to be submitted*

■ **Article 10§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are the total amount of public expenditure devoted to vocational training; the number of vocational and technical training institutions and types of education and training provided; number of teachers and pupils.

■ **Article 10§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are the existence of apprenticeship and other training arrangements for young people, the number of young persons benefiting from training systems; how the arrangements for vocational training are divided between the various types of vocational activity; length of the apprenticeship; the total public spending (and private spending, if possible) on these types of training and the availability of places for all those seeking them; equality of access to apprenticeship training for all those interested, including nationals of the other States party.

### ■ Article 10§3

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are the existence of facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change; the approximate number of adult workers who have participated in training or retraining measures; the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures; equal treatment of non-nationals with respect to access to continuing vocational training.

### ■ Article 10§4

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are whether the vocation training is provided free of charge or that fees are reduced; existing system for providing financial assistance (allowances, grants, loans etc); measures taken to include time spent on training taken by workers in the normal working hours; supervision and evaluation measures taken in consultation with social partners to ensure the efficiency of apprenticeship for young workers.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Provide or promote technical and vocational training for everyone, including general and vocational secondary education, university and non-university higher education and continuing training, and ensure that access to higher technical and university education is based solely on individual aptitude. Nationals of other States party lawfully resident or working regularly in the country concerned must be granted equal access to vocational training.

*Paragraph 2:* Provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls, combining theory and practice. Non-nationals must be granted equal treatment, as specified in paragraph 1.

*Paragraph 3:* Provide or promote appropriate and readily available training facilities for adult workers and unemployed persons and special facilities for retraining adult workers in response to technological developments or new trends in employment. Non-nationals must be granted equal treatment, as specified in paragraph 1.



*Paragraph 4:* Encourage full use of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;
- b. granting financial assistance, such as study grants or low-interest loans;
- c. including time spent by workers on supplementary training, at their employer's request, in normal working hours;
- d. ensuring that training arrangements work efficiently, through appropriate supervision, in consultation with employers' and employees' organisations.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 11** – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Contracting 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.

#### *Information to be submitted*

##### ■ **Article 11§1**

1. Please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.
3. Please supply any relevant statistics or other information on the main health indicators and on health services and professions (for example WHO and/or Eurostat data).

##### ■ **Article 11§2**

1. For States that have not accepted paragraph 1, please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.

3. Please supply any relevant statistics or other information, including on consultation and screening services in schools and for the rest of the population.

### ■ Article 11§3

1. For States that have accepted neither paragraph 1 nor paragraph 2, please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.

3. Please supply any relevant statistics or other information on the percentage of smokers in the general population, trends in alcohol consumption and the rates of vaccination cover for infectious and epidemic diseases.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Under Article 11, health means physical and mental well-being, in accordance with the definition of health in the Constitution of the World Health Organisation (WHO), which has been accepted by all to Parties to the Charter. The health system must be able to respond appropriately to avoidable health risks, that is ones that can be controlled by human action. Such a health system must be accessible to everyone, without distinction. The cost of health care should be borne, at least in part, by the community as a whole. There should be no unnecessary delays in the provision of treatment. Access to treatment should be based on transparent criteria. There must be adequate staffing and facilities. Conditions of stay in hospital must be satisfactory and compatible with human dignity.

*Paragraph 2:* Measures should be introduced to prevent activities that are damaging to health, such as smoking, alcohol and drugs, and to develop a sense of individual responsibility, including such aspects as a healthy diet, sex education and the environment. Health education should be provided in school throughout the period of schooling. Pregnant women and children should be entitled to free and regular medical checks and screening. Free medical checks should be carried out throughout the period of schooling. There should be screening for illnesses responsible for high premature mortality rates.

*Paragraph 3:* There must be sufficiently advanced and detailed legislation and specific preventive and protective measures to deal with air, water and noise pollution, nuclear risks, asbestos, food safety and public health standards in housing. There must also be a policy to prevent smoking, alcoholism and drug addiction, a widely available vaccination programme and measures to deal with contagious diseases.

For a list of selected other international instruments in the same field, see Appendix.

## ■ Article 12 – The right to social security

With a view to ensuring the effective exercise of the right to social security, the Contracting 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 required for ratification of International Labour Convention (No. 102. Concerning Minimum Standards 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 and 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 Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting 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 Contracting Parties.

### **Appendix to Article 12§4**

The words “and subject to the conditions laid down in such agreements” in the introduction to 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.

### *Information to be submitted*

#### ■ Article 12§1

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 12§2

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

■ 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

■ 3. Please provide pertinent figures, statistics or any other relevant information, in particular on the extent to which the branches of social security in your country fulfils (or goes beyond or falls short of) the requirements of ILO Convention No. 102.

### ■ Article 12§3

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3. Please provide pertinent figures, statistics or any other relevant information on the improvement of the social security system as well as on any measures taken to restrict the system.

### ■ Article 12§4

1. Please describe the legal framework, in particular the complete list of bilateral and multilateral agreements or any other means such as unilateral, legislation proposed or adopted, or administrative measures and indicate how they allow for the various social benefits the implementation of the principles provided in subparagraphs a) and b).

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3. Please provide pertinent figures or any other relevant information, Please, indicate also the length of residence requirements when applicable.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Establishment and maintenance of a social security system for the traditional risks (health care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' branches); material and personal scope of the social security system; social security (contributory and non-contributory) benefits and their adequacy.

*Paragraph 2:* Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of ILO Convention No. 102.

*Paragraph 3:* Improvement of the social security system. When reforms restrict the social security system, they must be justified, including with respect to sustainability, and must maintain at least a basic compulsory and sufficiently extensive social security system.

*Paragraph 4:*

- a. Equal treatment of nationals of other States party who are or were lawfully resident or working regularly on the territory of a State party with

respect to social security benefits; prohibition of direct (nationality requirement) and indirect (residence condition and length of residence requirement, employment requirements) discrimination for contributory benefits; non-excessive residence and length of residence requirement for non-contributory benefits, such as family benefits. Refugees and stateless persons, self-employed, and workers on secondment, to the exception of long-term contingencies, for which they remain ensured in their country of origin, are included in the personal scope of the provision.

Right to maintenance of acquired rights whatever the movements of the beneficiary (invalidity, old age, survivors', employment injury or disease); obligations must be fulfilled through bilateral agreements or any other means such as unilateral, legislative or administrative measures.

- b. Right to retention of accruing rights through aggregation of employment or insurance periods completed abroad; obligations must be fulfilled through multilateral conventions, bilateral agreements or any other means such as unilateral, legislative or administrative measures.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **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 a 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 a 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 paragraphs 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 at Paris on 11 December 1953.

#### **Appendix to Article 13§4**

Governments not Parties to the European 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.

## Information to be submitted

### ■ Article 13§1

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular: evidence that the level of social assistance is adequate, i.e. the assistance should enable any person to meet his/her basic needs and the level of the benefits should not fall below the poverty threshold. Information must therefore be provided on basic benefits, additional benefits and on the poverty threshold in the country, defined as 50% of the median equivalised income and calculated on the basis of the poverty risk threshold value published by Eurostat.

### ■ Article 13§2

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 13§3

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 13§4

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Social assistance – adequate benefits must be payable to “any person” on the sole ground that he/she is in need. To be adequate the assistance should enable any person to meet his/her basic needs, i.e. the level of the benefits

should not fall below the poverty threshold. Medical assistance – everyone who lacks adequate resources must be able to obtain free of charge “in the event of sickness the care necessitated by his condition”

The right to assistance must constitute an individual right laid down in law and be supported by an effective right of appeal to an independent body.

*Paragraph 2:* Persons receiving assistance must not suffer as a result any diminution of their political or social rights. Any discrimination against persons receiving assistance that might result from an express provision must be eradicated.

*Paragraph 3:* Provision of appropriate public or private services such as advice and personal help to persons without adequate resources, as may be required to prevent, to remove, or to alleviate personal or family want.

*Paragraph 4:* Emergency social and medical assistance for everyone lawfully or unlawfully present (but not resident) in the territory. States party are required to provide for those concerned to cope with an immediate state of need (accommodation, food, emergency care and clothing).

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **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.

*Information to be submitted*

#### ■ **Article 14§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information to demonstrate the effective access to social services (beneficiaries in total and per category of social welfare services, number and geographical distribution of services, staff number and qualifications).

#### ■ **Article 14§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information to demonstrate the participation of the voluntary sector to the provision of social services, as well as the effective access of individuals to these services.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* A network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment must exist. Social services include in particular counselling, advice, rehabilitation and other forms of support from social workers, home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals), residential care, and social emergency care (shelters). Under Article 14§1 it is reviewed the overall organisation and functioning of social services.

Access to social services should be guaranteed to those who lack personal capabilities and means to cope, in particular the vulnerable groups and individuals who have a social problem. Groups which are vulnerable – children, the family, the elderly, people with disabilities, young people with problems, young offenders, refugees, the homeless, alcohol and drug abusers, victims of domestic violence and former prisoners – should be able to avail themselves of social services in practice.

Effective and equal access to social services implies:

- ▶ an individual right of access to counselling and advice from social services;
- ▶ the protection of rights of the client, including the availability of remedies;
- ▶ services should be provided free of charge for persons lacking adequate financial resources and may be provided subject to fees for the others;
- ▶ the geographical distribution of these services shall be sufficiently wide;
- ▶ social services must have resources matching their responsibilities and the changing needs of users.

*Paragraph 2:* States party are required to support the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms seeking to establish social welfare services. Public and private services must be properly coordinated, and equal access and efficiency must not suffer because of the number of providers involved. Effective preventive and reparative supervisory system must also be in place.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 15** – The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement



With a view to ensuring the effective exercise of the right of the physically or mentally disabled to vocational training, rehabilitation and resettlement, the Contracting Parties undertake:

1. to take adequate measures for the provision of training facilities, including, where necessary, specialised institutions, public or private;
2. to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.

*Information to be submitted*

■ **Article 15§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information to demonstrate effective access to education and vocational training for persons with disabilities (total number of persons with disabilities, number of persons with disabilities of 0-18 years of age, number of persons with disabilities in mainstreaming and special education and vocational training, including higher education; number of integrated classes and special education institutions, basic and in-service training for teachers).

■ **Article 15§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information on the number of persons with disabilities in working age, in ordinary employment and in sheltered employment (estimated, if necessary). Please, also indicate whether the basic provision of labour law applies to persons working in sheltered employment where production is the main activity.

**Scope of the provisions as interpreted by the ECSR**

Persons with disabilities must enjoy full citizenship and their essential rights in this respect are independence, social integration and participation in the life of the community.

*Paragraph 1:* Anti-discrimination legislation on the ground of disability in education. Such legislation should, as a minimum, require compelling justification for special or segregated educational systems and confer an effective remedy on those who have been unlawfully excluded, segregated or otherwise denied an effective right to education.<sup>56</sup>

All persons with disabilities have a right to education and training: general education, basic compulsory education and further education as well as vocational training, including higher education. Persons with disabilities (children, adolescents, adults) must be integrated into mainstream facilities; education and training must be made available within the framework of ordinary schemes and, only where this is not possible, through special facilities. States party must demonstrate that tangible progress is being made in setting up education systems which exclude nobody.

*Paragraph 2:* Anti-discrimination legislation on the basis of disability in employment. Access to employment on the open labour market for persons with disabilities, inter alia, by adjusting working conditions to the needs of persons with disabilities (reasonable accommodation). There must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, including persons who have become disabled while in their employment as a result of an industrial accident or occupational disease.

Sheltered employment facilities must be reserved for those persons with disabilities who cannot be integrated into the open labour market. They should aim to assist their beneficiaries to enter the open labour market and must guarantee, where production is the main activity, the basic provisions of labour law and in particular the right to fair remuneration.

For a list of selected other international instruments in the same field, see Appendix.

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56. In the general introduction to its Conclusions XVIII-2 the ECSR made the following statement: "The Committee recalls that, as stated in the Autism-Europe decision (Autism-Europe v. France, Complaint No. 3/2002, decision on the merits of 4 November 2003, § 48), "the underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of "independence, social integration and participation in the life of the community. Securing a right to education for children and others with disabilities plays an obviously important role in advancing these citizenship rights". Under Article 15§1, the Committee therefore considers necessary the existence of non-discrimination legislation as an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to education. Legislation may consist of general anti-discrimination legislation, specific legislation concerning education, or a combination of the two."

## ■ Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

### *Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information to show that Article 16 is applied in practice, including legal information on domestic violence, information on child care arrangements and housing for families, the level of family benefits, the number of recipients as a proportion of the total population, as well as information on tax benefits and other forms of financial assistance for families.

### **Scope of the provision as interpreted by the ECSR**

Notion of “family” as defined in domestic law.

States party are free to decide how they will provide social, legal and economic protection to their various types of families, particularly one-parent families and vulnerable families, including Roma.

#### *a. Social protection*

- ▶ there should be an adequate supply of family housing and families’ needs should be taken into account in drawing up and implementing housing policies. Housing should be of an appropriate standard and with all the basic amenities. The destruction of accommodation and forced evictions are incompatible with Article 16. There should be effective means of appeal, arrangements for rehousing in decent accommodation and appropriate financial assistance. Vulnerable families should be offered proper protection, including suitable temporary and permanent housing, and evictions should be prohibited unless they comply with the relevant procedural safeguards.
- ▶ there should be financially affordable child care facilities of a suitable standard, measured in terms of the number of children aged 0-6 years covered, staff-child ratios, staff training, availability of suitable premises and the cost for parents.
- ▶ there should be appropriate family advice services and families’ point of view should be taken into account when drawing up family policies.

*b. Legal protection*

- ▶ there must be full equality of rights and responsibilities between spouses, particularly with regard to marital authority, property and the use and administration of assets, and towards children, in terms of parental authority and management of children's property. There should be legal arrangements for settling disputes between spouses and concerning children, and mediation services.
- ▶ there should be legal and practical protection from domestic violence (though violence against children is covered by Article 17).

*c. Economic protection*

- ▶ family or child benefits must provide an adequate additional income for a significant number of families, in terms of median net monthly income, as calculated by Eurostat, and may be supplemented by other forms of economic protection.
- ▶ vulnerable families must be protected in accordance with the principle of equal treatment.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 17** – The right of mothers and children to social and economic protection

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

*Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular on the number of children placed with foster families and in institutions, the number of children per unit in child welfare institutions; on the number and age of minors in pre-trial detention or imprisoned or placed in a disciplinary institution.

**Scope of the provisions as interpreted by the ECSR**

Right of a child to know his or her origins. Prohibition of discrimination between children born outside of marriage, and children born within marriage.

Establishment of public child care if necessary for the protection and best interest of the child and of an adequate supervision of the child welfare system. Provision of long term public care primarily in foster families and only if necessary in institutions. Provision of conditions promoting all aspects of children's growth and guarantee of fundamental rights and freedoms for children in institutional care as well as establishment of a procedure for complaining about the treatment in institutions.

Prohibition of all forms of violence against children, including prohibition in law of corporal punishment in the home, in school, in institutions or elsewhere and provision of adequate sanctions in penal or civil law.

Establishment of criminal responsibility and criminal procedure adapted to young offenders as regards age of criminal responsibility, length of procedure as well as length and conditions of detention.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 18** – The right to engage in a gainful occupation in the territory of other Contracting Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.

*Information to be submitted*

■ **Article 18§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply any relevant statistics or other information, if appropriate, on the rate of refusals to issue work permits in response to requests from nationals of other States party, broken down by country and whether these are first time requests or applications for renewal.

## ■ Article 18§2

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please supply any relevant statistics or other information on chancery dues and other charges payable by foreign workers or their employers for work and/or residence permits and on the average time taken to issue these permits.

## ■ Article 18§3

1. Please describe the general legal framework.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

## ■ Article 18§4

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Liberal application of existing regulations concerning the right to engage in a gainful occupation of foreign employees and self-employed who are nationals of a State party and who apply for a work permit in another State party as well as with respect to members of their family allowed to the country for the purpose of family reunion.

*Paragraph 2:* Right of foreign workers to complete formalities required for the exercise of a gainful occupation from within the country of destination as well as from the country of origin, to obtain the residence and work permits at the same time, through a single application and within a reasonable time.

*Paragraph 3:* Periodic liberalisation of the regulations governing the employment of foreign workers. Conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive. Restrictions of access for persons legally resident for a given length of time on the territory of another State party should be gradually lifted. Extension of the validity of the residence permit in the event of job loss so as to provide sufficient time for a new job to be found.

*Paragraph 4:* Right of nationals to leave their country to engage in a gainful occupation in the territories of other State party.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 19** – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;
2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;
3. to promote cooperation, as appropriate, between social services, public and private, in emigration and immigration countries;
4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
  - a. remuneration and other employment and working conditions;
  - b. membership of trade unions and enjoyment of the benefits of collective bargaining;
  - c. accommodation;
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

## **Appendix to Article 19§6**

For the purpose of this provision, the term “family of a foreign worker” is understood to mean at least his wife and dependent children under the age of 21 years.

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

### *Information to be submitted*

#### **■ Article 19§1**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

#### **■ Article 19§2**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

#### **■ Article 19§3**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

#### **■ Article 19§4**

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular concerning the number of migrant workers, if possible, which have had access to subsidised housing.



### ■ Article 19§5

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 19§6

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular on the number of applications for family reunion, and the percentage of applications which were granted and turned down, respectively.

### ■ Article 19§7

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### ■ Article 19§8

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, in particular on the number of migrant workers nationals of States party served with an expulsion order.

### ■ Article 19§9

- 1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

## ■ Article 19§10

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Free assistance and information services should be made available to persons wishing to emigrate and/or immigrate. Steps should be taken to prevent misleading propaganda relating to emigration and immigration.

*Paragraph 2:* Measures should be taken to facilitate the departure, journey and reception of migrant workers and their families.

*Paragraph 3:* Co-operation between social services in emigration and immigration countries should be promoted.

*Paragraph 4:* Migrant workers should not be treated less favourably than nationals in respect of employment, trade union rights and accommodation. States party should prove the absence of discrimination in these areas, direct or indirect, in terms of law and practice, and should inform of the practical measures to remedy it.

*Paragraph 5:* Migrant workers should not be treated less favourably than nationals in respect of employment taxes, dues and contributions.

*Paragraph 6:* Migrant workers, who have been permitted to establish themselves in the territory, have the right to be (re)joined by their family. The 'family of a foreign worker' is understood to mean at least the worker's spouse and unmarried children, under the age of 21 years and dependent on the migrant worker.

*Paragraph 7:* Migrant workers should not be treated less favourably than nationals in respect of legal proceedings.

*Paragraph 8:* States party are prohibited to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality.

*Paragraph 9:* Migrant workers have the right, within legal limits, to transfer to their country of origin such parts of their earnings and savings as they may desire.

*Paragraph 10:* States party must extend the protection and assistance provided for in this Article to self-employed migrant workers, insofar as such measures apply.

For a list of selected other international instruments in the same field, see Appendix.

## 1988 Additional Protocol to the European Social Charter

■ **Article 1** – Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

1. With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- ▶ access to employment, protection against dismissal and occupational resettlement;
- ▶ vocational guidance, training, retraining and rehabilitation;
- ▶ terms of employment and working conditions including remuneration;
- ▶ career development including promotion.

2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post natal period, shall not be deemed to be discrimination as referred to in paragraph 1 of this Article.

3. Paragraph 1 of this Article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.

4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this Article or some of its provisions.

### **Appendix to Article 1**

It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this Article.

### **Appendix to Article 1, paragraph 4**

This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

### *Information to be submitted<sup>57</sup>*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

57. States party that have accepted Article 1 of the 1988 Additional Protocol to the European Social Charter do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 1 of the 1988 Additional Protocol.

3. Please provide pertinent figures, statistics or any other relevant information, in particular on employment and unemployment rates by sex and percentage differences in earnings.

### **Scope of the provision as interpreted by the ECSR**

Paragraphs 1, 2, 3 and 4: Right to equal treatment between women and men at all stages of working life – access to employment, remuneration and other working conditions, including dismissal and other forms of detriment, vocational training and guidance and promotion, as well as with respect to social security. The principle of equal treatment of women and men is understood to mean the absence of any direct or indirect discrimination on grounds of sex.

The right of women and men to equality must be guaranteed by a sufficiently detailed law. Any legislation, regulation or other administrative measure that fails to comply with the equality principle must be repealed or revoked. National legislation must provide for appropriate and effective remedies in the event of alleged discrimination. The burden of proof must be shifted. Anyone who suffers discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and act as a deterrent to the offender. Employees who try to enforce their right to equality must be legally protected against any form of reprisals from their employers.

Occupational activities – and the training required for them – which, by their nature or the context in which they are carried out, can only be entrusted to persons of one sex may be excluded from the scope of Article 1. Provisions protecting women are not deemed to be discrimination if they are objectively justified by needs that apply exclusively to women, such as those relating to maternity (pregnancy, childbirth and the post-natal period).

Along with legislation, States party are required to take specific steps aimed at removing de facto inequalities affecting women's training or employment opportunities, including positive action.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 2 – Right to information and consultation**

1. With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and



### **Scope of the provision as interpreted by the ECSR**

Right of employees in private or public undertakings and/or their representatives to be informed on all matters relevant to their working environment and to be consulted in good time with respect to proposed decisions that could substantially affect the employees' interests.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 3** – Right to take part in the determination and improvement of the working conditions and working environment

1. With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;
- b. to the protection of health and safety within the undertaking;
- c. to the organisation of social and socio cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.

2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

Appendix to Articles 2 and 3

1. For the purpose of the application of these articles, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

2. The term “national legislation and practice” embraces as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs, as well as relevant case law.

3. For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a State the rights set out in Articles 2 and 3 are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

### **Appendix to Article 3**

This provision affects neither the powers and obligations of States as regards the adoption of health and safety regulations for work places, nor the powers and responsibilities of the bodies in charge of monitoring their application.

The terms “social and socio-cultural services and facilities” are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.

#### *Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information on employees who are not covered by Article 3, the proportion of the workforce who are excluded and the thresholds below which employers are exempt from these obligations.

### **Scope of the provision as interpreted by the ECSR**

Right of employees in private or public undertakings and/or their representatives to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in Article 3.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

For a list of selected other international instruments in the same field, see Appendix.

## ■ Article 4 – 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:

1. to enable elderly persons to remain full members of society for 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;
2. 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;
3. 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 4, paragraph 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.

### *Information to be submitted*

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3. Please provide pertinent figures, statistics or any other relevant information on measures taken to ensure that elderly persons have access to adequate benefits in cash or in kind; on the level of public expenditure for social protection and services for the elderly, on the accessibility of measures and the number of elderly people benefiting from them; on the number of places available in institutions for elderly persons, on the number of elderly living in such institutions, and on whether a shortage of places is reported.

### **Scope of the provision as interpreted by the ECSR**

To enable elderly persons to remain full members of society for as long as possible, pensions and other State benefits must be sufficient to lead a ‘decent life’.



Pensions must be index-linked , and they will be compared with average wage levels and the overall cost of living to assess national situations.

Elderly persons should be provided information about services and facilities available to them (the extent and cost of home help services, community based services, specialised day care provision, etc.).

The needs of elderly persons must be taken into account in national or local housing policies. National policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of their homes.

Health care programmes and services for the elderly, necessitated by their state, must exist (in particular domiciliary nursing/health care services).

Elderly persons living in institutions should be guaranteed the right to appropriate care and services, the right to privacy, to personal dignity, and to participate in decisions concerning living conditions in their institution. There should be a sufficient supply of institutional facilities for elderly persons.

For a list of selected other international instruments in the same field, see Appendix.

## **Appendix**

### *Selected international instruments in the same field*

#### **■ Article 1**

International Covenant on Economic, Social and Cultural Rights (1966)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 2 on Unemployment, 1919

ILO Convention No. 29 on Forced Labour, 1930

ILO Convention No. 88 on Employment Service, 1948

ILO Convention No. 96 on Fee-charging Employment Agencies (Revised), 1949

ILO Convention No. 105 on Abolition of Forced Labour, 1957

ILO Convention No. 111 on Discrimination in Employment, 1958

ILO Convention No. 122 on Employment Policy, 1964

ILO Convention No. 142 on Human Resources Development, 1975

ILO Convention No. 150 on Labour Administration, 1978

ILO Convention No. 168 on Employment Promotion and Protection against Unemployment, 1988

ILO Convention No. 181 on Private Employment Agencies, 1997

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

#### ■ Article 2

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 171 on Night Work, 1990

Council Directive 89/391/EC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

Council Directive 91/533 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

#### ■ Article 3

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 155 on Occupational Safety and Health, 1981

ILO Convention No. 161 on Occupational Health Services, 1985

Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

#### ■ Article 4

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 100 on Equal Remuneration, 1951

ILO Convention No. 131 on Minimum Wage Fixing, 1970

Council Directive 76/207 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions as modified by Directive 2002/73

#### ■ Article 5

International Covenant on Economic, Social and Cultural Rights (1966)

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948

#### ■ Article 6

International Covenant on Economic, Social and Cultural Rights (1966)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948

ILO Convention No. 98 on Right to Organise and Collective Bargaining, 1949

ILO Convention No. 154 on Promotion of Collective Bargaining, 1981

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

### ■ Article 7

International Covenant on Economic, Social and Cultural Rights (1966)

Optional Protocol to the UN Convention on the Rights of the Child on the Sale of children, child prostitution and child pornography.

UN Convention on the Rights of the Child (1989)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Council of Europe Convention on Cybercrime (2001).

ILO Convention No. 38 on the Minimum Age for Admission to Employment, 1973

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

### ■ Article 8

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 103 on Maternity Protection (Revised), 1952

ILO Convention No. 183 on Maternity Protection, 2000

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1. of Directive 89/391/EEC)

### ■ Article 9

International Covenant on Economic, Social and Cultural Rights (1966)

### ■ Article 10

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 142 on Human Resources Development, 1975

ILO Convention No. 168 on Employment Promotion and Protection against Unemployment, 1988

#### ■ Article 11

International Covenant on Economic, Social and Cultural Rights (1966)

Declarations of the United Nations Stockholm (1972. and Rio de Janeiro (1992. environment conferences

International Convention on the Rights of the Child (1989)

United Nations Framework Convention on Climate Change (1992. and the Kyoto Protocol (1998)

World Health Organisation Framework Convention on Tobacco Control (2003.

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Various Community directives, on pollution, noise and public health

#### ■ Article 12

International Covenant on Economic, Social and Cultural Rights, (1966), Article 9

European Code of Social Security (1964)

ILO Convention No. 102 on Minimum Standards of Social Security, 1952

Regulation (EC) 883/2004 on the coordination of social security systems

Regulation (EC) 859/2003 (extension to third country nationals of the above regulation)

#### ■ Article 13

Geneva Convention on the Status of Refugees (1951.

New York Convention relating to the Status of Stateless Persons (1954)

European Convention on Social and Medical Assistance (1953.

#### ■ Article 14

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#### ■ Article 15

UN Convention in the rights of persons with disabilities (2006)

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

#### ■ Article 16

International Covenant on Economic, Social and Cultural Rights (1966)

International Convention on the Rights of the Child (1989)

Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

## ■ Article 17

UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) (1985)

UN Convention on the Rights of the Child (1989)

UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)

UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (1990)

Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

## ■ Article 18

Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third-country nationals

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents

## ■ Article 19

European Convention on the Legal Status of Migrant Workers (1977)

ILO Convention No. 97 on Migration for Employment Convention (Revised), 1949

Council Directive 2003/86/CE of 22 September 2003 on the right to family reunification.

Council Directive 2004/38/CE concerning the right of citizens of the European Union and their family members to circulate and reside freely within the territories of the Member States

## ■ Additional Protocol – Article 1

Council of Europe Recommendation No. R (98) 14 on gender mainstreaming

ILO Convention No. 111 on Discrimination (Employment and Occupation), 1958

Council Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation

## ■ Additional Protocol – Article 2

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

### ■ Additional Protocol – Article 3

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

### ■ Additional Protocol – Article 4

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## **b. For the reports submitted in pursuance of the revised European Social Charter (1996)<sup>58</sup>**

### **I. Introduction**

The reports drawn up on the basis of this Form should give, for each accepted provision of the European Social Charter (revised), any pertinent information on measures adopted to ensure its application, mentioning in particular:

- 1) the legal framework – any laws or regulations, collective agreements or other provisions that contribute to such application; as well as where relevant pertinent national case-law – relevant decisions by courts and other judicial bodies;
- 2) measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework;
- 3) pertinent figures, statistics or any other relevant information enabling an evaluation of the extent to which these provisions are applied.

In order to clarify the issues covered by the provision, the indications resulting from the interpretation of the relevant article by the European Committee of Social Rights, as summarised in the Digest of Case-law (latest version available on [www.coe.int/T/E/Human\\_Rights/Esc/](http://www.coe.int/T/E/Human_Rights/Esc/)) should be taken into account, as appropriate.

When referring to the interpretation of the European Committee of Social Rights, the decisions of the Governmental Committee based on social, economic and other policy considerations should be taken into account, as appropriate.

States party' reports should be accompanied by the principal laws and regulations on which the application of the accepted provisions of the Charter is based. These may be sent in hard copy or electronically and in their original language. However, a translation into one of the official languages of the Council of Europe may be asked for in exceptional circumstances.

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58. Adopted by the Committee of Ministers on 26 March 2008 at the 1022nd meeting of the Ministers Deputies.

The replies of the governments should, wherever appropriate, specify explicitly:

- a. whether they are only concerned with the situation of nationals or whether they apply equally to the nationals of the other Parties;
- b. whether they are valid for the national territory in its entirety;
- c. whether they apply to all categories of persons included in the scope of the provision.

The information required, especially statistics, should, unless otherwise stated, be supplied for the period covered by the report.

Where statistics are requested for any provision, it is understood that, if complete statistics are lacking, governments may supply data or estimates based on ad hoc studies, specialised or sample surveys, or other scientifically valid methods, whenever they consider the information so collected to be useful and ensuring that the administrative effort required to collect data is in proportion with the desired acquisition of information. In order to guarantee an overall coherent assessment, the European Committee of Social Rights makes reference to Eurostat figures every time a common indicator is applied to all Parties (e.g. median equivalised income, at-risk-of-poverty threshold value, etc). Eurostat statistics concerning employment, education and the like are also referred to for comparison with national figures or for replacing the latter when missing.

Please note that the first State report following the entry into force of the Charter in respect of the State concerned should contain detailed information on all relevant aspects of the provision, whereas for subsequent reports it will suffice to up-date the information on the legal framework given in previous reports. However, each report should contain appropriate explanations and/or information relating to developments of the situation in practice during the reference period. In addition, it is recalled that each report, except the first report, shall contain replies to any questions raised by the European Committee of Social Rights in its conclusions, whether questions of a general nature addressed to all States (such questions appear in the “general introduction”) or specific questions contained in the conclusions proper in respect of each State for each provision.

Please indicate the national organisations to which copies of the report have been communicated in accordance Article 23 of the Charter.

The report should be submitted by E-mail to [social.charter@coe.int](mailto:social.charter@coe.int) or be appended on a CD-Rom and in Word format. If this is not possible, the Parties are requested to submit their reports in five copies and the appendices in two copies.

## II. Provisions of the European Social Charter (revised)

### ■ Article 1 – The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;

2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

#### **Appendix to Article 152**

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

#### *Information to be submitted*

##### **■ Article 151**

- 1) Please describe national employment policy and the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information, in particular: the GDP growth rate; trends in employment covering all sectors of the economy: employment rate (persons in employment as a percentage of the population aged 15-64 years), youth employment rate; activity rate (total labour force as a percentage of the population aged 15 years and over); unemployment rate, long-term unemployment rate, youth unemployment rate; employment status (employed, self-employed); all figures should be broken down by gender; employment policy expenditure as a share of GDP, including the relative shares of 'active' (job creation, training, etc.) and 'passive' (financial compensation, etc.) measures.

##### **■ Article 152**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

##### **■ Article 153**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide indicators, estimated if necessary, on the functioning and the performance of the employment services in practice, including the number of



vacancies registered by employment services; placement rate (placements made by the employment services as a share of notified vacancies).

#### ■ Article 154<sup>59</sup>

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* A policy of full employment should be pursued by means of economic measures conducive to creating and preserving jobs and assisting those who become unemployed in finding jobs.

*Paragraph 2:* This paragraph covers three different issues:

1. the prohibition of all forms of discrimination in employment,
2. the prohibition of forced or compulsory labour,
3. the prohibition of any practice that might interfere with workers' right to earn their living in an occupation freely entered upon.

Under Article 1, paragraph 2, legislation should prohibit any discrimination in employment on grounds of sex, race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The law should make the prohibition of discrimination effective. It must at least provide for:

- ▶ the power to set aside, rescind, abrogate or amend any provision contrary to the principle of equal treatment which appears in collective agreements, in employment contracts or in firms' own regulations;
- ▶ protection against dismissal or other retaliatory action by the employer against an employee who has lodged a complaint or taken legal action;
- ▶ appropriate and effective remedies in the event of an allegation of discrimination; remedies available to victims of discrimination must be adequate, proportionate and dissuasive.

59. The conformity of national situations with this provision is assessed with reference to Articles 9, 10 and 15 of the Charter due to the links between these provisions. Consequently, where a state has accepted Articles 9, 10 and 15 reference may be made to the information provided in respect of these Articles. Where a state has not accepted one or more of the provisions of Articles 9, 10 or 15, the ECSR will assess the conformity of the situation under Article 154.

As regards discrimination on grounds of nationality while States party may make foreign nationals' access to employment on their territory subject to possession of a work permit, they cannot ban nationals of States party, in general, from occupying jobs for reasons other than those set out in Article G of the Charter.

Forced or compulsory labour in all its forms must be prohibited. The definition of forced or compulsory labour is based on Article 4 of the European Convention on Human Rights and on ILO Convention 29 on forced labour: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Article 2§1). It also covers the coercion of a worker to carry out work he previously freely agreed to do, but which he subsequently no longer wanted to carry out. It may also under certain circumstances cover prison work.

Several other practices may give rise to issues under Article 1§2 including the length of service to replace military service.

*Paragraph 3:* Free and effective employment services should be guaranteed. Basic placement services such as registration of job-seekers and notification of vacancies must be provided free of charge.

*Paragraph 4:* Vocational guidance, continuing vocational training for all workers should be guaranteed. Persons with disabilities should receive specialised guidance and training.<sup>60</sup>

For a list of selected other international instruments in the same field, see Appendix.

## ■ **Article 2** – All workers have the right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of four weeks' annual holiday with pay;
4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;

60. The conformity of national situations with this provision is assessed with reference to Articles 9, 10 and 15 of the Charter due to the links between these provisions. Consequently, where a state has accepted Articles 9, 10 and 15 reference may be made to the information provided in respect of these Articles. Where a state has not accepted one or more of the provisions of Articles 9, 10 or 15, the ECSR will assess the conformity of the situation under Article 1§4.

5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

#### **Appendix to Article 256**

Parties may provide that this provision shall not apply:

- a. to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
- b. where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

#### *Information to be submitted*

##### **■ Article 251**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or factual information, in particular: average working hours in practice for each major professional category; any measures permitting derogations from legislation regarding working time.

##### **■ Article 252**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

##### **■ Article 253**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 2§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 2§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

#### ■ Article 2§6

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 2§7

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular: the hours to which the term 'night work' applies.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Establishment of reasonable limits on daily and weekly working hours through legislation, regulations, collective agreements or any other binding means; weekly working hours should be progressively reduced to the extent permitted by productivity increases; flexibility measures regarding working time must operate within a precise legal framework and a reasonable reference period for averaging working hours must be provided.

*Paragraph 2:* The right to public holidays with pay should be guaranteed; work on public holidays should only be allowed in special cases; work performed on a public holiday should be paid at least at double the usual rate.

*Paragraph 3:* The right to a minimum of four weeks of annual holiday with pay should be guaranteed; annual leave may not be replaced by financial compensation; days lost to illness or injury during annual leave should be allowed to be taken at another time.

*Paragraph 4:* Application of preventive measures to eliminate the risks in inherently dangerous or unhealthy occupations; where it has not yet been possible to eliminate or sufficiently reduce these risks some form of compensation should be ensured to those workers exposed to such risks, namely reduced working hours or additional paid holidays.

*Paragraph 5:* The right to a weekly rest period coinciding, as far as possible, with the day traditionally recognised as a day of rest should be guaranteed; weekly rest periods may not be replaced by compensation and cannot be given up.

*Paragraph 6:* The right of workers to written information upon commencement of their employment should be guaranteed. This information should cover essential aspects of employment relationship.

*Paragraph 7:* Compensatory measures should be guaranteed for workers performing night work.

For a list of selected other international instruments in the same field, see Appendix.

### ■ **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 the 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 354**

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

#### *Information to be submitted*

##### **Article 351**

- 1) Please describe the national policy on occupational health and safety and the consultation with employers' and workers' organisations in formulating this policy. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the national policy in consultation with employers' and workers' organisations.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

##### **Article 352**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework in consultation with employers' and workers' organisations.

##### **Article 353**

- 1) Please describe the enforcement of safety and health regulations. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information on the number of accidents at work, including fatal accidents, in absolute figures as well as in terms of standardised accident rates per 100,000 workers; on the number of health and safety inspection visits by the labour inspectorate and the proportion of workers and companies covered by the inspections; and on the number of breaches to health and safety regulations and the nature and type of sanctions imposed.

##### **Article 354**

- 1) Please describe the occupational health services. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* States party shall draw up a national policy on occupational health and safety, and periodically review it. Authorities shall consult employers' and workers' organisations when formulating national policies and strategies in this area. The improvement of occupational health and safety shall be pursued, inter alia, with training and research measures.

*Paragraph 2:* The implementation of an occupational health and safety policy must include the adoption of framework legislation dealing with all aspects of health, safety and working conditions, as well as the adoption of regulations on specific risks concerning dangerous agents and substances (in particular, asbestos, ionising radiation and chemical substances). All workers –including temporary and self-employed workers–, all workplaces and all sectors of activity must be covered by occupational health and safety regulations. The regulations must be drawn up in consultation with employers' and workers' organisations.

*Paragraph 3:* States party must provide for the enforcement of health and safety regulations by measures of supervision. Compliance with this undertaking is assessed by taking into account developments in the number and frequency of work accidents and occupational diseases, as well as the setting up and maintenance of an effective inspection system (that is, conducting a "minimum number of inspections on a regular basis" and putting in place an efficient and dissuasive system of penalties in the event of breaches of the regulations).

*Paragraph 4:* States party must give all workers in all branches of the economy and every undertaking access to occupational health services. These services may be run jointly by several undertakings. If occupational health services are not established by every undertaking the authorities must develop a strategy for that purpose, in consultation with employers' and employees' organisations.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 4 – The right to a fair remuneration**

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

#### **Appendix to Article 4§4**

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

#### **Appendix to Article 4§5**

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.

### *Information to be submitted*

#### **Article 4§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures on national net average wage<sup>61</sup> (for all sectors of economic activity and after deduction of social security contributions and taxes; this wage may be calculated on an annual, monthly, weekly, daily or hourly basis); national net minimum wage, if applicable, or the net lowest wages actually paid (after deduction of social security contributions and taxes); both net average and minimum net wages should be calculated for the standard case of a single worker; information is also requested on any additional benefits such as tax alleviation measures, or the so-called non-recurrent payments made available specifically to a single worker earning the minimum wage as well as on any other factors ensuring that the minimum wage is sufficient to give the worker a decent standard of living; the proportion of workers receiving the minimum wage or the lowest wage actually paid.

Where the above figures are not ordinarily available from statistics produced by the States party, Governments are invited to provide estimates based on ad hoc studies or sample surveys or other recognised methods.

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61. The concept of wage, for the purpose of this provision, relates to remuneration – either monetary or in kind – paid by an employer to a worker for time worked or work done. Remuneration should cover, where applicable, special bonuses and gratuities. The Committee's calculations are based on net amounts, i.e. after deduction of taxes and social security contributions. The national net average wage is that of a full-time wage earner, if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as manufacturing industry or for several sectors.



## ■ Article 4§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics (estimates, if necessary) or any other relevant information, in particular: methods used to calculate the increased rates of remuneration; impact of flexible working time arrangements on remuneration for overtime hours; special cases when exceptions to the rules on remuneration for overtime work are made.

## ■ Article 4§3<sup>62</sup>

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply detailed statistics or any other relevant information on pay differentials between men and women not working for the same employer by sector of the economy, and according to level of qualification or any other relevant factor.

## ■ Article 4§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

## ■ Article 4§5

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Wages must guarantee a decent standard of living to all workers. The net minimum wage must amount to at least 60% of the net national average wage.

*Paragraph 2:* The right to an increased remuneration rate for overtime work should be guaranteed to workers; where leave is granted to compensate for overtime, it should be longer than the overtime worked.

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62. States party that have accepted Article 20 of the European Social Charter (revised) do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 20.

*Paragraph 3:* The right to equal pay without discrimination on grounds of sex should be expressly provided for in legislation. Appropriate and effective remedies should be provided in the national legislation in the event of alleged wage discrimination on grounds of sex.

*Paragraph 4:* The right of all workers to a reasonable period of notice for termination of employment should be guaranteed.

*Paragraph 5:* The right of all workers to their wage being subject to deductions only in circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award) should be guaranteed.

For a list of selected other international instruments in the same field, see Appendix.

## ■ **Article 5** – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **Scope of the provision as interpreted by the ECSR**

Trade unions and employers' associations must be free to organise without prior authorisation, and initial formalities such as declaration and registration must be simple and easy to apply. These organisations must be independent where anything to do with their organisation or functioning is concerned. They must be free to form federations and join similar international organisations.

Workers must be free not only to join but also not to join a trade union. Domestic law must guarantee the right of workers to join a trade union and include

effective punishments and remedies where this right is not respected. The same rules apply to employers' freedom to organise.

Trade unions and employers' organisations must have broad autonomy where anything to do with their internal structure or functioning is concerned. They are entitled to perform their activities effectively and devise a work programme. Any excessive interference by a State constitutes a violation of Article 5.

Domestic law may restrict participation in various consultation and collective bargaining procedures only to representative trade unions.

Article 5 applies to the public and private sectors. States party are entitled to restrict or withdraw the right of the armed forces to organise. Restrictions may be placed on the right of the police to organise, but they may not be deprived of all their trade union prerogatives.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 6** – The right of workers to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

#### **Appendix to Article 6§4**

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

*Information to be submitted*

#### ■ **Article 6§1**

1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 6§2

- 1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectoral level, as appropriate.

#### ■ Article 6§3

- 1) Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, inter alia, compulsory arbitration.

#### ■ Article 6§4

- 1) Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Promotion of joint consultation between employees and employers or the organisations that represent them on all matters of mutual interest on national, regional or sectoral and enterprise level in the private and public sector (including the civil service).

*Paragraph 2:* Promotion of the right of employee's and employer's organisations to free and voluntary collective bargaining and conclusion of collective agreements; right of public officials to participate in the determination of their working conditions.

*Paragraph 3:* Promotion of voluntary and independent conciliation, mediation and/or arbitration procedures in order to facilitate the resolution of collective conflicts concerning the conclusion of a collective agreement or the modification, through collective bargaining, of conditions of work contained in an existing collective agreement as well as for resolving conflicts which may arise between the public administration and its employees.

*Paragraph 4:* Guarantee whether in law or case-law of the right to call and participate in a strike in connection with a conflict of interests between employers and employees including public officials.

Procedural requirements in connection with the exercise of the right to strike (e.g. peace obligation, prior approval by workers, cooling-off periods, etc.) shall not excessively limit the right to strike.

A strike should not be considered a violation of the contractual obligations of the striking employees entailing a breach of their employment contract. It should be accompanied by a prohibition of dismissal.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 7** – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;
8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control.

#### **Appendix to Article 7§2**

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

#### **Appendix to Article 7§8**

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

*Information to be submitted*

#### **■ Article 7§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **■ Article 7§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7§3

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please supply any relevant statistics or other information on the proportion of workers not covered by these limits and the reasons why they are not covered, and state whether any particular measures have been taken to assist young persons under 18 who do not benefit from any restrictions on their working hours.

#### ■ Article 7§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please supply any relevant statistics or other information on the remuneration of young workers as well as on other appropriate allowances for apprentices, and on the adult reference wage or salary.

#### ■ Article 7§6

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7§7

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 758

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 759

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 7510

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Minimum age for employment in all sectors of the economy, including agriculture, and all work places, including family undertakings and private households, set at 15 years, subject to exceptions for children employed in prescribed light work with no risk of harm to their health, morals or education.

*Paragraph 2:* Minimum age for employment in prescribed occupations regarded as dangerous or unhealthy, which must be specified in legislation, set at 18 years, though exceptions are allowed if such work is essential for vocational training purposes, subject to strict conditions.

*Paragraph 3:* Prohibition of the employment of children still subject to compulsory education in work that would deprive them of the full benefit of their education. National legislation must limit working hours in school term time and offer sufficient leisure time during school holidays.



*Paragraph 4:* Limits, in legislation, regulations, contracts or practice, in the working hours of persons under 18 years of age to take account of their development needs, and particularly their need for vocational training.

*Paragraph 5:* Right of young workers and apprentices to a fair wage or other appropriate allowances, determined with reference to the basic or minimum wage paid to adults, after deduction of social security contributions and taxes.

*Paragraph 6:* Right of young persons for time spent in vocational training during normal working hours to be treated, with the consent of the employer, as part of the working day.

*Paragraph 7:* Employed persons under 18 years to be entitled to a minimum of four weeks' annual holiday with pay, subject to the same arrangements as those applicable to the annual paid holidays of adults (Article 2, paragraph 3).

*Paragraph 8:* Persons under 18 years of age shall not be employed in night work, with the exception of certain occupations provided for by national laws or regulations.

*Paragraph 9:* Persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to compulsory and regular medical examinations.

*Paragraph 10:* Article 7, paragraph 10, guarantees the right of children to protection against all forms of exploitation and against the misuse of information technologies. This Article covers also the trafficking of human beings since this is a form of exploitation. This Article is interpreted by the Committee akin to the right to life and dignity, similar to the rights guaranteed by the European Convention on Human Rights.

States party must take specific measures to prohibit and combat all forms of sexual exploitation of children. This prohibition must be accompanied by an adequate supervisory mechanism and sanctions.

States party must prohibit the use of children in other forms of exploitation such as, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or the removal of organs. States party must also take measures to prevent and assist street children.

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **Article 8** – Right of employed women to protection of maternity

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;

2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;
5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature and to take appropriate measures to protect the employment rights of these women.

### **Appendix to 8§2**

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases :

- a. if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b. if the undertaking concerned ceases to operate;
- c. if the period prescribed in the employment contract has expired.

*Information to be submitted*

### **■ Article 8§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate that the level of maternity benefit is adequate.

### **■ Article 8§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

### **■ Article 8§3**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### ■ Article 8§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### ■ Article 8§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* guarantees the right of employed women to maternity leave of at least 14 weeks for all categories of employees. In all cases there must be a compulsory period of postnatal leave of no less than six weeks which may not be waived by the woman concerned. Maternity leave must be accompanied by the continued payment of the individual's wage or salary or by the payment of social security benefits or benefits from public funds. A benefit must be adequate and must be equal to the salary or close to its value.

*Paragraph 2:* provides that it must be unlawful to ordinarily dismiss female employees from the time they notify the employer of their pregnancy to the end of their maternity leave. In cases of dismissal contravening this provision of the Charter, national legislation must provide for adequate and effective remedies, employees who consider that their rights in this respect have been violated must be able to take their case before the courts.

*Paragraph 3:* all employed mothers who breastfeed their babies must be granted time off for this purpose. Time off for nursing should in principle be granted during working hours should be treated as normal working time and remunerated as such. Time off for nursing must be granted at least in principle until the child reaches the age of nine months.

*Paragraph 4:* does not require States party to prohibit night work for pregnant women, women who have recently given birth and women nursing their infants, but to regulate it in order to limit the adverse effects on the health of the woman.

*Paragraph 5:* prohibits the employment of the women concerned in underground work in mines. This applies to extraction work proper. Certain other activities, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents, must be prohibited or strictly regulated for the group of women concerned depending on the risks posed by the work.

For a list of selected other international instruments in the same field, see Appendix.

## ■ Article 9 – The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on public spending on vocational guidance services, their geographical distribution and the institutions that provide them, their staffing levels and the qualifications of those staff, and the number of persons served and their characteristics, in terms of age, sex, educational level and occupation.

### **Scope of the provision as interpreted by the ECSR**

Article 9 establishes a right to vocational guidance in the education system, with information on training and access to that training, and concerning the labour market, with information on vocational training and retraining and career planning.

In assessing vocational guidance services, the main factors taken into account are their specific responsibilities, how they are organised and operate, how much is spent on them, their staffing and the number of persons served. Vocational guidance is particularly concerned with young persons who have left school, job seekers and the unemployed.

Vocational guidance for persons with disabilities is dealt with under Article 15 of the Charter for countries that have accepted both provisions.

Such guidance must be provided by a sufficient number of qualified staff, such as trained counsellors, psychologists and teachers, to a significant number of persons and receive appropriate State financing. The information available and the means used to disseminate it must reach the widest possible audience.

Finally, everyone, including non-nationals, must be granted equal treatment regarding vocational guidance. Pursuant to the Appendix to the Charter, nationals of other States party lawfully resident or working regularly in the country concerned must be granted equal treatment. This means that length of residence or employment conditions and reciprocity agreements are incompatible with this provision of the Charter.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 10** – Everyone has the right to appropriate facilities for vocational training.

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
  - a. adequate and readily available training facilities for adult workers;
  - b. special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
5. to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - a. reducing or abolishing any fees or charges;
  - b. granting financial assistance in appropriate cases;
  - c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

*Information to be submitted*

■ **Article 10§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the total amount of public expenditure devoted to vocational training; the number of vocational and technical training institutions and types of education and training provided; number of teachers and pupils.

## ■ Article 10§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the existence of apprenticeship and other training arrangements for young people; the number of young persons benefiting from training systems; how the arrangements for vocational training are divided between the various types of vocational activity; length of the apprenticeship; the total public spending (and private spending, if possible) on these types of training and the availability of places for all those seeking them; equality of access to apprenticeship training for all those interested, including national of the other States party.

## ■ Article 10§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the existence of facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change; the approximate number of adult workers who have participated in training or retraining measures; the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures; equal treatment of non-nationals with respect to access to continuing vocational training.

## ■ Article 10§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: types of training and retraining measures available; the number of persons in this type of training and the impact of the measures on reducing long-term unemployment; equal treatment of non-nationals with respect to access to training and retraining for long-term unemployed persons.

## ■ Article 10§5

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: whether the vocation training is provided free of charge or that fees are reduced; existing system for providing financial assistance (allowances, grants, loans, etc.); measures taken to include time spent on training taken by workers in the normal working hours; supervision and evaluation measures taken in consultation with social partners to ensure the efficiency of apprenticeship for young workers.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Provide or promote technical and vocational training for everyone, including general and vocational secondary education, university and non-university higher education and continuing training, and ensure that access to higher technical and university education is based solely on individual aptitude. Nationals of other States party lawfully resident or working regularly in the country concerned must be granted equal access to vocational training.

*Paragraph 2:* Provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls, combining theory and practice. Non-nationals must be granted equal treatment, as specified in paragraph 1.

*Paragraph 3:* Provide or promote appropriate and readily available training facilities for adult workers and unemployed persons and special facilities for retraining adult workers in response to technological developments or new trends in employment. Non-nationals must be granted equal treatment, as specified in paragraph 1.

*Paragraph 4:* Provide or promote special measures for the retraining and reintegration of the long-term unemployed (those who have been out of work for twelve months or more). Non-nationals must be granted equal treatment, as specified in paragraph 1.

*Paragraph 5:* Encourage full use of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;
- b. granting financial assistance, such as study grants or low-interest loans;
- c. including time spent by workers on supplementary training, at their employer's request, in normal working hours;
- d. ensuring that training arrangements work efficiently, through appropriate supervision, in consultation with employers' and employees' organisations.

For a list of selected other international instruments in the same field, see Appendix.

## ■ 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 co-operation 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.

### *Information to be submitted*

#### ■ Article 11§1

- 1) Please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.
- 3) Please supply any relevant statistics or other information on the main health indicators and on health services and professions (for example WHO and/or Eurostat data).

#### ■ Article 11§2

- 1) For States that have not accepted paragraph 1, please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.
- 3) Please supply any relevant statistics or other information, including on consultation and screening services in schools and for the rest of the population.

#### ■ Article 11§3

- 1) For States that have accepted neither paragraph 1 nor paragraph 2, please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.
- 3) Please supply any relevant statistics or other information on the percentage of smokers in the general population, trends in alcohol consumption and the rates of vaccination cover for infectious and epidemic diseases.



### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Under Article 11, health means physical and mental well-being, in accordance with the definition of health in the Constitution of the World Health Organisation (WHO), which has been accepted by all to Parties to the Charter. The health system must be able to respond appropriately to avoidable health risks, that is ones that can be controlled by human action. Such a health system must be accessible to everyone, without distinction. The cost of health care should be borne, at least in part, by the community as a whole. There should be no unnecessary delays in the provision of treatment. Access to treatment should be based on transparent criteria. There must be adequate staffing and facilities. Conditions of stay in hospital must be satisfactory and compatible with human dignity.

*Paragraph 2:* Measures should be introduced to prevent activities that are damaging to health, such as smoking, alcohol and drugs, and to develop a sense of individual responsibility, including such aspects as a healthy diet, sex education and the environment. Health education should be provided in school throughout the period of schooling. Pregnant women and children should be entitled to free and regular medical checks and screening. Free medical checks should be carried out throughout the period of schooling. There should be screening for illnesses responsible for high premature mortality rates.

*Paragraph 3:* There must be sufficiently advanced and detailed legislation and specific preventive and protective measures to deal with air, water and noise pollution, nuclear risks, asbestos, food safety and, for States party that have not accepted Article 31, public health standards in housing. There must also be a policy to prevent smoking, alcoholism and drug addiction, a widely available vaccination programme and measures to deal with contagious diseases. Finally, there should be measures to prevent accidents on the road, in the home, during leisure time and in the work place, other than occupational accidents covered by Article 3.

For a list of selected other international instruments in the same field, see Appendix.

### **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 and 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 legislation, whatever movements the persons protected 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 to 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.

#### *Information to be submitted*

##### **■ Article 12§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

##### **■ Article 12§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the extent to which the branches of social security in your country fulfils (or goes beyond or falls short of) the requirements of the European Code of Social Security.

##### **■ Article 12§3**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information on the improvement of the social security system as well as on any measures taken to restrict the system.

#### ■ Article 12§4

1) Please describe the general legal framework, in particular the complete list of bilateral and multilateral agreements or any other means such as unilateral, legislation proposed or adopted, or administrative measures and indicate how they allow for the various social benefits the implementation of the principles provided in sub-paragraphs a) and b).

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures or any other relevant information, Please, indicate also the length of residence requirements when applicable.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Establishment and maintenance of a social security system for the traditional risks (health care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' branches); material and personal scope of the social security system; social security (contributory and non-contributory) benefits and their adequacy.

*Paragraph 2:* Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

*Paragraph 3:* Improvement of the social security system. When reforms restrict the social security system, they must be justified, including with respect to sustainability, and must maintain at least a basic compulsory and sufficiently extensive social security system.

*Paragraph 4:*

- a. Equal treatment of nationals of other States party who are or were lawfully resident or working regularly on the territory of a State party with respect to social security benefits; prohibition of direct (nationality requirement) and indirect (residence condition and length of residence requirement, employment requirements) discrimination for contributory benefits; non-excessive residence and length of residence requirement for non-contributory benefits, such as family benefits. Refugees and stateless persons, self-employed, and workers on secondment, to the exception of long-term contingencies, for which they remain ensured in their country of origin, are included in the personal scope of the provision.

Right to maintenance of acquired rights whatever the movements of the beneficiary (invalidity, old age, survivors', employment injury or disease); obligations must be fulfilled through bilateral agreements or any other means such as unilateral, legislative or administrative measures.

- b. Right to retention of accruing rights through aggregation of employment or insurance periods completed abroad; obligations must be fulfilled through multilateral conventions, bilateral agreements or any other means such as unilateral, legislative or administrative measures.

For a list of selected other international instruments in the same field, see Appendix.

### ■ 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 a 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 a 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 paragraphs 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 at Paris on 11 December 1953.

#### **Appendix to Article 13§4**

Governments not Parties to the European 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.

*Information to be submitted*

### ■ Article 13§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular: evidence that the level of social assistance is adequate, i.e. the assistance should enable any person to meet his/her basic needs and the level of the benefits

should not fall below the poverty threshold. Information must therefore be provided on basic benefits, additional benefits and on the poverty threshold in the country, defined as 50% of the median equivalised income and calculated on the basis of the poverty risk threshold value published by Eurostat.

#### ■ Article 13§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 13§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 13§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Social assistance – adequate benefits must be payable to “any person” on the sole ground that he/she is in need. To be adequate the assistance should enable any person to meet his/her basic needs, i.e. the level of the benefits should not fall below the poverty threshold. Medical assistance – everyone who lacks adequate resources must be able to obtain free of charge “in the event of sickness the care necessitated by his condition”

The right to assistance must constitute an individual right laid down in law and be supported by an effective right of appeal to an independent body.

*Paragraph 2:* Persons receiving assistance must not suffer as a result any diminution of their political or social rights. Any discrimination against persons receiving assistance that might result from an express provision must be eradicated.

*Paragraph 3: Provision of appropriate public or private services such as advice and personal help to persons without adequate resources, as may be required to prevent, to remove, or to alleviate personal or family want.*

*Paragraph 4: Emergency social and medical assistance for everyone lawfully or unlawfully present (but not resident) in the territory. States party are required to provide for those concerned to cope with an immediate state of need (accommodation, food, emergency care and clothing).*

For a list of selected other international instruments in the same field, see Appendix.

#### ■ **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.

*Information to be submitted*

#### ■ **Article 14§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate the effective access to social services (beneficiaries in total and per category of social welfare services, number and geographical distribution of services, staff number and qualifications).

#### ■ **Article 14§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate the participation of the voluntary sector to the provision of social services, as well as the effective access of individuals to these services.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1: A network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment must exist. Social services*

include in particular counselling, advice, rehabilitation and other forms of support from social workers, home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals), residential care, and social emergency care (shelters). Under Article 14§1 it is reviewed the overall organisation and functioning of social services.

Access to social services should be guaranteed to those who lack personal capabilities and means to cope, in particular the vulnerable groups and individuals who have a social problem. Groups which are vulnerable – children, the family, the elderly, people with disabilities, young people with problems, young offenders, refugees, the homeless, alcohol and drug abusers, victims of domestic violence and former prisoners – should be able to avail themselves of social services in practice.

Effective and equal access to social services implies:

- ▶ an individual right of access to counselling and advice from social services;
- ▶ the protection of rights of the client, including the availability of remedies;
- ▶ services should be provided free of charge for persons lacking adequate financial resources and may be provided subject to fees for the others;
- ▶ the geographical distribution of these services shall be sufficiently wide;
- ▶ social services must have resources matching their responsibilities and the changing needs of users.

*Paragraph 2:* States party are required to support the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms seeking to establish social welfare services. Public and private services must be properly coordinated, and equal access and efficiency must not suffer because of the number of providers involved. Effective preventive and reparative supervisory system must also be in place.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 15** – The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;
2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working

conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;

3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

*Information to be submitted*

#### ■ Article 15§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate effective access to education and vocational training for persons with disabilities (total number of persons with disabilities, number of persons with disabilities of 0-18 years of age, number of persons with disabilities in mainstreaming and special education and vocational training, including higher education; number of integrated classes and special education institutions, basic and in-service training for teachers).

#### ■ Article 15§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on the number of persons with disabilities in working age, in ordinary employment and in sheltered employment (estimated, if necessary). Please, also indicate whether the basic provisions of labour law applies to persons working in sheltered employment where production is the main activity.

#### ■ Article 15§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on persons with disabilities' access to housing, transport, telecommunications and cultural and leisure activities.



### **Scope of the provisions as interpreted by the ECSR**

Persons with disabilities must enjoy full citizenship and their essential rights in this respect are independence, social integration and participation in the life of the community.

*Paragraph 1:* Anti-discrimination legislation on the ground of disability in education. Such legislation should, as a minimum, require compelling justification for special or segregated educational systems and confer an effective remedy on those who have been unlawfully excluded, segregated or otherwise denied an effective right to education.

All persons with disabilities have a right to education and training: general education, basic compulsory education and further education as well as vocational training, including higher education. Persons with disabilities (children, adolescents, adults) must be integrated into mainstream facilities; education and training must be made available within the framework of ordinary schemes and, only where this is not possible, through special facilities. States party must demonstrate that tangible progress is being made in setting up education systems which exclude nobody.

*Paragraph 2:* Anti-discrimination legislation on the basis of disability in employment. Access to employment on the open labour market for persons with disabilities, inter alia, by adjusting working conditions to the needs of persons with disabilities (reasonable accommodation). There must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, including persons who have become disabled while in their employment as a result of an industrial accident or occupational disease.

Sheltered employment facilities must be reserved for those persons with disabilities who cannot be integrated into the open labour market. They should aim to assist their beneficiaries to enter the open labour market and must guarantee, where production is the main activity, the basic provisions of labour law and in particular the right to fair remuneration.

*Paragraph 3:* Barriers to communication and mobility must be removed in order to enable access of persons with disabilities to transport (land, rail sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities). Positive action measures must be taken and full participation of persons with disabilities must be guaranteed.

Anti-discrimination legislation on the ground of disability in all areas mentioned in this paragraph, as well as effective remedies for those who have been unlawfully treated.

For a list of selected other international instruments in the same field, see Appendix.

## ■ Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to show that Article 16 is applied in practice, including information on domestic violence, information on child care arrangements and housing for families, the level of family benefits, the number of recipients as a proportion of the total population, as well as information on tax benefits and other forms of financial assistance for families.

### **Scope of the provision as interpreted by the ECSR**

Notion of “family” as defined in domestic law.

States party are free to decide how they will provide social, legal and economic protection to their various types of families, particularly one-parent families and vulnerable families, including Roma.

#### *a. Social protection*

- ▶ there should be an adequate supply of family housing and families’ needs should be taken into account in drawing up and implementing housing policies. Housing should be of an appropriate standard and with all the basic amenities. The destruction of accommodation and forced evictions are incompatible with Article 16. There should be effective means of appeal, arrangements for rehousing in decent accommodation and appropriate financial assistance. Vulnerable families should be offered proper protection, including suitable temporary and permanent housing, and evictions should be prohibited unless they comply with the relevant procedural safeguards.
- ▶ there should be financially affordable child care facilities of a suitable standard, measured in terms of the number of children aged 0-6 years covered, staff-child ratios, staff training, availability of suitable premises and the cost for parents.
- ▶ there should be appropriate family advice services and families’ point of view should be taken into account when drawing up family policies.

- b. Legal protection
  - ▶ there must be full equality of rights and responsibilities between spouses, particularly with regard to marital authority, property and the use and administration of assets, and towards children, in terms of parental authority and management of children's property. There should be legal arrangements for settling disputes between spouses and concerning children, and mediation services.
  - ▶ there should be legal and practical protection from domestic violence (though violence against children is covered by Article 17).
- c. Economic protection
  - ▶ family or child benefits must provide an adequate additional income for a significant number of families, in terms of median net monthly income, as calculated by Eurostat, and may be supplemented by other forms of economic protection.
  - ▶ vulnerable families must be protected in accordance with the principle of equal treatment.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 17** – The right of children and young persons to appropriate social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1.
  - a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
  - b. to protect children and young persons against negligence, violence or exploitation;
  - c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;
2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

## Information to be submitted

### ■ Article 17§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of public and private schools, their geographical distribution in urban and rural areas, average class sizes and the ratio teacher per pupil; figures on primary and secondary school enrolment; on the number of children in the care of the State, the number placed with foster families and in institutions, the number of children per unit in child welfare institutions; on the number and age of minors in pre-trial detention or imprisoned or placed in a disciplinary institution.

### ■ Article 17§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of children failing to complete compulsory schooling dropping out of education without qualifications and on measures to combat absenteeism.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Right of a child to know his or her origins. Prohibition of discrimination between children born outside of marriage, and children born within marriage.

Establishment and maintenance of an accessible and effective education system compulsory until the minimum age for admission to employment for all children and a mechanism to monitor the quality of education.

Establishment of public child care if necessary for the protection and best interest of the child and of an adequate supervision of the child welfare system. Provision of long term public care primarily in foster families and only if necessary in institutions. Provision of conditions promoting all aspects of children's growth and guarantee of fundamental rights and freedoms for children in institutional care as well as establishment of a procedure for complaining about the treatment in institutions.

Prohibition of all forms of violence against children, including prohibition in law of corporal punishment in the home, in school, in institutions or elsewhere and provision of adequate sanctions in penal or civil law.

Establishment of criminal responsibility and criminal procedure adapted to young offenders as regards age of criminal responsibility, length of procedure as well as length and conditions of detention.

*Paragraph 2:* Provision of primary and secondary education free of charge. Reduction of absenteeism at school and dropout rates regarding compulsory education.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 18** – The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties

*Information to be submitted*

■ **Article 18§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information, if appropriate, on the rate of refusals to issue work permits in response to requests from nationals of other States party, broken down by country and whether these are first time requests or applications for renewal.

■ **Article 18§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on chancery dues and other charges payable by foreign workers or their employers for work and/or residence permits and on the average time taken to issue these permits.

### ■ Article 18§3

- 1) Please describe the general legal framework.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

### ■ Article 18§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Liberal application of existing regulations concerning the right to engage in a gainful occupation of foreign employees and self-employed who are nationals of a State party and who apply for a work permit in another State party as well as with respect to members of their family allowed to the country for the purpose of family reunion.

*Paragraph 2:* Right of foreign workers to complete formalities required for the exercise of a gainful occupation from within the country of destination as well as from the country of origin, to obtain the residence and work permits at the same time, through a single application and within a reasonable time.

*Paragraph 3:* Periodic liberalisation of the regulations governing the employment of foreign workers. Conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive. Restrictions of access for persons legally resident for a given length of time on the territory of another State party should be gradually lifted. Extension of the validity of the residence permit in the event of job loss so as to provide sufficient time for a new job to be found.

*Paragraph 4:* Right of nationals to leave their country to engage in a gainful occupation in the territories of other State party.

For a list of selected other international instruments in the same field, see Appendix.

### ■ Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;
3. to promote co operation, as appropriate, between social services, public and private, in emigration and immigration countries;
4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
  - a. remuneration and other employment and working conditions;
  - b. membership of trade unions and enjoyment of the benefits of collective bargaining;
  - c. accommodation;
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
10. to extend the protection and assistance provided for in this article to self employed migrants insofar as such measures apply.
11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;
12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

#### **Appendix to Article 1956**

For the purpose of applying this provision, the term "family of a foreign worker" is understood to mean at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

## *Information to be submitted*

### ■ **Article 19§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

### ■ **Article 19§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

### ■ **Article 19§3**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

### ■ **Article 19§4**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular concerning the number of migrant workers, if possible, which have had access to subsidised housing.

### ■ **Article 19§5**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.



3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 19§6

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of applications for family reunion, and the percentage of applications which were granted and turned down, respectively.

#### ■ Article 19§7

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 19§8

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of migrant workers nationals of States party served with an expulsion order.

#### ■ Article 19§9

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 19§10

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

## ■ Article 19§11

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or factual information, in particular on how migrants are being taught the national language of the receiving State.

## ■ Article 19§12

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or factual information, in particular on how migrants are being taught the mother tongue of their parents.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* Free assistance and information services should be made available to persons wishing to emigrate and/or immigrate. Steps should be taken to prevent misleading propaganda relating to emigration and immigration.

*Paragraph 2:* Measures should be taken to facilitate the departure, journey and reception of migrant workers and their families.

*Paragraph 3:* Co-operation between social services in emigration and immigration countries should be promoted.

*Paragraph 4:* Migrant workers should not be treated less favourably than nationals in respect of employment, trade union rights and accommodation. States party should prove the absence of discrimination in these areas, direct or indirect, in terms of law and practice, and should inform of the practical measures to remedy it.

*Paragraph 5:* Migrant workers should not be treated less favourably than nationals in respect of employment taxes, dues and contributions.

*Paragraph 6:* Migrant workers, who have been permitted to establish themselves in the territory, have the right to be (re)joined by their family. The 'family of a foreign worker' is understood to mean at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

*Paragraph 7:* Migrant workers should not be treated less favourably than nationals in respect of legal proceedings.

*Paragraph 8:* States party are prohibited to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality.

*Paragraph 9:* Migrant workers have the right, within legal limits, to transfer to their country of origin such parts of their earnings and savings as they may desire.

*Paragraph 10:* States party must extend the protection and assistance provided for in this Article to self-employed migrant workers, insofar as such measures apply.

*Paragraph 11:* States party should promote and facilitate the teaching of the national language of the receiving State to migrant workers and their families.

*Paragraph 12:* States party should promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 20** – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a. access to employment, protection against dismissal and occupational reintegration;
- b. vocational guidance, training, retraining and rehabilitation;
- c. terms of employment and working conditions, including remuneration;
- d. career development, including promotion.

#### **Appendix to Article 20**

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

*Information to be submitted*<sup>63</sup>

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on employment and unemployment rates by sex and percentage differences in earnings.

**Scope of the provision as interpreted by the ECSR**

Paragraphs a, b, c and d: Right to equal treatment between women and men at all stages of working life – access to employment, remuneration and other working conditions, including dismissal and other forms of detriment, vocational training and guidance and promotion, as well as with respect to social security. The principle of equal treatment of women and men is understood to mean the absence of any direct or indirect discrimination on grounds of sex.

The right of women and men to equality must be guaranteed by a sufficiently detailed law. Any legislation, regulation or other administrative measure that fails to comply with the equality principle must be repealed or revoked. National legislation must provide for appropriate and effective remedies in the event of alleged discrimination. The burden of proof must be shifted. Anyone who suffers discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and act as a deterrent to the offender. Employees who try to enforce their right to equality must be legally protected against any form of reprisals from their employers.

Occupational activities – and the training required for them – which, by their nature or the context in which they are carried out, can only be entrusted to persons of one sex may be excluded from the scope of Article 20. Provisions protecting women are not deemed to be discrimination if they are objectively justified by needs that apply exclusively to women, such as those relating to maternity (pregnancy, childbirth and the postnatal period).

Along with legislation, States party are required to take specific steps aimed at removing de facto inequalities affecting women's training or employment opportunities, including positive action.

For a list of selected other international instruments in the same field, see Appendix.

63. States party that have accepted Article 20 of the European Social Charter (revised) do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 20.

■ **Article 21** – The right of workers to be informed and consulted within the undertaking

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
- b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

**Appendix to Articles 21 and 22**

1. For the purpose of the application of these articles, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.
2. The terms “national legislation and practice” embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the percentage of workers out of the total workforce which are not covered by the provisions granting a right to information and consultation either by legislation, collective agreements or other measures.

#### **Scope of the provision as interpreted by the ECSR**

Right of employees in private or public undertakings and/or their representatives to be informed on all matters relevant to their working environment and to be consulted in good time with respect to proposed decisions that could substantially affect the employees' interests.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 22** – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;
- b. to the protection of health and safety within the undertaking;
- c. to the organisation of social and socio cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.

Appendix to Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.

3. For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

#### **Appendix to Article 22**

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.

2. The terms “social and socio cultural services and facilities” are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.

#### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on employees who are not covered by Article 22, the proportion of the workforce who is excluded and the thresholds below which employers are exempt from these obligations.

#### **Scope of the provision as interpreted by the ECSR**

Right of employees in private or public undertakings and/or their representatives to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in Article 22.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

For a list of selected other international instruments in the same field, see Appendix.

### ■ **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 co operation with public or private organisations, appropriate measures designed in particular:

- ▶ to enable elderly persons to remain full members of society for 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, paragraph 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.

#### *Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on measures taken to ensure that elderly persons have access to adequate benefits in cash or in kind; on the level of public expenditure for social protection and services for the elderly; on the accessibility of measures and the number of elderly people



benefiting from them; on the number of places available in institutions for elderly persons; on the number of elderly living in such institutions, and on whether a shortage of places is reported.

### **Scope of the provision as interpreted by the ECSR**

To enable elderly persons to remain full members of society for as long as possible, pensions and other State benefits must be sufficient to lead a 'decent life'. Pensions must be index-linked, and they will be compared with average wage levels and the overall cost of living to assess national situations.

Elderly persons should be provided information about services and facilities available to them (the extent and cost of home help services, community based services, specialised day care provision, etc.).

The needs of elderly persons must be taken into account in national or local housing policies. National policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of their homes.

Health care programmes and services for the elderly, necessitated by their state, must exist (in particular domiciliary nursing/health care services).

Elderly persons living in institutions should be guaranteed the right to appropriate care and services, the right to privacy, to personal dignity, and to participate in decisions concerning living conditions in their institution. There should be a sufficient supply of institutional facilities for elderly persons.

For a list of selected other international instruments in the same field, see Appendix.

### **Article 24 – Right of workers to protection in cases of termination of employment**

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

#### **Appendix to Article 24**

1. It is understood that for the purposes of this article the terms "termination of employment" and "terminated" mean termination of employment at the initiative of the employer.

2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:
  - a. workers engaged under a contract of employment for a specified period of time or a specified task;
  - b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
  - c. workers engaged on a casual basis for a short period.
3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:
  - a. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
  - b. seeking office as, acting or having acted in the capacity of a workers' representative;
  - c. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
  - d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
  - e. maternity or parental leave;
  - f. temporary absence from work due to illness or injury.
4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

*Information to be submitted*

- 1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

**Scope of the provision as interpreted by the ECSR**

Under Article 24, the following are regarded as valid reasons for termination of an employment contract:

- i) reasons connected with the capacity or conduct of the employee
- certain economic reasons;

- ii) these must be reasons “based on the operational requirements of the undertaking, establishment or service”

The appendix to Article 24 lists reasons for which it is prohibited to terminate employment.

Prohibition to terminate employment for most of these reasons is also a requirement for conformity with other Articles of the Charter.

Two reasons are examined only under Article 24, namely:

- a. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities.

National legislation or case-law must contain express safeguards against retaliatory dismissal.

- b. temporary absence from work due to illness or injury. A time limit can be placed on protection against dismissal in such cases.

Any employee who considers him- or herself to have been dismissed without valid reason must have the right to appeal to an impartial body. Employees dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation systems are considered appropriate if they include the following provisions:

- ▶ reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body, the possibility of reinstatement;
- ▶ and/or compensation of a high enough level to dissuade the employer and make good the damage suffered by the employee.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 25** – The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers’ claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

#### **Appendix to Article 25**

1. It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.
2. It is understood that the definition of the term “insolvency” must be determined by national law and practice.

3. The workers' claims covered by this provision shall include at least:
  - a. the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;
  - b. the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;
  - c. the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.
4. National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

*Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information where possible on the amount of such claims, whether there is a ceiling on payments, the time taken between presentation of claims and payment of the amounts due and the overall percentage of employees' claims that are honoured by a guarantee institution and/or because those concerned are privileged creditors.

**Scope of the provision as interpreted by the ECSR**

The claims arising from contracts of employment or employment relationships shall be guaranteed by a guarantee institution or by any other effective form of protection.

The protection afforded, whatever its form, must be adequate and effective, also in situations where the assets of an enterprise are insufficient to cover salaries owed to workers.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 26** – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;

2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

### **Appendix to Article 26**

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

#### *Information to be submitted*

##### **Article 26§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

##### **Article 26§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* This concerns forms of behaviour deemed to constitute sexual harassment in the work place or in relation to work. Existing measures must ensure effective protection for workers against sexual harassment. It also concerns the liability of employers and/or their employees. There should be effective remedies for victims and reparation for pecuniary and non-pecuniary harm suffered, including appropriate compensation. The burden of proof should be adjusted and steps should be taken to increase awareness of and prevent sexual harassment.

*Paragraph 2:* This concerns forms of behaviour deemed to constitute psychological harassment in the work place or in relation to work. Existing measures must ensure

effective protection for workers against psychological harassment. It also concerns legal protection against psychological harassment and the liability of employers and/or their employees. There should be effective remedies for victims and reparation for pecuniary and non-pecuniary harm suffered, including appropriate compensation. The burden of proof should be adjusted and steps should be taken to increase awareness of and prevent psychological harassment.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 27** – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake

1. to take appropriate measures:
  - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
  - b. to take account of their needs in terms of conditions of employment and social security;
  - c. to develop or promote services, public or private, in particular child day care services and other childcare arrangements;
2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;
3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

#### **Appendix to Article 27**

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.

*Information to be submitted*

#### ■ **Article 27§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 27§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### ■ Article 27§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provisions as interpreted by the ECSR**

##### *Paragraph 1:*

- a. Persons with family responsibilities must be provided with equal opportunities in respect of entering, remaining and re-entering employment, in particular in the field of vocational guidance, training and re-training.
- b. The needs of workers with family responsibilities must be taken into account in terms of conditions of employment and social security. Legislation or collective agreements shall regulate the length and organisation of working time, as well as how non-working periods due to family responsibilities are taken into account for pension rights.
- c. Child day care services and other childcare arrangements must be available and accessible to workers with family responsibilities.

*Paragraph 2:* Legislation, collective agreements or the practice shall regulate the possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child.

*Paragraph 3:* Family responsibilities must not constitute a valid ground for termination of employment or hampering career development. Courts or other competent bodies should be able to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 28** – Right of worker representatives to protection in the undertaking and facilities to be afforded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
- b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

#### **Appendix to Article 28**

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice"

#### *Information to be submitted*

- 1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

#### **Scope of the provision as interpreted by the ECSR**

This provision guarantees the right of workers' representatives to protection in the undertaking and to certain facilities. It complements Article 5, which recognises a similar right in respect of trade union representatives.

The term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Protection should cover the prohibition of dismissal on the ground of being a workers' representative and the protection against detriment in employment other than dismissal.

The facilities to be provided may include for example paid time off to represent workers, financial contributions to the workers' council, the use of premises and materials for the operation of the workers' council, etc.



For a list of selected other international instruments in the same field, see Appendix.

■ **Article 29** – The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

**Appendix to Articles 28 and 29**

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

*Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

**Scope of the provision as interpreted by the ECSR**

Workers' representatives have the right to be informed and consulted in good time by employers planning to make collective redundancies. The collective redundancies referred to are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity.

Consultation procedures must take place in good time, before the redundancies. The purpose of the consultation procedure, which must cover at least the "ways and means" of avoiding collective redundancies or limiting their occurrence and support measures.

Consultation rights must be accompanied by guarantees that they can be exercised in practice

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 30** – Everyone has 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

*Information to be submitted*

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information: on the nature and extent of poverty and social exclusion, including the number of persons or households who are socially excluded or live in poverty; and on the methodology followed or criteria used to measure poverty and social exclusion, bearing in mind that the Eurostat at-risk-of-poverty rate before and after social transfers is used as a comparative value to assess national situations.

**Scope of the provision as interpreted by the ECSR**

States party shall adopt a comprehensive and coordinated approach with the aim of reducing poverty and social exclusion.

The measures taken must promote and remove obstacles of persons who live or risk living in a situation of social exclusion and poverty, as well as their families, to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance.

The measures should strengthen access to social rights, improve the procedures and management of benefits and services, improve information about social rights and related benefits, combat psychological and socio-cultural obstacles to accessing rights.

As long as poverty and social exclusion persist, there should be an increase in the resources deployed to make social rights possible. Adequate resources should be allocated to attain the objectives of the strategy.

Measures adopted in the context of this Article should be reviewed and adapted to new situations. Social partners and civil society should participate in the formulation, evaluation and adaptation of measures.

For a list of selected other international instruments in the same field, see Appendix.

■ **Article 31** – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.

*Information to be submitted*

■ **Article 31§1**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate effective access to adequate housing, including the length of waiting periods.

■ **Article 31§2**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on the number of homeless, emergency and longer-term measures for homeless, as well as evictions.

■ **Article 31§3**

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide statistics or any other relevant information on construction of social dwellings and housing allowances (number of applicants and of recipients, criteria to fulfil to benefit from the allowance).

### **Scope of the provisions as interpreted by the ECSR**

*Paragraph 1:* States party must guarantee to everyone the right to adequate housing, in particular to vulnerable groups. The notion of adequate housing must be defined in law. Adequate housing means a dwelling which is structurally secure, safe from a sanitary and health point of view and not overcrowded, with secure tenure supported by the law. It is incumbent on the public authorities to ensure that housing is adequate through different measures, as well as that waiting periods for access to adequate housing are not excessive.

The effectiveness of the right to adequate housing implies its legal protection. Adequate procedural safeguards are requested. Tenants or occupiers must be given access to affordable and impartial judicial remedies.

*Paragraph 2:* Action to prevent categories of vulnerable people from becoming homeless and gradually reduce homelessness, towards its elimination. Reducing homelessness implies the introduction of emergency and longer-term measures, such as the provision of immediate shelter and care for the homeless as well as measures to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.

Existence of procedures to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned.

*Paragraph 3:* An adequate supply of affordable housing must be ensured: through the appropriate measures for the provision of housing of an adequate standard, and through housing allowances, which is an individual right. Legal remedies must be available in case of refusal of the allowance.

For a list of selected other international instruments in the same field, see Appendix.

## **Appendix**

### *Selected international instruments in the same field*

#### **■ Article 1**

International Covenant on Economic, Social and Cultural Rights (1966)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 2 on Unemployment, 1919

ILO Convention No. 29 on Forced Labour, 1930

ILO Convention No. 88 on Employment Service, 1948

ILO Convention No. 96 on Fee-charging Employment Agencies (Revised), 1949

ILO Convention No. 105 on Abolition of Forced Labour, 1957

ILO Convention No. 111 on Discrimination in Employment, 1958

ILO Convention No. 122 on Employment Policy, 1964

ILO Convention No. 142 on Human Resources Development, 1975

ILO Convention No. 150 on Labour Administration, 1978

ILO Convention No. 168 on Employment Promotion and Protection against Unemployment, 1988

ILO Convention No. 181 on Private Employment Agencies, 1997

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

## ■ Article 2

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 171 on Night Work, 1990

Council Directive 89/391/EC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

Council Directive 91/533 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

## ■ Article 3

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 155 on Occupational Safety and Health, 1981

ILO Convention No. 161 on Occupational Health Services, 1985

Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

## ■ Article 4

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 100 on Equal Remuneration, 1951

ILO Convention No. 131 on Minimum Wage Fixing, 1970

Council Directive 76/207 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions as modified by Directive 2002/73

## ■ Article 5

International Covenant on Economic, Social and Cultural Rights (1966)

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948

## ■ Article 6

International Covenant on Economic, Social and Cultural Rights (1966)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948

ILO Convention No. 98 on Right to Organise and Collective Bargaining, 1949

ILO Convention No. 154 on Promotion of Collective Bargaining, 1981

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

## ■ Article 7

International Covenant on Economic, Social and Cultural Rights (1966)

Optional Protocol to the UN Convention on the Rights of the Child on the Sale of children, child prostitution and child pornography.

UN Convention on the Rights of the Child (1989)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Council of Europe Convention on Cyber crime (2001)

ILO Convention No. 38 on the Minimum Age for Admission to Employment, 1973

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

## ■ Article 8

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 103 on Maternity Protection (Revised), 1952

ILO Convention No. 183 on Maternity Protection, 2000

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

#### ■ **Article 9**

International Covenant on Economic, Social and Cultural Rights (1966)

#### ■ **Article 10**

International Covenant on Economic, Social and Cultural Rights (1966)

ILO Convention No. 142 on Human Resources Development, 1975

ILO Convention No. 168 on Employment Promotion and Protection against Unemployment, 1988

#### ■ **Article 11**

International Covenant on Economic, Social and Cultural Rights (1966)

Declarations of the United Nations Stockholm (1972) and Rio de Janeiro (1992) environment conferences

International Convention on the Rights of the Child (1989)

United Nations Framework Convention on Climate Change (1992) and the Kyoto Protocol (1998)

World Health Organisation Framework Convention on Tobacco Control (2003)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Various Community directives, on pollution, noise and public health

#### ■ **Article 12**

International Covenant on Economic, Social and Cultural Rights, (1966), Article 9

European Code of Social Security (1964)

ILO Convention No. 102 on Minimum Standards of Social Security, 1952

Regulation (EC) 883/2004 on the coordination of social security systems

Regulation (EC) 859/2003 (extension to third country nationals of the above regulation)

#### ■ **Article 13**

Geneva Convention on the Status of Refugees (1951)

New York Convention relating to the Status of Stateless Persons (1954)

European Convention on Social and Medical Assistance (1953)

#### ■ **Article 14**

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### ■ Article 15

UN Convention in the rights of persons with disabilities (2006)

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

### ■ Article 16

International Covenant on Economic, Social and Cultural Rights (1966)

International Convention on the Rights of the Child (1989)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

### ■ Article 17

UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) (1985)

UN Convention on the Rights of the Child (1989)

UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)

UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (1990)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

### ■ Article 18

Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third-country nationals

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents

### ■ Article 19

European Convention on the Legal Status of Migrant Workers (1977)

ILO Convention No. 97 on Migration for Employment Convention (Revised), 1949

Council Directive 2003/86/CE of 22 September 2003 on the right to family reunification.

Council Directive 2004/38/CE concerning the right of citizens of the European Union and their family members to circulate and reside freely within the territories of the Member States

### ■ Article 20

Council of Europe Recommendation No. R (98) 14 on gender mainstreaming

ILO Convention No. 111 on Discrimination (Employment and Occupation, 1958)

Council Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation



## ■ Article 21

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

## ■ Article 22

Council Directive 94/45/EC of 22 December 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

## ■ Article 23

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## ■ Article 24

ILO Convention No 158 on Termination of Employment, 1982

## ■ Article 25

ILO Convention No. 173 on Protection of Workers' Claims (Employers' insolvency), 1992

Council Directive 80/987/EC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer

Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer

## ■ Article 26

International Covenant on Economic, Social and Cultural Rights (1966)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Council Directive 76/207/EC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EC

■ **Article 27**

ILO Convention No. 156 on Workers with Family Responsibilities, 1981

■ **Article 28**

ILO Convention No. 135 on Workers Representatives, 1971

■ **Article 29**

ILO Convention No. 158 on Termination of Employment, 1982

Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.

■ **Article 30**

International Covenant on Economic, Social and Cultural Rights (1966)

Council Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in the social protection systems

■ **Article 31**

International Covenant on Economic, Social and Cultural Rights, (1966) Article 11.1

# IX. Supervision of the application of the European Social Charter

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## A. Supervision relating to the reports submitted under Article 21 of the Charter (1961)

### 1. First supervision cycle

*Committee of Independent Experts – Conclusions I* (1970, 281 p., ISBN: 92-871-0177-9)

*Governmental Committee First report* (1971, 60 p. ref: CG/Ch. Soc(70)24 Final)

*Consultative Assembly of the Council of Europe* (Twenty-third ordinary session)

■ **Opinion No. 57 (1971)**<sup>64</sup> on the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, and particularly to Articles 28 and 29;
2. After examining the report of the independent experts, and having regard, in addition, to the first report of the Governmental Committee on the European Social Charter transmitted to the Assembly for information by the Committee of Ministers;
3. Considering that, in playing its part in the supervision of the application of the European Social Charter, the Assembly is free to express its own opinion on the reports of the independent or government experts forwarded to it;
4. Noting that none of the national organisations of employers and trade unions referred to in Articles 23 and 24 of the Charter have made any comments on the governmental reports, requests the Committee of Ministers to invite governments to promote the effective application of those articles;
5. Considering that the independent experts must be praised for the remarkable legal work they have accomplished and for the way in which they fulfilled their obligations, and that approval should be given of the procedure and the method adopted by them and of the way in which they have approached the task assigned to them of making an independent and objective appraisal of the conformity of the national legislation, regulations and practices of the States concerned with the provisions of the Charter which those States solemnly undertook to observe at the time of ratification;

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64. Assembly debate on 14 May 1971 (7th sitting) (see Doc. 2943, report of the Committee on Social and Health Questions).  
Text adopted by the Assembly on 14 May 1971 (7th sitting).

6. Considering that the independent experts, in the terms laid down for them under Part I of the Charter, are particularly well qualified to appraise, for the purely legal point of view, the compatibility of national regulations and practices with the provisions of the Charter, and that it lies within their province to propose that observations and recommendations should be sent to the States concerned;
7. Emphasises that the comments and the proposals for recommendations made by the Committee of Independent Experts are fully justified in terms of the objective findings set out in their report, and that they should, in principle, be communicated to that governments concerned with a reminder that the undertakings entered into must be fully observed, as is the case with any treaty, if the way is not to be opened up to the gradual deterioration of the instrument of international law which the Charter represents;
8. Recognising that in the early stages of the application of the Charter the governments concerned may have interpreted some of its provisions in a way which was not fully in accord with the obligations they entail;
9. Convinced, nevertheless, that the procedure for the supervision of the application of the Charter will ensure the uniform interpretation of the undertakings embodied in it;
10. Persuaded that the provisions of the Charter should not, save where specifically stated in the Charter itself, and in conformity with the general principles of public international law, be regarded as a mere reiteration of undertakings contained in other legal instruments of a treaty nature which are not only applied in a different context and subscribed to by a group of States other than those of the Council of Europe, as for example International Labour Convention No. 100 concerning equal remunerations for men and women workers for work of equal value, but which also occur in political contexts other than that constituted by the States contracting to the Charter;
11. Considering that the role of the independent experts is to make a legal examination of the States' reports in order to ascertain whether or not national regulations conform to the accepted provisions, without regard for any considerations of interpretation bound up with the interests of political expediency;
12. Recalling its Recommendation 454 (1966) on the uniform interpretation of treaties, and emphasising that, there being no obligation to ratify, the rules ratified must be formally observed, and that, in the absence of any provision to the contrary in the Charter itself, its provisions must be interpreted in the same way by all the States concerned, since otherwise there would cease to be any internationally agreed commitment,
13. Requests the Committee of Ministers to transmit this opinion and the accompanying explanatory memorandum to all member States, and not only to those directly concerned;
14. Proposes that, in the special circumstances governing this initial stage of the supervision of the application of the Charter, the Committee of Ministers should forward the independent experts' conclusions to the States concerned in toto,

commending the comments contained therein as well as the proposals for recommendations to their attention, and calling upon them to take full note of them, so that when examining subsequent biennial reports the independent experts may be able to see that national rules and practices conform to the terms of the Charter;

15. Urges that also in future the conclusions of the independent experts, as well as the report of the Governmental Committee, be transmitted to it, as soon as each of these documents is available, so that it may examine them in detail with a view to accomplishing the task entrusted to it under the terms of Articles 28 and 29 of the Charter.

16. Considers that Article 22 of the Charter should be implemented immediately so that the various bodies may have at their disposal all the information they need in order to appraise the progressive application of the Charter, in pursuance of Part 1 and of Article 20 (3).

*Committee of Ministers*

### ■ **Resolution (71) 30**

*(Adopted by the Ministers' Deputies on 12 November 1971)*

The Committee of Ministers,

Having regard to the European Social Charter, and in particular to the provisions of Part IV thereof;

Having taken note of the Conclusions of the Committee of Independent Experts and of the valuable observations on which they are based, the report of the Governmental Committee on the European Social Charter, and the opinion of the Consultative Assembly on the supervision of the application of the Charter;

Expressing its satisfaction with the manner in which the Committee of Independent Experts and the Governmental Committee carried out their respective functions, and its appreciation of the interest shown by the Consultative Assembly;

Recalling that the procedure which has just been completed covered for the first time the entire system which has been established to consider the comprehensive reports which Contracting Parties rendered under the provisions of Article 21 of the Charter, and, in consequence, considering that it would not be opportune for it to make a judgement at this stage on the different observations formulated in this context,

Decides:

- I. in accordance with the report of the Governmental Committee, not to address at this stage any recommendations to the Contracting Parties to the European Social Charter;
- II. to transmit to the governments of the Contracting Parties the report of the Governmental Committee and the opinion of the Assembly;
- III. to transmit also to the same governments the Conclusions of the Committee of Independent Experts including the analysis made by that committee, offering useful guidance which may assist in achieving the full application of the principles enshrined in the European Social Charter.

## 2. Second supervision cycle

*Committee of Independent Experts – Conclusions II* (1971, 232 p., ISBN: 92-871-0178-7)

*Governmental Committee Second report* (1972, 31 p., ref: CG/Ch. Soc(72)40)

*Consultative Assembly of the Council of Europe* (Twenty-fifth ordinary session)

■ **Opinion No. 64 (1973)**<sup>65</sup> on the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the Social Charter; particularly to Articles 28 and 29;
2. After examining the conclusions of the Committee of Independent Experts on the supervision of the application of the Charter for 1968-69, and having regard to the second report of the Governmental Committee on the European Social Charter, transmitted to the Assembly in pursuance of the Committee of Ministers' decision of 12 November 1971;
3. Recalling its opinion No. 57 (1971), on the application of the European Social Charter for the period 1965-67;
4. Emphasising the importance of the European Social Charter for the achievement of the aims laid down for the Council of Europe in Statute;
5. Considering that the Committee of Independent Experts, set up under Articles 24 and 25 of the Charter, has a major part to play, in accordance with these articles, in supervising the application of the Charter by States that have adhered thereto;
6. Considering that the Committee of Independent Experts is to be congratulated yet again on the excellent fashion in which it has fulfilled its functions;
7. Considering that one of the tasks of this committee of experts, which is responsible under the Charter for examining reports sent to the Secretary General of the Council of Europe by the Contracting Parties and submitting its conclusions therein, is to consider how the various provisions of the Charter should be interpreted, and that it may make proposals for recommendations which, after being examined by the Governmental Committee on the European Social Charter and by the Assembly, are submitted to the Committee of Ministers, with which it lies to take the necessary decisions in pursuance of Article 29 of the Charter;
8. Considering that, while the final decision rests with the Committee of Ministers, the other bodies that have a part to play in the supervision procedure may make to the Committee of Ministers any proposals for the implementation of Article 29;
9. Considering that the experts' interpretations of the various provisions of the Charter are to be regarded as highly authoritative opinions, not to be disregarded without overriding reasons;

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65. Assembly debate on 26 September 1973 (10th sitting) (see Doc. 3276 revised, report of the Committee on Social and Health Questions).  
Text adopted by the Assembly on 26 September 1973 (10th sitting).

10. Considering that the provisions of the Social Charter, which is an international treaty, are binding on all States that have accepted them and must be interpreted in a uniform fashion by all the States concerned;
11. Considering that the experts' report shows that the government reports received at the end of the second 2-year period are distinctly better and more comprehensive than the first reports, and that a number of States have amended their legislation and administrative regulations in order to comply with their obligations under the Social Charter, or are preparing to do so;
12. Expressing satisfaction at the progress achieved as a result of the supervision procedure since the Charter came into force;
13. Noting that the experts' comments are thus a driving force in the improvement of social legislation in States that have ratified the Charter, and serve as a valuable aid to these States in their striving for social progress.
14. Having taken note of the proposals for recommendations presented by the Committee of Independent Experts, and considering that Article 29 of the Charter should in principle be applied whenever a State has failed, in whole or in part, to comply with one of the provisions of the Charter accepted by it;
15. Considering, however, that when the States in question are clearly endeavouring to make good any gaps in their laws or imperfections in their practice, or when these gaps are of minor importance, it does not seem expedient automatically to address formal recommendations to the States concerned, and considering that in such cases the Committee of Ministers might submit the experts' observations in the form of "suggestions", reserving the right to make recommendations at a later stage if the situation remains unchanged;
16. Considering that the procedure has already been facilitated by the fact that the committee of experts has adopted the practice of instructing the Secretariat to seek further information from governments whenever it is unable to ascertain for certain whether or not a State has satisfied the undertakings entered into, but that such a practice is unnecessary in cases where the committee already possesses perfectly clear information showing a failure to comply with one of the provisions accepted;
17. Recalling that, as previously suggested by the governmental committee and the Assembly, the Committee of Ministers decided by Resolution (71) 30 not to make any recommendations to Contracting Parties at a stage when the procedure covered for the first time the entire system established for the examination of reports, but considering that the situation is different now that the second period of supervision has been completed;
18. Considering, therefore, that recommendations should now be made to various States on the application of certain provisions of the Charter;
19. Considering that, as statistics are essential for effective supervision, governments should do everything possible to furnish the supervisory bodies with the statistical data they need to carry out their tasks, and that such statistics should not be regarded as confidential;

20. Considering that the time has also come to implement Article 22 of the Charter, so that Contracting Parties may be asked to provide, on lines indicated by the Committee of Ministers, reports on certain of the provisions of the Charter not yet accepted by them,
21. Requests that the Committee of Ministers transmit this opinion and the accompanying explanatory memorandum to all member states;
22. Proposes that the Committee of Ministers make recommendations to the States in question on the application of certain particularly important provisions of the Charter, namely Article 1 (2), Article 2 (1), (3), (4) and (5), Article 3 (2), Article 5 and Article 6 (4), on the lines indicated in the explanatory memorandum to this opinion;
23. Proposes to the Committee of Ministers that the proposals for recommendations drawn up by the Committee of Independent Experts be transmitted to the States concerned in the form of suggestions, except where otherwise specified in the accompanying explanatory memorandum;
24. Proposes that the Committee of Ministers implement the procedure set forth in Article 22 of the Charter, particularly as regards the application of Articles 4 (3), 7 (1) and 8;
25. Urges that the national organisations of employers and trade unions referred to in Article 23 of the Charter make use of the right conferred on them therein, and requests that the Committee of Ministers ask governments to approach such organisations to that end.

#### *Committee of Ministers*

■ **Resolution (74)** on the implementation of the European Social Charter during the period 1968-69

*(Adopted by the Committee of Ministers on 29 May 1974 at the 232nd meeting of the Ministers' Deputies)*

The Committee of Ministers,

Having regard to the European Social Charter and in particular to the provisions of Part IV thereof;

Having taken note with satisfaction of the second report of the Governmental Committee to which Conclusions II of the Committee of Independent Experts are appended, as well as of Opinion No. 64 of the Consultative Assembly, concerning the first report submitted by the Government of Cyprus and the reports submitted by Sweden and the United Kingdom, for the period 1968-69;

Acting in pursuance of Article 29 of the Charter,

1. Decides to transmit to the governments of these states Conclusions II of the Committee of Independent Experts, the second report of the Governmental Committee, as well as Opinion No. 64 of the Consultative Assembly;
2. Draws the attention of the governments of these states to the observations formulated in the documents mentioned under 1 above, especially as regards the action required to make their national legislation and practice comply with the obligations deriving from the Charter.



### 3. Third supervision cycle

*Committee of Independent Experts – Conclusions III* (1973, 260 p., ISBN: 92-871-0181-7)

*Governmental Committee Third report* (1974, 18 p., ref: CG/Ch. Soc(74)14)

*Parliamentary Assembly of the Council of Europe* (twenty-seventh ordinary session)

■ **Opinion No. 71 (1975)**<sup>66</sup> on the third period of supervision of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, and especially to Articles 28 and 29;
2. Having examined the conclusions of the Committee of Independent Experts on the supervision of the application of the Charter during the period 1970-71, and having also taken the third report of the Governmental Committee on the European Social Charter into consideration;
3. Recalling the terms of its Opinions No. 57 (1971) and No. 64 (1973), on the supervision of the application of the Charter over the first two 2-year periods,
4. Expresses its acute disappointment that the Committee of Ministers should have taken virtually no action to implement the most important proposals contained in the Assembly's opinion and, in particular, made no recommendations to Contracting Parties under Article 29 of the Charter, nor even any precise suggestion regarding the failure of certain national laws or practices to comply with the provisions of the Social Charter accepted by those Contracting Parties;
5. Again emphasises that the interpretations given by the independent experts are to be regarded as highly authoritative opinions, from which one should not depart without overriding reasons;
6. Urges the Committee of Ministers most strongly to make recommendations to the following states for the strict application of the Social Charter:
  - ▶ Austria, on the application of Article 8 paragraph 2, and Article 19, paragraph 6
  - ▶ Cyprus, on the application of Article 12, paragraph 2;
  - ▶ Denmark, on the application of Article 8, paragraph 1;
  - ▶ Ireland, on the application of Article 1, paragraph 2, Article 8, paragraph 1, and Article 18, paragraphs 2 and 3;
  - ▶ Italy, on the application of Article 8, paragraph 2, and Article 3, paragraph 1;
  - ▶ Norway, on the application of Article 19, paragraph 6;
  - ▶ the United Kingdom on the application of Article 8, paragraph 1, Article 19 paragraphs 2 and 3, and Article 19, paragraph 6;
7. Proposes that the Committee of Ministers should invite the states concerned to make their national legislation and practice conform to the provisions of the Charter

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66. Assembly debate on 22 April 1975 (3rd sitting) (see Doc. 3592, report of the Committee on Social and Health Questions).  
Text adopted by the Assembly on 22 April 1975 (3rd sitting).

in the instances referred to in the preceding paragraph, and appoint a period at the end of which they would be required to report on the measures taken to that end;

8. Proposes that the Committee of Ministers should communicate to the states concerned, by way of suggestions, the other observations of the Committee of Independent Experts, and in particular to Italy, Norway and Sweden those relating to the application of Article 4, paragraph 3, of the Charter, concerning the right of men and women workers to equal pay for work of equal value;

9. Reiterates its proposal that the Committee of Ministers should put into practice the procedure provided for in Article 22 of the Charter;

10. Expressly draws the attention of the Committee of Ministers to the considerations set out in the explanatory memorandum to this opinion (Doc. 3592), and in particular to paragraphs 25-27<sup>67</sup> which concern modifications to the machinery for supervision of the European Social Charter, and requests that the Committee of

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67. 25. The Governmental Committee suggests ways in which the workload of Contracting Parties and the supervisory organs could be reduced without amendment to the Charter of prejudice to its implementation.

It proposes that supervision of provisions accepted in Part II of the Charter be spread over six years, a detailed study being made of only one third of the provisions every two years. Every two years governments would be asked to submit a detailed report only on the accepted provisions which were to be thoroughly examined by the supervisory organs in the course of the period in question; in respect of other accepted provisions, they would supply a brief general report in which, if they wished, they could include information about any changes they considered important which had occurred since the previous biennial report. The initial report of any new Contracting Party would, of course, deal in detail with all provisions accepted.

This proposal is highly interesting in so far as it would enable the supervisory bodies to deal more effectively with the many problems arising out of the interpretation and application of the Charter. Whereas it is the task of the committee of experts to study the application of all the provisions in the Charter, neither the Assembly nor the Governmental Committee can do the same and are obliged to confine themselves to a necessarily arbitrary selection. It would therefore be an advantage if the supervisory authorities could concentrate their attention on only some of the provisions in the Charter, so that its application could be studied in stages.

However, important reservations must be made in respect of the Governmental Committee's proposal. First, whenever the committee of experts asked the governments concerned to provide additional information, they should do so in their following report, not six years later. Secondly, the system of biennial reporting is expressly laid down in the Charter and it should in theory cover all provisions that have been accepted. Accordingly, if the Governmental Committee's proposal is put into practice, the states concerned should still inform the Council of Europe organs of any important changes since the preceding report, even if these related to clauses which were not being studied in detail during the period of supervision in question; the provision of such information should therefore continue to be compulsory, and not become optional.

As regards the idea of dividing the Charter's articles into three groups, the Governmental Committee recommends that, in view of the connections between articles, this should be done as follows:

- first 2-year period: Articles 1-4, 9, 10 and 15;
- second 2-year period: Articles 5-8, 18 and 19;
- third 2-year period: Articles 11-14, 16 and 17.

This division is acceptable, but again with the proviso that states should not limit their reports to the provisions under consideration for the period in question but should merely deal in greater detail in their reports with the matters covered by such provisions (which would also enable the supervisory organs to give a fuller opinion on those matters); they should still be required to provide essential information on the other subjects, especially if any changes had occurred in the situation.

Ministers submit officially to the Committee of Independent Experts the proposals of the Governmental Committee in this respect and communicate the conclusions of the Committee of Independent Experts on the matter to the Assembly in order to enable it to give a final opinion on the question.

#### *Committee of Ministers*

■ **Resolution (75) 26** on the implementation of the European Social Charter during the period 1970-71 (third cycle of supervision)  
*(Adopted by the Committee of Ministers on 17 October 1975 at the 249th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Having regard to the European Social Charter and in particular the provisions of Part IV thereof;

Having noted the Governmental Committee's third report, to which are appended Conclusions III of the Committee of Independent Experts, and Opinion No. 71 of the Consultative Assembly, concerning the first report from the Government of Austria, the second report from the Government of Cyprus and the third series of reports

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26. In addition, the Governmental Committee proposes that reports submitted under Article 22 should be considered at the same time and in connection with the same groups of articles as the more detailed reports presented under Article 21. The Assembly will no doubt be able to support this proposal.

27. The Governmental Committee also wishes the questionnaires sent to governments to be simplified and suggests that, when reporting in accordance with Article 22, governments should no longer have to describe the situation but merely explain why they have not accepted the provision or provisions in question.

The Assembly will undoubtedly appreciate that national administrations should want some simplification of the possibly tedious work devolving on them under Article 21 of the Charter. But it should bear in mind that the Committee of Independent Experts has frequently been unable to assess whether a state has honoured its obligations under the Charter because the information provided by the state's government has not been precise or detailed enough. If the questionnaires are simplified, the situation may become even worse. The Committee of Ministers should therefore be put on its guard against such simplification.

As for the Governmental Committee's proposal, on reporting under Article 22, not only does it appear inexpedient but its compatibility with this provision of the Charter is questionable. If governments were merely asked to state the reasons why they had not accepted this or that provision in the Charter, they would not have to provide any of the desired information on the way in which they were actually applying the Charter's principles, whether or not they had formally accepted them. The Charter specifies that States must provide "reports", not rules laid down in the Charter. The reports have to be sent to employers' organisations and trade unions, and considered by the Committee of Independent Experts, in pursuance of Articles 23 and 24 of the Charter. The conclusions of the committee of experts, which must also deal with the reports, are then submitted to the Assembly and the Governmental Committee for examination. This examination would, however, be very incomplete if, as regards provisions not accepted, it were to be confined to governments' reasons for not accepting such provisions. Besides, if it were necessary for governments merely to state their reasons, it is hard to see why the Charter should have provided for periodic reporting on the subject. It would have been enough to ask governments to give their explanations when ratifying the Charter. The Assembly must therefore urge the Committee of Ministers to ensure that Article 22 is given full effect and that the "reports concerning provisions which are not accepted" (heading of Article 22) are similar in structure to the "reports concerning accepted provisions" (heading of Article 21).

from the Governments of Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom for the period 1970-71;

Acting in accordance with Article 29 of the Charter,

1. Decides to forward to the governments of these states Conclusions III of the Committee of Independent Experts, the Governmental Committee's third report and the Consultative Assembly's Opinion No. 71;
2. Draws the attention of the governments of these states to the comments contained in the documents mentioned in paragraph 1 above, and in particular to items 6, 7 and 8 of the Assembly's opinion, concerning the steps necessary to bring national legislation and practice more closely into line with the obligations ensuing from the Charter.

#### 4. Fourth supervision cycle

*Committee of Independent Experts – Conclusions IV* (1975, 315 p., ISBN: 92-871-0183-3)

*Governmental Committee Fourth report* (1976, 12 p. ref: CG/Ch. Soc(76)6 Final)

*Parliamentary Assembly of the Council of Europe* (twenty-ninth ordinary session)

■ **Opinion No. 83 (1977)**<sup>68</sup> on the fourth period of supervision of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, and especially to Articles 28 and 29;
2. Having examined the conclusions of the Committee of Independent Experts relating to the supervision of the application of the Charter during the period 1972-73, and having also taken the fourth report of the Governmental Committee on the European Social Charter into consideration;
3. Recalling the terms of its previous opinions on the supervision of the application of the Charter over the first three two-year periods, and in particular its Opinion No. 71 (1975), concerning the third cycle of supervision;
4. Welcoming the progress made with the effective application of the Charter by the contracting parties, but finding that in a number of states such application still leaves something to be desired;
5. Welcoming also a recent decision of the Committee of Ministers to put into effect the procedure set out in Article 22 of the Charter, which envisages the submission of reports concerning the provisions of the Charter which contracting parties have not accepted;
6. Whereas the implementation of a whole series of measures advocated by the Charter is of particular importance in a period of recession,

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68. Text adopted by the Assembly by the tacit adoption procedure on 26 April 1977. See Doc. 3949, report of the Committee on Social and Health Questions.

7. Regrets once again that the Committee of Ministers has so far made no formal recommendation to the contracting parties in accordance with Article 29 of the Charter, even in cases where a provision accepted by a contracting party has not been applied;

8. Recommends that the Committee of Ministers make recommendations to the following states for the strict application of the European Social Charter in respect of the articles mentioned:

- ▶ Austria (Article 8.1);
- ▶ Denmark (Article 8.1);
- ▶ Ireland (Article 2.4 and Article 8.1);
- ▶ Italy (Article 13.1);
- ▶ Norway (Article 19.6);
- ▶ the United Kingdom (Article 8.1 and Article 19.4 and 6);

9. Proposes that the Committee of Ministers, in accordance with Article 29, invite the states concerned to make their legislation and practice conform to the provisions of the Charter in the instances referred to in the preceding paragraph, and appoint a period at the end of which they would be required to report on the measures taken to that end;

10. Proposes that the Committee of Ministers communicate to the states concerned, by way of suggestions, the other observations of the Committee of Independent Experts, and in particular to Austria, Italy, Norway and Sweden those relating to the application of Article 4.3 of the Charter, on the right of men and women workers to equal pay for work of equal value.

#### *Committee of Ministers*

■ **Resolution (78) 9** on the implementation of the European Social Charter during the period 1972-73 (fourth cycle of supervision)

*(Adopted by the Committee of Ministers on 2 March 1978 at the 284th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Having regard to the European Social Charter and in particular the provisions of Part IV thereof;

Having noted the Governmental Committee's fourth report, to which are appended Conclusions I of the Committee of Independent Experts, and Opinion No. 83 of the Consultative Assembly concerning the second report from the Government of Austria, the third report from the Government of Cyprus and the fourth series of reports from the Governments of Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom for the period 1972-73;

Acting in accordance with Article 29 of the Charter,

1. Decides to forward to the governments of these states Conclusions I of the Committee of Independent Experts, the Governmental Committee's fourth report and the Consultative Assembly's Opinion No. 83;

2. Draws the attention of the governments of these states to the comments contained in the documents mentioned in paragraph 1 above, and in particular to items 8, 9 and 10 of the Assembly's opinion, concerning the steps necessary to bring national legislation and practice more closely into line with the obligations ensuing from the charter.

## 5. Fifth supervision cycle

*Committee of Independent Experts – Conclusions V* (1977, 259 p., ISBN: 92-871-0185-X)

*Governmental Committee Fifth report* (1979, 22 p., ref: CG/Ch. Soc(78)11 Final)

*Parliamentary Assembly of the Council of Europe* (thirty-first ordinary session)

■ **Opinion No. 95 (1971)**<sup>69</sup> on the fifth period of supervision (1974-75) of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, and in particular to Articles 28 and 29, dealing with consultation of the Assembly on its application;
2. Having examined the conclusions of the Committee of Independent Experts regarding the supervision of application of the Charter, and particularly Article 4, paragraph 3, Article 5, Article 6 and Article 7, paragraphs 1, 2, 3, and 4, during the period 1974-75 and having also considered the Fifth Report of the Governmental Committee on the European Social Charter;
3. Expressing its satisfaction that the application of the Charter is still being progressively improved by the adoption in various states of laws, regulations and practices bringing national rules into line with the provisions of the Charter;
4. Noting, however, with regret that the Charter is not always fully implemented by states which have ratified it, and regretting the fact that the Committee of Ministers has never made full use of Article 29 of the Social Charter to address recommendations to Contracting Parties who fail to respect their obligations;
5. Agreeing with the committee of experts on the need, at a time of recession, to attach special importance to the provisions of the Charter in connection with action to counter underemployment and unemployment, particularly among young people, and to improve the situation of migrant workers.
6. Considering that it is also important that Contracting Parties be urged to devote their full attention to the proper application of the Charter with regard to equal pay for male and female workers, the right to organise and bargain collectively, and the right of children and adolescents to protection.
7. Recommendations that the Committee of Ministers, with a view to improving the application of the European Social Charter, address recommendations to those countries, namely Austria, Cyprus, Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom, who to some extent do

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69. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 28 June 1979. See Doc. 4371, report of the Committee on Social and Health Questions.

not respect their obligations under it, and further invite early ramifications from the nine member states who have not yet done so.

*Committee of Ministers*

■ **Resolution ChS (80) 1** concerning the implementation of the European Social Charter during the period 1974-75 (fifth cycle of supervision)

*(Adopted by the Committee of Ministers on 11 June 1980 at the 320th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 29 of the European Social Charter,

Having regard to the European Social Charter and in particular to the provisions of Part IV thereof;

Having taken note of the 5th report of the Governmental Committee, to which Conclusions V of the Committee of Independent Experts are appended, and of Opinion No. 95 of the Consultative Assembly on the 3rd report submitted by the Government of Austria, the 4th report submitted by the Government of Cyprus, the 1st report submitted by the Government of France and the 5th reports submitted by the Governments of Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom for the period 1974-75,

1. Decides to communicate to the governments of these states Conclusions V of the Committee of Independent Experts, the 5th report of the Governmental Committee, and Consultative Assembly Opinion No. 95;
2. Draws the attention of the governments of these states to the observations made in the documents mentioned in paragraph 1 above, in particular those considerations in paragraph 6 of the aforementioned Assembly opinion relating to equal pay for men and women workers (Article 4, paragraph 3, of the Charter), the right to organise (Article 5) and the right of children and young persons to protection (Article 7), concerning which steps may have to be taken in order to bring domestic legislation and practice more fully into line with the obligations ensuing from the Charter.

## 6. Sixth supervision cycle

*Committee of Independent Experts – Conclusions VI* (1979, 233 p., ISBN: 92-871-0187-6) and Addendum (1983, 19 p., ISBN: 92-871-0228-7)

*Governmental Committee Sixth report* (1980, 14 p. ref: T-SG(80)9)

*Parliamentary Assembly of the Council of Europe* (thirty-third ordinary session)

■ **Opinion No. 106 (1981)**<sup>70</sup> on the sixth period of supervision of the application of the European Social Charter

The Assembly,

1. Considering that in 1981 the twentieth anniversary of the signature of the European Social Charter will be celebrated;

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70. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 1 July 1981. See Doc. 4736, report of the Committee on Social and Health Questions.

2. Welcoming in this respect the work already started by the member governments for updating the Social Charter in compliance with Recommendation 839 of the Parliamentary Assembly;
3. Having regard to Part IV of the European Social Charter, and in particular to Articles 28 and 29, dealing with consultation of the Assembly on its application;
4. Having examined the conclusions of the Committee of Independent Experts regarding the supervision of the application of the Charter during the period 1976-77, and particularly Article 1, paragraph 1, Article 1, paragraph 4, in conjunction with Articles 9, 10 and 15, Article 12, and Article 19, paragraphs 4, 6, 8 and 10, and having also considered the sixth report of the Governmental Committee on the European Social Charter;
5. Welcoming the fact that more states have ratified the Social Charter, that other states already bound by the instrument have accepted further obligations, and that the application of the Charter has further improved, thanks to the adoption in various states of new laws, regulations and practices bringing national rules into line with the provisions of the Charter;
6. Noting, however, with regret that the provisions accepted by the states which have ratified the Charter are not always fully applied, and that the Committee of Ministers, whilst having communicated Opinion No. 95 (1979) of the Assembly to the Contracting Parties and having drawn the attention of the governments of these states to the observations made in the opinion, concerning which steps might have to be taken to bring legislation and practice more fully in line with the obligations ensuing from the Charter, has not so far made any specific recommendations to the governments of Contracting Parties who fail fully to respect their obligations;
7. Considering that it is still necessary, in view of the persistence of the recession, to give special attention to those provisions of the Charter which concern the achievement of full employment, in order to counter unemployment and underemployment, particularly among young people, women and immigrant workers, and to ensure that governments do their utmost to foster vocational guidance, vocational training and vocational resettlement of both nationals and immigrants.
8. Recommends that the Committee of Ministers, with a view to improving the application of the Charter, address recommendations to those countries which do not fully comply with the instrument, and in particular:
  - a. recommend that the governments of all Contracting Parties adopt policies aimed at achieving and maintaining as high and stable a level of employment as possible, with a view to the attainment of full employment in accordance with Article 1, paragraph 1, of the Charter;
  - b. address recommendations:
    - i. to the Federal Republic of Germany, concerning the application of Article 1, paragraph 4, and Article 10, paragraphs 1 and 2;
    - ii. to Austria, Denmark, France, Iceland, Italy, and Norway, to urge them to conclude whatever agreements are necessary to make good certain shortcomings observed in the application of Article 12, paragraph 4;



- iii. to Denmark, the Federal Republic of Germany, Ireland and the United Kingdom, concerning the application of Article 18, paragraphs 2 and 3; to France, concerning the application of Article 18, paragraph 3;
  - iv. to France and to the United Kingdom, concerning the application of Article 19, paragraph 4;
  - v. to Austria and the United Kingdom, concerning the application of Article 19, paragraph 6;
  - vi. to the Federal Republic of Germany, Ireland, Sweden and the United Kingdom, concerning the application of Article 19, paragraph 8;
9. Invites the Committee of Ministers to revise without delay the supervision procedure of the Charter, so as to reduce the time-lag between reference periods of the control and adoption of the final resolutions, which is at present inadmissibly long and, therefore, diminishes the accuracy of the work of the supervision instances.

#### *Committee of Ministers*

■ **Resolution ChS (82) 1** concerning the implementation of the European Social Charter during the period 1976-77 (sixth cycle of supervision)

*(Adopted by the Committee of Ministers on 26 March 1982 at the 345th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Having taken note of the 6th report of the Governmental Committee set up under Article 27, to which Conclusions V of the Committee of Independent Experts are appended, and of Opinion No. 106 of the Consultative Assembly on the 4th report submitted by the Government of Austria, the 5th report submitted by the Government of Cyprus, the 2nd report submitted by the Government of France and the 6th reports submitted by the Governments of Denmark, The Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom for the period 1976-77,

1. Observes that all these states apply to a very large extent the provisions of the Charter which they have accepted;
2. Decides to communicate to the governments of these states Conclusions V of the Committee of Independent Experts, the 6th report of the Governmental Committee and Consultative Assembly Opinion No. 106;
3. Draws the attention of the governments of these states to the observations made in the documents mentioned in paragraph 2 above, in particular those considerations in paragraph 8 of the aforementioned Assembly Opinion on re-establishing, achieving or maintaining full employment (Article 1, paragraph 1, of the Charter), certain aspects of the international co-ordination of social security systems (Article 12, paragraph 4), the employment of certain categories of migrant workers (Article 18, paragraphs 2 and 3), the situation of certain categories of migrant workers in respect

of equality of treatment (Article 19, paragraph 4), certain aspects of family reunion of migrant workers (Article 19, paragraph 6) and of their protection against expulsion (Article 19, paragraph 8), in regard to which steps may have to be taken with a view to bringing domestic legislation, regulations and practice more fully into line with the obligations arising from the Charter.

## 7. Seventh supervision cycle

*Committee of Independent Experts – Conclusions VIII* (1981, 205 p., ISBN: 92-871-0189-2)

*Governmental Committee Seventh report* (1982, 27 p., ref: T-SG(82)3)

*Parliamentary Assembly of the Council of Europe* (thirty-fourth ordinary session)

■ **Opinion No. 113 (1983)**<sup>71</sup> on the seventh period of supervision of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, notably Articles 28 and 29 on consultation with the Assembly on the application of the Charter;
2. Having examined the conclusions of the Committee of Independent Experts concerning the supervision and application of the Charter during the period 1978-79, and having taken into consideration the 7th Report of the Governmental Committee of the European Social Charter;
3. Noting with satisfaction that all the states which submitted their two-yearly reports for the seventh supervision period have made further progress in the application of the Charter by virtue of the adoption of new statutory requirements and governmental or administrative decisions, and the opening of negotiations between a number of states with a view to new bilateral international agreements;
4. Regretting that no national workers' organisations availed themselves of the right, conferred on such organisations by Article 23 of the Charter, to submit comments on the two-yearly reports by the governments of their respective countries, and that only one employers' organisation submitted such comments;
5. Observing that, despite progress in the application of the Charter by the Contracting Parties, some of the provisions they accepted are still not fully implemented;
6. Observing also that, although there are still certain differences of opinion between the Committee of Independent Experts and the Governmental Committee on the interpretation and application of several provisions of the Charter, the two supervisory bodies expressed convergent views on several issues, and both admitted that various states were not fully implementing a number of provisions of the Charter;

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71. Assembly debate on 28 January 1983 (28th Sitting) (see Doc. 4983, report of the Committee on Social and Health Questions)  
Text adopted by the Assembly on 28 January 1983 (28th sitting).

7. Considering it necessary, for the purpose of ensuring effective supervision and observance of the undertakings given, to draw the attention of the governments of the states in question, pursuant to Article 29 of the Charter, specifically to the application of those provisions of the Charter which both the Committee of Independent Experts and the Governmental Committee consider are not being fully complied with,

8. Accordingly recommends that the Committee of Ministers make specific recommendations, with a view to improving the application of the Charter, to the following states:

- a. Cyprus, Ireland and Italy, in respect of the application of Article 3, paragraph 1; Italy in respect of the application of Article 3, paragraph 2;
- b. Austria and Italy, in respect of the application of Article 8, paragraph 2; Italy and Sweden in respect of the application of Article 8, paragraph 3;
- c. Austria, in respect of the application of Article 10, paragraph 2;
- d. Italy and the United Kingdom, in respect of the application of Article 13, paragraph 1;
- e. The United Kingdom, in respect of the application of Article 15, paragraph 1;
- f. Austria and the United Kingdom, in respect of the application of Article 19, paragraph 6.

#### *Committee of Ministers*

■ **Resolution ChS (83)1** concerning the implementation of the European Social Charter during the period 1978-79 (seventh period of supervision)  
(Adopted by the Committee of Ministers on 23 March 1983 at the 357th meeting of the Ministers' Deputies)

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Having taken note of the 7th report of the Governmental Committee set up under Article 27 to which Conclusions VII of the Committee of Independent Experts are appended, and of Opinion No. 113 of the Consultative Assembly on the 5th report submitted by the Government of Austria, the 5th report submitted by the Government of Cyprus, the 3rd report submitted by the Government of France and the 7th reports submitted by the Governments of Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom for the period 1978-79,

1. Considers that all these states apply to a very large extent the provisions of the Charter which they have accepted;
2. Decides to communicate to the governments of these states Conclusions VII of the Committee of Independent Experts, the 7th report of the Governmental Committee and Consultative Assembly Opinion No. 113;
3. Draws the attention of the governments of the states concerned to cases not entirely in conformity with the Charter and dealing with the shortness of certain

periods of notice for termination of employment (Article 4, paragraph 4, of the Charter), some aspects of the exercise by migrant workers of the right to organise (Article 5 of the Charter), some regulations in respect of the prohibition of children's employment (Article 7, paragraph 1, of the Charter), the access of young foreign boys and girls to apprenticeship facilities (Article 10, paragraph 2, of the Charter) and certain aspects of the family reunion of migrant workers (Article 19, paragraph 6, of the Charter) in regard to which steps may have to be taken with a view to bringing domestic legislation, regulations and practice more fully into line with the obligations arising from the Charter.

## 8. Eighth supervision cycle

*Committee of Independent Experts – Conclusions VIII* (1984, 368 p., ISBN: 92-871-0295-3) and Addendum (1985, 23 p., ISBN: 92-871-0786-6)

*Governmental Committee Seventh report* (1985, 24 p., ref: T-SG(84)17)

*Parliamentary Assembly of the Council of Europe* (thirty-sixth ordinary session)

■ **Opinion No. 121 (1985)**<sup>72</sup> on the eighth period of supervision of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, notably Articles 28 and 29 on consultation with the Assembly on the application of the Charter;
2. Having examined the conclusions of the Committee of Independent Experts concerning the supervision and application of the Charter during the period 1980-81 (eighth period of supervision), and having taken into consideration the 8th report of the Governmental Committee of the European Social Charter;
3. Noting that the states bound by the Charter have again made substantial efforts during this period to ensure more satisfactory application of the principles enshrined in this instrument, and that a number of laws and regulations have been adopted which confirm the Charter's beneficial influence for the pursuit of social progress in the member countries of the Council of Europe;
4. Regretting, however, that the economic crisis has prompted certain states to reduce the level of social protection despite the undertakings contracted by them, in particular where the rights of migrant workers are concerned;
5. Noting that, in other fields too, not all the Contracting Parties are complying fully with their undertakings;
6. Considering it necessary, for the purpose of ensuring effective supervision and observance of the undertakings given, to draw the attention of the governments of the states in question, pursuant to Article 29 of the Charter, specifically to the application of certain provisions of the Charter which are not being fully complied with;

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72. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 22 March 1985. See Doc. 5374, report of the Committee on Social and Health Questions.

7. Considering also that, taking into account the present economic crisis and its effects on employment and working conditions, all member states should be reminded of the need to give full application to the measures of Articles 1, 3, 10 and 12 of the Charter;
8. Considering, further, that, twenty years after the entry into force of the European Social Charter, the organs of the Council of Europe should make a special effort to draw the attention of those member states which are not yet bound by the Charter to the importance of this instrument, which is to social affairs what the European Convention on Human Rights is to the protection of civil and political rights,
9. Accordingly recommends that the Committee of Ministers make specific recommendations, according to Article 29 of the European Social Charter, with a view to improving the application of the Charter, to the following member states:
  - a. Cyprus, Ireland and the United Kingdom in respect of Article 5;
  - b. Denmark, Ireland and the United Kingdom in respect of Article 8, paragraph 1;
  - c. the Federal Republic of Germany, Austria, Norway, the United Kingdom in respect of Article 19, paragraph 6;
10. Recommends also that the Committee of Ministers draw the attention of all states bound by the Charter to the need to give full application to the measures of Articles 1, 3, 10 and 12 of the Charter;
11. Requests the Committee of Ministers to ask the governments of those member countries that have not yet ratified the European Social Charter (Belgium, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey, some of which have not yet signed it) to take note of this opinion and take whatever steps are necessary in order to remove any obstacles to ratification and to inform the Committee of Ministers before the end of 1985 of the provisions foreseen for the ratification of the Social Charter in the near future.

#### *Committee of Ministers*

■ **Resolution ChS (85) 1** concerning the implementation of the European Social Charter during the period 1980-81 (eighth period of supervision)  
*(Adopted by the Committee of Ministers on 21 June 1985 at the 387th meeting of the Minister's Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Having taken note of the 8th report of the Governmental Committee set up under Article 27, to which Conclusions VIII of the Committee of Independent Experts are appended, and of Opinion No. 121 of the Consultative Assembly on the 6th report submitted by the Government of Austria, the 7th report submitted by the Government of Cyprus, the 4th report submitted by the Government of France, and the 8th reports submitted by the Governments of Denmark, the Federal Republic of Germany, Ireland, Italy, Norway, Sweden and the United Kingdom, the first reports

submitted by the Governments of the Netherlands and Spain for the periods 22 May 1980-31 December 1981 and 5 June 1980-31 December 1981 respectively,

1. Considers that all these states apply to a very large extent the provisions of the Charter which they have accepted;
2. Decides to communicate to the governments of these states Conclusions VIII of the Committee of Independent Experts, the 8th report of the Governmental Committee and Consultative Assembly Opinion No. 121;
3. Draws the attention of the governments of the states concerned to cases not entirely in conformity with the Charter and relating to Articles 5, 8, paragraph 1, and 19, paragraph 6, in regard to which steps may have to be taken with a view to bringing domestic legislation, regulations and practice more fully into line with the obligations arising from the Charter.

## 9. Ninth supervision cycle – first group of states

*Committee of Independent Experts – Conclusions IX-1* (1985, 174 p., ISBN: 92-871-0788-2)

*Governmental Committee Ninth report (I)* (1986, 41 p., ref: T-SG(86)1)

*Parliamentary Assembly of the Council of Europe* (thirty-eighth ordinary session)

■ **Opinion No. 128 (1986)**<sup>73</sup> on the ninth supervision cycle of the application of the European Social Charter

The Assembly,

1. Considering that the system for supervising the application of the European Social Charter, as designed and operated particularly at Committee of Ministers level, is far from generally satisfactory in the eyes of the Assembly, despite the few positive changes made in recent years;
2. Having regard to Part IV of the European Social Charter, in particular to Articles 28 and 29, which require the Assembly to be consulted on its application;
3. Having examined the conclusions of the Committee of Independent Experts on supervision of the application of the Charter during the period 1982-83 (ninth supervision cycle) in six of the contracting states (Denmark, Iceland, Norway, the Netherlands, the United Kingdom and Sweden), and having also taken into consideration the 9th report of the Governmental Committee of the European Social Charter;
4. Welcoming the increasing convergence between the conclusions of the Committee of Independent Experts and those of the Governmental Committee;
5. Noting with satisfaction that, as during the previous supervision cycles, further progress has been made on several points in the various countries towards the achievement of the European Social Charter's objectives through the adoption of statutes, regulations and practices ensuring better application of the Charter;

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73. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 3 July 1986. See Doc. 5576, report of the Social and Health Affairs Committee.

6. Noting once again, however, that whereas well advised measures have been taken in several countries with a view to counteracting the effects of the economic crisis, such as the adoption of arrangements to improve the vocational training of young people, there has been no such improvement in other cases, as evidenced, for example, by certain measures to reduce the earnings of young people;
7. Considering that the time has come to draw the attention of governments to the special importance which should be attached to observance of undertakings given under the European Social Charter, in particular as regards the protection of young people (Article 7) and the abolition of all discrimination between men and women at work (Article 1, paragraph 2, and Article 4, paragraph 3), and to call on them to remove all deficiencies noted in the application of these provisions;
8. Considering also that the states bound by the charter which have not yet fully accepted its provisions relating to the above-mentioned problems, namely Article 7 on the protection of children and young persons and Article 4, paragraph 3, on equal pay for men and women for work of equal value, should be called on to implement the necessary procedures for the acceptance of those provisions;
9. Regretting that *vis-à-vis* the member states which have not yet ratified the Social Charter the Committee of Ministers has taken no action to secure such ratification,
10. Accordingly recommends that the Committee of Ministers:
  - i. ask those member states which have not yet ratified the Social Charter to indicate why they have not yet done so and to ratify it in a reasonably near future;
  - ii. make specific recommendations to the following member states in accordance with Article 29 of the Social Charter:
    - a. Sweden, as regards the application of Article 7, paragraph 1;
    - b. the Netherlands, the United Kingdom and Sweden, as regards the application of Article 7, paragraph 3;
    - c. the Netherlands and the United Kingdom and Sweden, as regards the application of Article 7, paragraph 5;
    - d. Norway, as regards the application of Article 7, paragraph 6;
    - e. Sweden, as regards the application of Article 7, paragraph 9;
11. Likewise recommends that the Committee of Ministers draw the attention of all contracting states to the desirability of implementing the necessary procedures for the acceptance (in cases where they have not yet been accepted) of the provisions for the Article 7, paragraphs 1 to 10, and Article 4, paragraph 3, of the charter, as well as to the need to give full effect to those provisions and to those of Article 1, paragraph 2, which has already been accepted by all contracting states;
12. Reiterates its intention to seek means of supplementing the supervision of the Social Charter by a more thorough political examination of current social policies, notably by the introduction of the "social balance sheets" already proposed in its Recommendation 1022 and envisaged in the Secretary General's draft medium-term plan.

## *Committee of Ministers*

■ **Resolution ChS (88) 1** concerning the implementation of the European Social Charter during the period 1982-83 (ninth supervision cycle – first group of states) (*Adopted by the Committee of Ministers on 26 April 1988 at the 416th meeting of the Ministers' Deputies*)

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the 3rd report submitted by the Government of Iceland, the 2nd report submitted by the Government of the Netherlands and the 9th reports submitted by the Governments of Denmark, Norway, Sweden and the United Kingdom;

Considering Conclusions IX of the Committee of Independent Experts appointed under Article 25 of the Charter, the 9th report of the Governmental Committee appointed under Article 27 of the Charter and Opinion No.128 (1986) of the Parliamentary Assembly,

Draws the attention of the governments of the states listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 9th report of the Governmental Committee and in accordance with Article 29 of the Charter.

Recommends the governments concerned to take account, in an appropriate manner, of the various observations made in that report.

## **10. Ninth supervision cycle – second group of states**

*Committee of Independent Experts – Conclusions IX-2* (1986, 160 p. ISBN: 92-871-0901-X) and Addendum (1987, 51 p., ISBN: 92-871-0989-3)

*Governmental Committee Ninth report (II)* (1987, 42 p., (no ref.))

*Parliamentary Assembly of the Council of Europe* (thirty-ninth ordinary session)

■ **Opinion No. 137 (1988)**<sup>74</sup> on the second stage of the ninth supervision cycle of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, in particular to Articles 28 and 29, which require the Assembly to be consulted on the application of the Charter;

2. Having examined the conclusions of the Committee of Independent Experts on supervision of the application of the Charter during the period 1982-84 (ninth supervision cycle) in seven of the contracting states (Austria, Cyprus, the Federal

74. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 March 1988. See Doc. 5816, report of the Social and Health Affairs Committee.



Republic of Germany, France, Ireland, Italy and Spain), and having also taken into consideration the 9th report of the Governmental Committee of the European Social Charter;

3. Welcoming the convergence in several instances between the conclusions of the Committee of Independent Experts and those of the Governmental Committee as a very positive development, but deploring, on the other hand, the many instances in which the Governmental Committee did not join the Independent Experts in their conclusions, but rather deferred the adoption of its own conclusions and, in interpretation session which implies the risk of diverging interpretations.

4. Noting with satisfaction that, as during the previous supervision cycles, further progress has been made on several points in the various countries towards the achievement of the European Social Charter's objective through the adoption of statutes, regulations and practices ensuring a better application of the Charter;

5. Noting once again, however, that, whereas well-advised measures have been taken in several countries with a view to counteracting the effects of the economic crisis, such as the adoption of arrangements to improve the vocational training of young people, there has been no such improvement in other cases, as evidenced, for example, by certain measures to reduce the earnings of young people and by the delay in measures to protect children and juveniles against work and working hours which jeopardise their education and vocational training;

6. Noting that, in other fields too, not all the contracting states whose reports have been examined, are complying fully with their undertakings;

7. Considering that the time has come to draw the attention of governments to the special importance which should be attached to the observance of undertakings given under the European Social Charter, in particular as regards the protection of young people (Article 7) and the abolition of all discrimination between men and women at work (Article 1, paragraph 2 and Article 4, paragraph 3), and to call on them to remove all deficiencies noted in the application of these provisions;

8. Considering also that the states bound by the Charter which have not yet fully accepted its provisions relating to the above-mentioned problems, namely Article 7 on the protection of children and young persons, and Article 4, paragraph 3, on equal pay for men and women for work of equal value, should be called on to implement the necessary procedures for the acceptance of those provisions;

9. Regretting that *vis-à-vis* the member states which have not yet ratified the European Social Charter, the Committee of Ministers has taken no specific action to secure such ratification;

10. Considering that it is necessary, for the purpose of ensuring the full observance and an effective supervision of the Charter, that the Committee of Ministers specifically draw the attention of the governments of the contracting states in question, pursuant to Article 29 of the Charter, to certain provisions of the Charter which have not been fully complied with;

11. Expressing therefore its great disappointment that, until now, the Committee of Ministers has never acted upon the Assembly's recommendation to make specific

recommendations to certain contracting states in accordance with Article 29 of the Charter, not even in cases where the Assembly's recommendation was based upon the convergent conclusions of the Committee of Independent Experts and the Governmental Committee;

12. Noting with regret that none of the national employers' organisations and the trade unions referred to in Articles 23 and 24 of the Charter has made any comments on the governments' reports;

13. Reiterating its intention to seek means of supplementing the supervision of the European Social Charter by a more thorough political examination of current social policies;

14. Welcoming the adoption of the additional protocol to the Charter by the Committee of Ministers during their 81st Session as a first step towards a further extension of the rights guaranteed by the Charter, and the progress made in the discussions within the Committee of Ministers on the possibilities of further improving the supervision system, and expressing the hope that these efforts will be continued and that the Assembly will be consulted in time on any proposal on these matters,

15. Accordingly, recommends that the Committee of Ministers:

- i. ask those member states which have not yet ratified the European Social Charter (Belgium, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey) to submit a report to the Committee of Ministers before the end of 1988 stating the difficulties which prevent or delay ratification;
- ii. apply Article 22 positively and dynamically by asking the Contracting Parties to submit reports on the reasons why they are unable to accept additional provisions, so that ratification may result in the acceptance of all provisions within a reasonable time;
- iii. draw, more specifically, the attention of the governments of the following member states to the desirability of implementing the necessary procedures for the acceptance of Article 4, paragraph 3, and Article 7, to the extent that they have not yet accepted these provisions:
  - a. Austria, as regards Article 7, paragraphs 1 and 6;
  - b. Cyprus, as regards Article 4, paragraph 3, and Article 7, paragraphs 1 to 10
  - c. the Federal Republic of Germany, as regards Article 7, paragraph 1;
  - d. Ireland, as regards Article 4, paragraph 3, and Article 7, paragraphs 1, 7 and 9;
- iv. make specific recommendations to the following member states in accordance with Article 29 of the European Social Charter:
  - a. France, as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 1 and 3;
  - b. Ireland as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 3, 4 and 5;
  - c. Italy, as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 1, 3 and 4;

- v. draw the attention of all contracting states to the fact that, for an effective supervision of the application of the Charter, it is necessary that the biennial reports are submitted in time, and that they contain all relevant information, including the additional information requested during the previous supervision cycle;
- vi. invite governments to promote the effective application of Articles 23 and 24 as an intermediate stage to full participation of national employers' organisations and trade unions in the supervision cycle at the level of the Governmental Committee.

### *Committee of Ministers*

■ **Resolution ChS (88) 2** concerning the implementation of the European Social Charter during the period 1982-84 (ninth supervision cycle – second group of states) (*Adopted by the Committee of Ministers on 13 June 1988 at the 418th meeting of the Ministers' Deputies*)

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the 2nd report submitted by the Government of Spain, the 5th report submitted by the Government of France, the 7th report submitted by the Government of Austria, the 8th report submitted by the Government of Cyprus and the 9th reports submitted by the Governments of the Federal Republic of Germany, Ireland and Italy;

Considering Conclusions IX-2 (and addendum) of the Committee of Independent Experts appointed under Article 25 of the Charter, the 9th report (II) of the Governmental Committee appointed under Article 27 of the Charter and Opinion No. 137 (1988) of the Consultative Assembly,

Draws the attention of the governments of the states listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 9th report (II) of the Governmental Committee and in accordance with Article 29 of the Charter,

Recommends the governments concerned to take account, in an appropriate manner, of the various observations made in that report.

## **11. Tenth supervision cycle – first group of states**

*Committee of Independent Experts – Conclusions X-1* (1987, 222 p. ISBN: 92-871-1075-1) and Addendum (1990, 13 p. ISBN: 92-871-1837-X)

*Governmental Committee Tenth report (I)* (1987, 44 p. (no ref.))

*Parliamentary Assembly of the Council of Europe* (forty-first ordinary session)

■ **Opinion No. 145 (1989)**<sup>75</sup> on the first stage of the tenth supervision cycle of the application of the European Social Charter

The Assembly,

1. Having regard to Part IV of the European Social Charter, in particular to Articles 29 and 29, which require the Assembly to be consulted on the application of the Charter;
2. Having examined the conclusions of the Committee of Independent Experts on supervision of the application of the Charter during the period 1984-85 (tenth supervision cycle) in seven of the contracting states (Denmark, Greece, Iceland, Norway, the Netherlands, Sweden and the United Kingdom), and having also taken into consideration the tenth report (I) of the Governmental Committee of the European Social Charter;
3. Welcoming the convergence in several instances between the conclusions of the Committee of Independent Experts and those of the Governmental Committee, but deploring, however, the many instances in which the Governmental Committee did not joint the Independent Experts in their conclusions, but deviated from them or deferred its own conclusions, and deploring also the instances in which the Governmental committee deviated from the interpretation of charter provisions given by the Committee of Independent Experts;
4. Noting with satisfaction that, as during the previous supervision cycles, further progress has been made on several points in the various countries towards the achievement of the European Social Charter's objectives through the adoption of statutes, regulations and practices ensuring a better application of the Charter;
5. Noting also with satisfaction that, in many countries, various policies have been introduced to combat unemployment, in particular, unemployment of young people, women, older workers, migrant workers and the disabled;
6. Noting, however, that in spite of such policies the unemployment rate – in particular, the youth unemployment rate – is still very high in some countries;
7. Noting with regret that not all the contracting states, whose reports have been examined, are complying fully with their undertakings under the Charter;
8. Drawing attention, in particular, to the unsatisfactory situation concerning respect for the obligation to protect effectively the right of the worker to earn his living in an occupation freely entered upon (Article 1, paragraph 2, of the Charter), which should be considered as one of the basic rights of workers;
9. Noting also the problems which still occur with regard to respect for the right to collective action in case of labour conflicts, including the right to strike (Article 6, paragraph 4), and stressing the fact that collective action, an essential element of freedom of association, is recognised in international law as one of the fundamental

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75. Assembly debate on 9 May 1989 (3rd sitting) (see Doc. 6030, report of the Social, Health and Family Affairs Committee, Rapporteur: Mr Bohl). Text adopted by the Assembly on 9 May 1989 (3rd sitting).

rights of workers, and that accordingly states should make every effort to prevent infringements thereof;

10. Considering also that those contracting states which have not yet accepted all the provisions of the Charter should be called upon to implement the necessary procedures for their acceptance;

11. Regretting that, *vis-à-vis* those member states which have not yet ratified the Social Charter, the Committee of Ministers has taken no specific action to secure ratification;

12. Stressing once again that, in order to ensure full observance of the Charter and effective supervision of its application, the Committee of Ministers should draw the attention of the governments of the contracting states specifically to those provisions which they have not fully complied with, by making the necessary recommendations pursuant to Article 29 of the Charter;

13. Expressing therefore its great disappointment that the Committee of Ministers has still not acted upon the Assembly's recommendation that specific recommendations should be made to certain contracting states in accordance with Article 29 of the Charter, not even in cases where the Assembly's recommendation was based upon convergent conclusions of the Committee of Independent Experts and the Governmental Committee; and desirous that the Committee of Ministers initiate discussions to amend its voting procedure under Article 29 of the Charter to enable it to perform its functions under that article in a more effective way;

14. Noting with satisfaction that, in this phase of the tenth supervision cycle, some national employers' organisations and trade unions, as provided for in Articles 23 and 24 of the Charter, have made comments on the governmental reports, and expressing the hope that more national organisations will in the future make use of the opportunities made available to them under Article 23;

15. Reiterating its intention to highlight efforts at seeking ways and means to improve the implementation of the Charter,

16. Accordingly recommends that the Committee of Ministers:

- i. ask those member states which have not yet accepted the Social Charter (Belgium, Liechtenstein, Luxembourg, Portugal, San Marino, Switzerland and Turkey) to submit reports to the Committee of Ministers before the end of 1989 stating the difficulties which prevent or delay signature or ratification;
- ii. include the Additional Protocol in the group of core provisions which must be accepted upon ratification of the Charter;
- iii. apply Article 22 positively and dynamically, so that this procedure may result in the acceptance of all provisions within a reasonable time;
- iv. draw the specific attention of the governments of the following contracting states to the desirability of implementing the necessary procedures for the acceptance of the provisions of the Charter examined by the Assembly, to the extent that they have not yet accepted them;
  - ▶ Denmark, as regards Article 4, paragraph 4, and Article 7, paragraph 9;

- ▶ Greece, as regards Article 6, paragraph 4;
  - ▶ Iceland, as regards Article 7, paragraph 9;
  - ▶ Norway, as regards Article 7, paragraph 9;
- v. make specific recommendations to the following member states in accordance with Article 29 of the Social Charter;
- ▶ Denmark as regards the application of Article 6, paragraph 4;
  - ▶ Greece, as regards the application of Article 1, paragraph 2;
  - ▶ Iceland, as regards the application of Article 1, paragraph 2, and Article 6, paragraph 4;
  - ▶ the Netherlands, as regards the application of Article 1, paragraph 2, Article 3, paragraph 1, and Article 4, paragraph 4;
  - ▶ Sweden, as regards the application of Article 7, paragraph 9;
  - ▶ the United Kingdom, as regards the application of Article 1, paragraph 2, Article 4, paragraph 4, and Article 6, paragraph 4;
- vi. draw the attention of all contracting states to the fact that effective supervision of the application of the Charter depends on having biennial reports submitted in time and containing all relevant information, including the additional information requested during the previous supervision cycle;
- vii. invite governments to promote the effective application of Articles 23 and 24 as an intermediate stage to full participation of national employers' organisations and trade unions in the supervision cycle at the level of the Governmental Committee;
- viii. convene an international conference on the revision of the European Social Charter, which should focus on the desirability and feasibility of both modifying and supplementing the substantive rights contained in the Charter, and of revising its supervisory mechanism, taking also into account developments within the European Community;
- ix. pending the outcome of this conference, strengthen the resources and instruments of the Committee of Independent Experts – including the provision of an adequate secretariat – to enable it to perform its functions more efficiently and effectively.

#### *Committee of Ministers*

■ **Resolution ChS (89) 1** concerning the implementation of the European Social Charter during the period 1984-85 (tenth supervision cycle – first group of states) *(Adopted by the Committee of Ministers on 13 September 1989 at the 428th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports presented by the Governments of Denmark, Greece, Iceland, the Netherlands, Norway, Sweden and the United Kingdom for the period from 1 January 1984 to 31 December 1985;

Considering Conclusions X-1 of the Committee of Independent Experts appointed under Article 25 of the Charter, the 10th report (I) of the Governmental Committee appointed under Article 27 of the Charter and Assembly Opinion No. 145 (1989),

Draws the attention of the governments of the states listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 10th report (I) of the Governmental Committee and in accordance with Article 29 of the Charter,

Recommends the governments concerned to take account, in an appropriate manner, of the various observations made in that report.

## 12. Tenth supervision cycle – second group of states

*Committee of Independent Experts – Conclusions X-2* (1988, 210 p. ISBN: 92-871-1619-9)

*Governmental Committee Tenth report (II)* (1989, 43 p. (no ref.))

*Parliamentary Assembly of the Council of Europe* (forty-second ordinary session)

■ **Opinion No. 149 (1990)**<sup>76</sup> on the application of the Social Charter of the Council of Europe (tenth cycle: phase 2)

1. In the periodical opinions which it is given the opportunity to present on the application of the Social Charter,<sup>77</sup> the Assembly usually focuses on respect shown for the specific obligations by which Contracting Parties consider themselves formally bound.

2. 1989, however, was a most exceptional year. Events in central and eastern Europe led the Assembly to draw attention to the Social Charter of the Council of Europe “as an instrument of dialogue and *rapprochement*” with the countries concerned (Recommendation 1107). In the field of social policy, the year was marked by a strong but unsuccessful<sup>78</sup> effort to produce a “social charter” for the European Community. The Assembly commented on and sought to influence the direction of this effort in its Resolutions 915 and 931.<sup>79</sup>

3. A side-effect of this effort was to throw light on the value of the Social Charter of the Council of Europe as a statement of principles governing the aims of policy, in contrast to its value as a statement of formal obligations.

3.1. As a statement of social policy principles, the Social Charter of the Council of Europe “embodies a wider range of rights, fuller standards and a more all-embracing view of social protection” (Resolution 931) than anything the European Community looked like coming up with in the course of last year.

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76. Text adopted by the Assembly, under the tacit adoption procedure, on 8 May 1990. See Doc. 6201 and addendum, report of the Social, Health and Family Affairs Committee, Rapporteur: Mr Bohl.

77. Under Article 28 of the Social Charter.

78. In so far as it was impossible to reach unanimous agreement between all member states of the Community.

79. Further to the substantive discussions of the Utrecht Symposium (25-26 April 1989) and the Syracuse Hearing (19-20 October 1989).

- 3.2. Nine of the twelve Community states already subscribe to these aims, and it is understood by the Assembly that the governments of the other three are currently promoting their countries' accession.
- 3.3. Social policy initiatives will continue to be taken within the Community (notably in regard to the health and safety of people at work), yet nothing could be more judicious nor in tune with the views of Resolution 931) than to work towards the realisation of a "European social area" which encompasses all countries of the Council of Europe, including those of the Community and EFTA, and extends potentially to those of Eastern and Central Europe which are showing interest in stronger relations with the European institutions.
4. Accordingly, the Assembly has called (Resolution 931) for accession by the European Community to the Social Charter of the Council of Europe on the grounds:
  - a. that the latter instrument, suitably adapted, needs to be brought into a proper relationship with Community law;
  - b. that a broader and richer basis would thereby be afforded for social action and policy throughout the Community (in conformity with the "principle of subsidiarity");
  - and c. that this is in the interest of the wider Europe which is emerging.
5. The Assembly has attached great importance to its involvement in the procedures of the Social Charter. It has always marked its appreciation of the work of the committees of independent experts and governmental representatives. I would wish to do so again in respect of the reports/conclusions of these two committees which are currently transmitted for opinion to it on the tenth supervision cycle 1985-86 for Austria, Cyprus, France, the Federal Republic of Germany, Ireland, Italy and Spain.
6. But, on this occasion, the Assembly's presentation of specific comments (see below) on the information and interpretations developed under the procedures of the Social Charter in respect of the period and countries concerned should not be allowed to deflect attention from what is now essential: revision of procedures with a view to the accession of the European Community and to an opening-up towards central and eastern Europe.
7. The Assembly is aware of the many legal difficulties which will have to be resolved. These difficulties must not serve as a pretext for inaction.
8. In its Resolution 931, the Assembly called for discussions to be set in train between the European Community and the Council of Europe. It transmits herewith to the Committee of Ministers its opinion that the time is ripe for the next "quadrupartite" meeting (see Recommendation 1107) to set up a "study group" in whatever form might be judged most appropriate.
9. Meanwhile, the Assembly, according to the prescribed procedure of Part IV of the Charter, transmits to the Committee of Ministers the following observations.
  - 10.1. Satisfactory progress has been made in some member states. For example, in Cyprus, a maternity protection law was adopted in 1987, modelled to some extent on the provisions of Article 8 of the Charter. In Austria, as from 1 July 1988, following an amendment to legislation on the employment of foreigners, young



second-generation foreigners are henceforth exempt from the obligation of getting a work permit in order to follow training courses.

10.2. As noted, however, by the Committee of Independent Experts and sometimes by the Governmental Committee, certain weaknesses are evident in the application of certain provisions, to which the Committee of Ministers should draw the attention of the states concerned:

*a. Article 1, paragraph 2, on the prohibition of forced labour*

In France, in Ireland and in Italy, sailors in the merchant navy are subject to penal sanctions in certain cases when the safety of the ship and people aboard are not affected; the national legislative provisions in question, although in practice obsolete, remain none the less in force and should be formally abolished.

*b. Article 7, paragraph 3, on the full respect of school obligation*

In Austria, in France, in Ireland and in Italy, there continue to be certain gaps in the legislative or regulatory protection for children of school age who are working in family undertakings, principally in agriculture.

*c. Article 8, paragraph 2, on protection against unjustified dismissal of women at work*

There continue to be anomalies in the legislations of Austria and Italy, which in effect do not protect, in every case, domestic employees against dismissal for reasons of pregnancies.

10.3. In conclusion, the Assembly would wish to register its concern that there are still three member states of the European Community among those which have not yet ratified the Charter (Belgium, Finland, Liechtenstein, Luxembourg, Portugal, San Marino, Switzerland), particularly considering that, in the perspective of Community Membership and participation, it would seem necessary that the twelve states in question at least subscribe to a "minimal platform" consisting of the same articles and provisions.

*Committee of Ministers*

■ **Resolution ChS (90) 1** concerning the implementation of the European Social Charter during the period 1985-86 (tenth supervision cycle – second group of states) *(Adopted by the Committee of Ministers on 12 September 1990 at the meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports presented by the Governments of Austria, Cyprus, the Federal Republic of Germany, France, Ireland, Italy and Spain for the period from 1 January 1985 to 31 December 1986;

Considering Conclusions X-2 of the Committee of Independent Experts appointed under Article 27 of the Charter Assembly Opinion No. 149 (1990),

Draws the attention of the governments of the states listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 10th report (II) of the Governmental Committee and in accordance with Article 29 of the Charter.

Recommends the governments concerned to take account, in an appropriate manner, of the various observations made in that report.

### 13. Eleventh supervision cycle – first group of states

*Committee of Independent Experts – Conclusions XI-1* (1989, 237 p. ISBN: 92-871-1742-X)

*Governmental Committee Eleventh report (I)* (1990, 134 p. (no ref.))

*Parliamentary Assembly of the Council of Europe* (forty-second ordinary session)

■ **Opinion No. 156 (1991)**<sup>80</sup> on the eleventh supervision cycle of the application of the Council of Europe's European Social Charter

1. The Parliamentary Assembly's involvement in the procedure for supervision of the Social Charter (see Part IV of the Charter, Articles 28 and 29) gives it an opportunity of pointing out that the Social Charter and the European Convention on Human Rights, of which the first enshrines social and economic rights, and the second mainly civil and political rights, must be seen as being of equal importance, closely linked and complementary.
2. The Assembly is convinced that giving the Social Charter a new impetus is both highly desirable on the eve of the European Community's Single Market, and politically opportune in view of the changes in central and eastern Europe and the emphasis laid on the economic and social justice aspects of the CSCE process in the Paris Charter.
3. None the less, there remains a striking contrast between the status accorded to the European Social Charter and that accorded to the European Convention on Human Rights by member states, both in their ratification of those texts and in the means and resources which they devote to making them work. The Social Charter has not received its due, and the public at large knows little of its content; moreover, its supervisory procedure is not in keeping either with its value or its content.
4. If the notion of a "European social area" is to have any real credibility, the social rights recognised in the Charter must be made the central element of social policy in all the democratic states of western and eastern Europe, and all the Community states must accept them forthwith, thus removing any doubts concerning their determination to open up towards the so-called "post-communist" societies.
5. The Assembly accordingly:
  - i. welcomes the launching by the Committee of Ministers, in the wake of the informal Ministerial Conference on Human Rights (Rome, 5 November 1990), of a process of reflection and consultation designed to improve both the Charter and its workings;

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80. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 11 March 1991. See Doc. 6395, report on the Social, Health and Family Affairs Committee, Rapporteur: Mr Beix.

- ii. recalls its numerous, earlier proposals on this question, particularly concerning the supervision procedure (see Recommendation 839 (1978), and declares its active support for this initiative and its desire to contribute constructively to it.
6. Within this context and without there being any need to await the outcome of the action taken to revitalise the Charter, the Assembly asks the Committee of Ministers;
- i. to urge all member states which have not yet done so, and all new member states to sign the Social Charter, thus indicating their acceptance of the social values and rights which it enshrines and protects, and their wish to form part of a single European social area;
  - ii. to take practical action to secure even partial ratification of the Charter by states which have not yet done so, using all appropriate means for that purpose, including regular, formal examination of the reasons given by these states for non-ratification, and the legal validity of these reasons.
7. Accordingly, and having examined Conclusions XI-1 of the Committee of Independent Experts of the European Social Charter and the corresponding report of the Governmental Committee, the Assembly asks the Committee of Ministers to make use of the powers given to it by Article 29 and:
- i. while noting with satisfaction the social progress recorded in the various states concerned, to urge these states to respect all their commitments under the Charter, as defined by the Committee of Independent Experts;
  - ii. to urge, in particular, each of the states concerned to ensure at the earliest possible date:
    - a. that all employed or self-employed men and women in industry, farming, the service industries and all other sectors of activity have safe and healthy working conditions (Article 3 of the Charter), bearing in mind our growing awareness of the health risks caused by the environment (including the working environment), technological change, the increased presence of women on the labour-market, etc.;
    - b. that all women can genuinely reconcile their desire to have children with the exercise of a professional activity, by granting them maternity or parental leave in conditions which preserve their living standards, acquired rights and legitimate professional aspirations, protect them against unlawful dismissal and respect the physical integrity and health of mothers, as well as the health and interests of children (Article 8 of the Charter);
    - c. that the right to family life does not remain a dead letter, but is granted in practice to all migrant workers in Europe through effective and generous application of Article 19, paragraph 6, of the Charter, the elimination between Contracting Parties of all direct or indirect obstacles to family reunion, and the extension of this basic right to all aliens lawfully resident in their territory, as urged in the appendix to the Social Charter.

### *Committee of Ministers*

■ **Resolution ChS (91) 1** concerning the implementation of the European Social Charter during the period 1986-87 (eleventh supervision cycle – 1st group of states) (*Adopted by the Committee of Ministers on 23 May 1991 at the 458th meeting of the Ministers' Deputies*)

The Committee of Ministers,

Referring to the European Social Charter and in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports presented by the Governments of Denmark, Greece, Iceland, the Netherlands, Norway, Sweden and the United Kingdom for the period from 1 January 1986 to 31 December 1987;

Considering Conclusions XI-1 of the Committee of Independent Experts appointed under Article 25 of the Charter, the 11th report (I) of the Governmental Committee appointed under Article 27 of the Charter and Assembly Opinion No. 156 (1991).

Draws the attention of the governments of the states listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 11th report (I) of the Governmental Committee and in accordance with Article 29 of the Charter,

Recommends the governments concerned to take account, in an appropriate manner, of the various observations made in the report.

## **14. Eleventh supervision cycle – second group of states**

*Committee of Independent Experts – Conclusions XI-2* (1991, 215 p., ISBN: 92-871-1904-X) and Addendum (1991, 60 p. ISBN: 92-871-1943-0)

*Governmental Committee Eleventh report (II) and Addendum to the 10th report* (1992, 99 p., ISBN: 92-871-2030-7)

### *Committee of Ministers*

■ **Resolution ChS (92) 2** on the implementation of the European Social Charter during the period 1987-88 (11th cycle of supervision – second group of states) and during the period 1984-85 in the Netherlands Antilles (10th supervision cycle) (*Adopted by the Committee of Ministers on 15 December 1992 at the 485th meeting of the Ministers' Deputies*)

The Committee of Ministers,

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter,

Considering the reports submitted by the Governments of Austria, Cyprus, France, Germany, Ireland, Italy and Spain for the period from 1 January 1984 to 31 December 1985;

Considering the report submitted by the Government of the Netherlands on the Netherlands Antilles for the period from 1 January 1984 to 31 December 1985;

Considering Conclusions XI-2, the Addendum to Conclusions X-1 of the Committee of Independent Experts appointed under Article 25 of the Charter as well as the 11th report (II) and the Addendum to the 10th report (I) (Netherlands Antilles) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the States Parties to the Charter and the supervisory bodies, by the Ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21-22 October 1991, on the occasion of the 30th anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, “to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow”;

Noting also that the Parliamentary Assembly, in a letter dated 3 September 1992 from its President to the Chairman of the Committee of Ministers, has decided to abstain from communicating its views on a particular set of conclusions of the Committee of Independent Experts as provided for under Article 28 of the Charter and to use these conclusions as a basis for periodical social policy debates to be held by the Assembly in accordance with Article 6 of the Amending Protocol to the European Social Charter,

Noting that the conclusion of the debate on severe poverty and social exclusion, held on 7 October 1992 by the Assembly, at the third part of its 44th Ordinary Session, reflect the views of the Assembly on the eleventh supervision cycle of the application of the Charter (second group of states) for the period 1987-88 (Order No. 482),

Draws the attention of the governments listed above to the various considerations set out in the aforementioned documents; and,

On the basis of the 11th report (II) and of the Addendum to the 10th report (I) (Netherlands Antilles) of the Governmental Committee and in accordance with Article 29 of the Charter;

Recommends the governments concerned to take account, in an appropriate manner, of all the various observations made in the reports.

## 15. Twelfth supervision cycle – first group of states

*Committee of Independent Experts – Conclusions XII-1* (1992, 355 p., ISBN: 92-871-2067-6)

*Governmental Committee Twelfth report (I)* (1993, 146 p., ISBN: 92-871-2268-7)

*Committee of Ministers*

■ **Resolution ChS (93) 1** on the implementation of the European Social Charter during the period 1988-1989 (12th cycle of supervision – first group of states)

*(Adopted by the Committee of Ministers on 7 September 1993 at the 497th meeting of the Ministers’ Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>81</sup>

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81. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter,

Considering the reports submitted by the Governments of Denmark, Greece, Iceland, the Netherlands, Norway, Sweden and the United Kingdom for the period from 1 January 1988 to 31 December 1989;

Considering Conclusions XII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the Ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the 30th anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this Protocol (the Amending Protocol) before its entry into force, in so far as the text of the Charter will allow";

Noting that the Governmental Committee, in view of this request has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Noting also that the Parliamentary Assembly, in a letter from its President to the Chairman of the Committee of Ministers of 3 September 1992, has decided to abstain from communicating its views on a particular set of conclusions of the Committee of Independent Experts as provided for under Article 28 of the Charter and to use these conclusions as a basis for periodical social policy debates to be held by the Assembly in accordance with Article 6 of the Amending Protocol,

Draws the attention of the governments concerned to the recommendations adopted for the 12th cycle of supervision following the proposals made by the Governmental Committee;

Recommends in addition the governments of the first group of states to take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

*Committee of Ministers*

■ **Recommendation No. R ChS (93) 1** on the application of the European Social Charter by Greece during the period 1988-89 (12th supervision cycle)  
*(Adopted by the Committee of Ministers on 7 September 1993 at the 497th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>82</sup>

Referring to the European Social Charter, in particular Part IV thereof;

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82. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 6 July 1984 with respect to Greece;

Whereas, in accordance with Article 20, Greece has accepted sixty-seven out of the seventy-two provisions contained in the Charter;

Whereas the Government of Greece submitted in 1990 its 3rd report on those provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour), the Committee of Independent Experts adopted a negative conclusion as:

- ▶ Section 64 of Decree 1400/1973 provides that the length of the compulsory period of service for career officers who have followed several training courses may be up to 25 years;
- ▶ the Merchant Navy Penal and Disciplinary Code and Act No. 3276/1944 on collective bargaining in the merchant navy provides for a possibility for penal sanctions against seamen in certain cases not involving the safety of the vessel or of the persons aboard;

Having noted finally that in respect of Article 13, paragraph 4 (equal treatment with respect to social and medical assistance), a recommendation had been proposed as:

- ▶ “pension” for those aged over 68 is restricted to Greek nationals;
- ▶ Legislative Decree 57/1973, which provides that social assistance is granted to foreigners resident in Greece on an equal footing with Greek nationals, also provides that in order to be considered a resident in Greece a foreign national must have been lawfully present in Greece for at least six months,

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to Greece in relation to Article 1, paragraph 2, Article 13, paragraph 1 and Article 13, paragraph 4;

Recommends the Greek Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (93) 2** on the application of the European Social Charter by Norway during the period 1988-89 (12th supervision cycle)

*(Adopted by the Committee of Ministers on 7 September 1993 at the 497th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>83</sup>

83. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Norway;

Whereas, in accordance with Article 20, Norway has accepted sixty out of the seventy-two provisions contained in the Charter;

Whereas the Government of Norway submitted in 1990 its 12th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 6, paragraph 4 (the right to collective action), that according to the Committee of Independent Experts the use of compulsory arbitration in the case of a strike by nurses was not justified under Article 31 of the Charter, as no emergency operation had been cancelled or postponed and as the government intervened at the very beginning of the strike, before its effect could be validly assessed. The Committee of Independent Experts also considered that the apparent absence of any limitation on the government's power to intervene in strike action and the consequent absence of any protection for workers constituted a breach of this provision;

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to Norway in relation to Article 6, paragraph 4; and underlined in this respect that legislative intervention in the right to strike is justified under the Charter, only if the restrictions in question are in conformity with Article 31 of the Charter and could, consequently, not have been applied in respect of the nurses' strike in the circumstances, even though the strike affected a sensitive sector, as the emergency services were not adversely affected and no serious social problems had occurred;

Recommends the Norwegian Government to inform the Parliament of the obligations arising out of Article 6, paragraph 4, of the Charter and to abstain from proposing legislative intervention beyond the limits set by Article 31 of the Charter;

Having noted also that in respect of Article 7, paragraph 3 (the right of children and young persons to protection – the full benefit of compulsory education), that the Committee of Independent Experts found that, although the total number of working hours and school hours for children over the age of 13 who are still subject to compulsory education could not exceed eight hours a day, taking into consideration the duration of classes, it is possible for children to engage in an occupational activity nineteen hours per week. The Committee of Independent Experts considered a total of forty-nine hours work at school and out of school to be excessive for children of that age;

Observes that the Governmental Committee has likewise proposed that an individual recommendation be addressed to Norway in relation to Article 7, paragraph 3,



Recommends the Norwegian Government in this respect to clarify and to amend the regulations governing the working hours of children over the age of 13 who are still subject to compulsory education.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (93) 3** on the application of the European Social Charter by the United Kingdom during the period 1988-89 (12th supervision cycle) *(Adopted by the Committee of Ministers on 7 September 1993 at the 497th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>84</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to the United Kingdom;

Whereas, in accordance with Article 20, the United Kingdom has accepted sixty out of the seventy-two provisions contained in the Charter;

Whereas the Government of the United Kingdom submitted in 1990 its 12th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 6, paragraph 4 (the right to collective action) that the Committee of Independent Experts had reached a negative conclusion as legislation allows an employer to dismiss all employees who take part in strikes, and to re-hire striking workers on a selective basis three months after their dismissal (Section 62 of the 1978 Protection of Employment (Consolidation) Act);

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to the United Kingdom in relation to Article 6, paragraph 4;

Having noted also in respect of Article 8, paragraph 1 (the right of employed women to protection – maternity leave) that the Committee of independent Experts concluded negatively as the amount of maternity benefits was not considered sufficient;

Observes that the Governmental Committee has likewise proposed that an individual recommendation be addressed to the United Kingdom in relation to Article 8, paragraph 1, while underlining that the low amount of maternity benefits in practice puts pressure on women not to benefit from their right to maternity leave;

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84. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Recommends the Government of the United Kingdom to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

## 16. Twelfth supervision cycle – second group of states

*Committee of Independent Experts – Conclusions XII-2* (1993, 347 p., ISBN: 92-871-2243-1)

*Governmental Committee Twelfth report (II)* (1995, 138 p., ISBN: 92-871-2628-3)

*Committee of Ministers*

■ **Resolution ChS (94) 1** on the implementation of the European Social Charter during the period 1989-90 (12th cycle of supervision – second group of states) (*Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies*)

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>85</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter,

Considering the reports submitted by the Governments of Austria, Cyprus, France, Germany, Italy, Malta and Spain for the period from 1 January 1989 to 31 December 1990;

Considering Conclusions XII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the States Parties to the Charter and the supervisory bodies, by the Ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21-22 October 1991, on the occasion of the 30th anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this Protocol (the Amending Protocol) before its entry into force, in so far as the text of the Charter will allow";

Noting that the Governmental Committee, in view of this request has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Noting also that the Parliamentary Assembly, in a letter from its President to the Chairman of the Committee of Ministers of 3 September 1992, has decided to abstain from communicating its views on a particular set of conclusions of the Committee

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85. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

of Independent Experts as provided for under Article 28 of the Charter and to use these conclusions as a basis for periodical social policy debates to be held by the Assembly in accordance with Article 6 of the Amending Protocol,

Draws the attention of the governments concerned to the recommendations adopted for the 12th cycle of supervision following the proposals made by the Governmental Committee;

Recommends in addition the governments of the second group of states to take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

*Committee of Ministers*

■ **Recommendation No. R ChS (94) 1** on the application of the European Social Charter by Austria during the period 1989-90 (12th supervision cycle)  
*(Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>86</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 28 November 1969 with respect to Austria;

Whereas, in accordance with Article 20, Austria has accepted sixty-two out of the seventy-two provisions contained in the Charter;

Whereas the Government of Austria submitted in 1991 its 10th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 5 (the right to organise), that the Committee of Independent Experts had reached a negative conclusion as workers in enterprises with fewer than five employees are not protected against dismissal on grounds of trade union activities;

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to Austria in relation to Article 5;

Having noted also in respect of Article 8, paragraph 2 (illegality of dismissal during maternity leave) that the Committee of independent Experts concluded negatively

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86. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

as the Austrian legislation allows for domestic employees to be dismissed from the end of the fifth month of pregnancy,

Observes that the Governmental Committee has likewise proposed that an individual recommendation be addressed to Austria in relation to Article 8, paragraph 2, while underlining that women are most vulnerable in terms of job security during maternity leave;

Recommends the Government of Austria, to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (94) 2** on the application of the European Social Charter by France during the period 1989-90 (12th supervision cycle)  
*(Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>87</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 8 April 1973 with respect to France;

Whereas, in accordance with Article 20, France has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of France submitted in 1991 its 8th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour) the Committee of Independent Experts had reached a negative conclusion as:

- ▶ Sections 39, paragraph 4 and 59, paragraph 1 of the Disciplinary and Penal Code of the Merchant Navy, providing a possibility for penal sanctions against seamen in certain cases not involving the safety of the vessel or the life or health of those on board, had still not been repealed,

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to France in relation to Article 1, paragraph 2;

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87. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Recommends the French Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (94) 3** on the application of the European Social Charter by Germany during the period 1989-90 (12th supervision cycle)  
*(Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>88</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Germany;

Whereas, in accordance with Article 20, Germany has accepted sixty-seven out of the seventy-two provisions contained in the Charter;

Whereas the Government of Germany submitted in 1991 its 12th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 19, paragraph 6 (the right of migrant workers to family reunion), that the Committee of Independent Experts had reached a negative conclusion as:

- ▶ the age limit for the entry of children of migrant workers nationals of non-European Community Contracting Parties to the Charter for purposes of family reunion was sixteen years instead of twenty-one, as provided for in the Appendix to the Charter;
- ▶ family reunion was not allowed in the case of young persons with only one parent resident in Germany, and;
- ▶ second generation migrant workers must have been resident in Germany for at least eight years and have been married for at least one year in order for their spouses to be allowed to enter Germany for purposes of family reunion;

Observes that the Governmental Committee, while pointing out that it has made a proposal to the Committee on the European Social Charter (Charte-Rel), to lower the age limit for family reunion provided for in the Appendix to Article 19 para. 6 of the Charter to eighteen years, has proposed, in accordance with Article 29 of the Charter, that an individual recommendation be addressed to Germany under Article 19

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88. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

para. 6 to amend its legislation in order to allow all children under eighteen years of age of migrant workers legally resident in Germany and the spouses of second generation migrant workers legally resident in Germany, to enter this country for purposes of family reunion;

Recommends the Government of Germany, to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (94) 4** on the application of the European Social Charter by Italy during the period 1989-90 (12th supervision cycle)

*(Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>89</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 21 November 1965 with respect to Italy;

Whereas, in accordance with Article 20, Italy has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Italy submitted in 1991 its 12th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 12th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour) the Committee of Independent Experts had reached a negative conclusion as Sections 1091 and 1094 of the Navigation Code provide for penal sanctions for seamen and civil aviation staff who desert their posts or refuse to obey orders in certain cases not involving the safety of the vessel or aeroplane or of the persons aboard;

Having noted also that in respect of Article 3 para. 2 (provision for the enforcement of safety and health regulations by measures of supervision), the Committee of Independent Experts had not received statistical information on the activities of the local health units enabling it to change its previous negative conclusion;

Having noted further that as regards Article 4 para. 4 (reasonable notice of termination of employment), the Committee of Independent Experts had adopted a negative conclusion as the periods of notice were insufficient in certain branches of activity;

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89. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Having noted also that as regards Article 4 para. 5 (limitation of deduction from wages), the Committee of Independent Experts had adopted a negative conclusion as no regulation of deductions from wages for workers' debts to their employers had been introduced;

Having noted as well that in respect of Article 7 para. 1 (minimum age of admission to employment), the Committee of Independent Experts had adopted a negative conclusion as there was no prohibition of employment of young persons under fifteen years of age in agriculture and domestic work;

Having noted also that in respect of Article 8 paras. 1, 2 and 3 (paid maternity leave; illegality of dismissal during maternity leave; time-off for nursing mothers), the Committee of Independent Experts had adopted negative conclusions as domestic employees:

- ▶ were not entitled to maternity cash benefits if they were dismissed during pregnancy;
- ▶ were not protected by a ban on dismissal during maternity leave or at such a time that the notice of dismissal would expire during such leave;

and as domestic employees and home workers:

- ▶ were not entitled to nursing breaks;

Having noted finally that as regards Article 13 para. 1 (social and medical assistance for those in need), the Committee of Independent Experts had adopted a negative conclusion as there was no entitlement as of right to social assistance, with the possibility of appeal to an independent body of appeal, such as a court;

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to Italy in relation to Article 1 para. 2, Article 3 para. 2, Article 4 paras. 4 and 5, Article 7 para. 1, Article 8 paras. 1, 2 and 3, and Article 13 para. 1;

Observes that in respect of Article 3 para. 2, the Governmental Committee has proposed that the recommendation should invite Italy to provide the information needed for the Committee of Independent Experts to arrive at a positive conclusion;

Observes also that in respect of Article 7 para. 1, the Governmental Committee has proposed that the recommendation should invite Italy to amend its legislation so as to restrict the authorisation of employment of young persons aged under fifteen to cases of light work;

Recommends the Italian Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts, as well as the proposals of the Governmental Committee, and invites it to provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (94) 5** on the application of the European Social Charter by Spain during the period 1989-90 (12th supervision cycle)  
*(Adopted by the Committee of Ministers on 8 April 1994 at the 511th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>90</sup>

Referring to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 5 June 1980 with respect to Spain;

Whereas, in accordance with Article 20, Spain has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Spain submitted in 1991 its 5th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XII-2 of the Committee of Independent of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour) the Committee of Independent Experts adopted a negative conclusion as the Act of 22 December 1955 relating to merchant seamen and that of 24 December 1964 (as amended by the organic law of 1986) relating to airmen, included provisions for criminal sanctions in the event of disciplinary offences, even in those cases where neither the safety of the vessel or aeroplane, nor the life or health of those on board were threatened,

Observes that the Governmental Committee, in accordance with Article 29 of the Charter, has proposed that an individual recommendation be addressed to Spain in relation to Article 1, paragraph 2;

Recommends the Spanish Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

## 17. Thirteenth supervision cycle – first part

*Committee of Independent Experts – Conclusions XIII-1* (1994, 304 p., ISBN: 92-871-2465-5)

*Governmental Committee Thirteenth report (I)* (1995, 240 p., ISBN: 92-871-2753-0)

*Committee of Ministers*

■ **Resolution ChS (95) 1** on the implementation of the European Social Charter during the period 1990-91 (13th supervision cycle – part I)

*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>91</sup>

90. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

91. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.



Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports submitted by the Governments of Denmark, Greece, Iceland, Ireland,<sup>92</sup> the Netherlands, Norway, Sweden, Turkey and the United Kingdom for the period from 1 January 1990 to 31 December 1991, as well as those submitted by the Governments of Austria, Cyprus, France, Italy and Spain for the period from 1 January to 31 December 1991;

Considering Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the States Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol], before its entry into force, in so far as the text of the Charter will allow";

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Noting also that the Parliamentary Assembly, in a letter from its President to the Chairman of the Committee of Ministers of 3 September 1992, has decided to abstain from communicating its views on a particular set of conclusions of the Committee of Independent Experts as provided for under Article 28 of the Charter and to use these conclusions as a basis for periodical social policy debates to be held by the Assembly in accordance with Article 6 of the Amending Protocol,

Draws the attention of the governments concerned to the recommendations adopted for the 13th supervision cycle (part I) following the proposals made by the Governmental Committee;

Recommends in addition that these governments take account, in an appropriate manner, of all the various observations made in the conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

*Committee of Ministers*

■ **Recommendation No. R ChS (95) 1** on the application of the European Social Charter by Austria during the year 1991 (13th supervision cycle – part I)  
*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

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92. The Irish report also covered the year 1989

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>93</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 28 November 1969 with respect to Austria;

Whereas, in accordance with Article 20, Austria has accepted sixty-two out of the seventy-two provisions contained in the Charter;

Whereas the Government of Austria submitted in 1992 its 11th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted in respect of Article 5 (the right to organise) that the Committee of Independent Experts had reached a negative conclusion since the 11th cycle as workers in enterprises with fewer than five employees are not protected against dismissal on grounds of trade union activities,

Recalls that, as proposed by the Governmental Committee in its 12th report (II) it had, on 8 April 1994, issued a recommendation to Austria in relation to Article 5;

Observes that no change had occurred in part I of the 13th cycle,

Recommends the Government of Austria to take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and of this second recommendation of the Committee of Ministers and again invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 2** (on the application of the European Social Charter by Denmark during the period 1990-91 (13th supervision cycle – part I) *(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>94</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 2 April 1965 with respect to Denmark;

93. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

94. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas, in accordance with Article 20, Denmark has accepted forty-five out of the seventy-two provisions contained in the Charter;

Whereas the Government of Denmark submitted in 1992 its 13th report on those provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 5 (the right to organise), the Committee of Independent Experts had adopted a negative conclusion as the Danish International Ships' Register interfered with the right freely to join or form organisations, fettering the right of workers to protect their economic and social interests, as well as the right of trade unions to protect their members by limiting the scope of collective agreements;

Having noted also that in respect of Article 6, paragraph 2 (promotion of machinery for voluntary negotiations), the Committee of Independent Experts had adopted a negative conclusion because of the restrictions introduced by the 1988 Act establishing the Danish International Ships' Register on collective bargaining and the unequal treatment for nationals of Contracting Parties in this field;

Having noted as well that in respect of Article 6, paragraph 4 (the right to collective action), the Committee of Independent Experts had adopted a negative conclusion as civil servants were denied the right to strike,

Observes that the Governmental Committee, in accordance with Article 29 of the Charter, has proposed that an individual recommendation be addressed to Denmark in relation to Article 5 and Article 6, paragraphs 2 and 4;

Recommends that the Danish Government take account in an appropriate manner of the negative conclusions of the Committee of Independent Experts, and invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 3** on the application of the European Social Charter by France during the year 1991 (13th supervision cycle – part I)  
*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>95</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 8 April 1973 with respect to France;

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95. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas, in accordance with Article 20, France has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of France submitted in 1992 its 9th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour), the Committee of Independent Experts had adopted a negative conclusion since the 7th cycle as Sections 39, paragraph 4 and 59, paragraph 1 of the Disciplinary and Penal Code of the Merchant Navy, providing a possibility for penal sanctions against seamen in certain cases not involving the safety of the vessel or the life and health of those on board, had still not been repealed,

Recalls that, as proposed by the Governmental Committee in its 12th report (II) it had, on 8 April 1994 issued a recommendation to France in relation to Article 1, paragraph 2;

Observes that no change occurred in part I of the 13th cycle;

Recommends the French Government to take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and of this second recommendation of the Committee of Ministers and again invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 4** on the application of the European Social Charter by Greece during the period 1990-91 (13th supervision cycle – part I) (*Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies*)

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>96</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 6 July 1984 with respect to Greece;

Whereas, in accordance with Article 20, Greece has accepted sixty-seven out of the seventy-two provisions contained in the Charter;

Whereas the Government of Greece submitted in 1992 its 4th report on those provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

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96. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour), the Committee of Independent Experts had adopted a negative conclusion since the 10th cycle as:

- ▶ Section 64 of Decree 1400/1973 provides that the length of the compulsory period of service for career officers who have followed several training courses may be up to twenty-five years;
- ▶ the provisions for the application of criminal sanctions against seafarers in cases where neither the safety of the vessel nor the lives or health of the persons on board are endangered are still in force (Articles 205, 207 para. 1, 208, 210 para. 1 and 222 of the Code of Public Maritime Law of 1973; Section 4 para. 1 of Act No. 3276/1944 on Collective Bargaining in the Merchant Navy; Section 15 of Act No. 299/1936 on the Settlement of Collective Disputes in the Navy);

Having noted also that in respect of Article 13, paragraph 1 (social and medical assistance for those in need), the Committee of Independent Experts had adopted a negative conclusion since the 12th cycle as there existed neither a right to be granted social assistance in Greece nor the possibility of invoking such a right before an independent body such as a court;

Having noted finally that in respect of Article 13, paragraph 4 (equal treatment with respect to social and medical assistance), a second recommendation had been proposed as:

- ▶ “pension” for those aged over 68 is restricted to Greek nationals;
- ▶ Legislative Decree 57/1973, which provides that social assistance is granted to foreigners resident in Greece on an equal footing with Greek nationals, also provides that in order to be considered a resident in Greece a foreign national must have been lawfully present in Greece for at least six months,

Recalls that, as proposed by the Governmental Committee in its 12th report (I) it had, on 7 September 1993, issued a recommendation to Greece in relation to Article 1, paragraph 2 and Article 13, paragraphs 1 and 4;

Observes that no change occurred in part I of the 13th cycle;

Recommends the Greek Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and of this second recommendation of the Committee of Ministers and again invites it to provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (95) 5** on the application of the European Social Charter by Greece during the period 1990-91 (13th supervision cycle – part I)  
*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers’ Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>97</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 6 July 1984 with respect to Greece;

Whereas, in accordance with Article 20, Greece has accepted sixty-seven out of the seventy-two provisions contained in the Charter;

Whereas the Government of Greece submitted in 1992 its 4th report on those provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted in respect of Article 7, paragraphs 1 and 3 (minimum age of admission to employment; safeguarding the full benefit of compulsory education), that the Committee of Independent Experts had adopted negative conclusions as no minimum age for admission to employment exists for children engaged in agricultural, forestry or livestock work of a family nature,

Observes that the Governmental Committee, in accordance with Article 29 of the Charter, has proposed that an individual recommendation be addressed to Greece in relation to Article 7, paragraphs 1 and 3, while underlining that Greece has a considerable rural population and that the provisions in question aimed to protect one of the most vulnerable groups in society;

Having noted also in respect of Article 19, paragraph 1 (free assistance and information services; steps against misleading propaganda on emigration and immigration), the Committee of Independent Experts had adjourned its conclusion for lack of information as the national report did not contain the information requested in the previous conclusion;

Having noted finally that in respect of Article 19, paragraph 8 (security against expulsion), the Committee of Independent Experts had adopted a negative conclusion as there was no right to appeal against a decision of expulsion taken by an "act of government";

Observes that the Governmental Committee has likewise proposed that an individual recommendation be addressed to Greece in relation to Article 19, paragraphs 1 and 8;

Recommends that the Greek Government take account, in an appropriate manner, of the negative and adjourned conclusions of the Committee of Independent Experts, and invites it to provide information in its next report on the measures it has taken to this effect in respect of the negative conclusions as well as to

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97. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

provide the information requested by the Committee of Independent Experts in respect of the adjourned conclusion.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 6** on the application of the European Social Charter by Ireland during the period 1989-91 (13th supervision cycle – part I)  
*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>98</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Ireland;

Whereas, in accordance with Article 20, Ireland has accepted sixty-three out of the seventy-two provisions contained in the Charter;

Whereas the Government of Ireland submitted in 1992 its 12th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted in respect of Article 1, paragraph 2 (prohibition against forced labour), that the Committee of Independent Experts had adopted a negative conclusion as under the Merchant Shipping Act 1894 seamen who fail to rejoin their ship or who do not carry out orders are liable to punishment, which may involve their imprisonment;

Having noted also in respect of Article 4, paragraph 4 (reasonable notice of termination of employment), that the Committee of Independent Experts had adopted a negative conclusion as the minimum notice periods provided for by the 1973 Minimum Notice and Terms of Employment Act were insufficient;

Having noted in addition in respect of Article 6, paragraph 4 (the right to collective action), that the Committee of Independent Experts had adopted a negative conclusion as under Section 16 of the 1875 Conspiracy and Protection of Property Act merchant seamen were not protected from criminal prosecution for conspiracy in respect of acts relating to trade disputes;

Having noted further in respect of Article 7, paragraph 3 (safeguarding the full benefit of compulsory education), that the Committee of Independent Experts had adopted a negative conclusion as:

- ▶ the prohibition on employing children still subject to compulsory schooling during the school year does not apply to children related to the employer.

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98. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

For these children there is neither any maximum working day or week (apart from a prohibition on night work and statutory rest periods, which is not sufficient); nor any restriction on their employment in light non-industrial work;

- ▶ no restrictions apply during school holidays to children related to the employer (apart from the prohibition on night work and the statutory rest periods);

Having noted finally in respect of Article 19, paragraph 8 (security against expulsion), that the Committee of Independent Experts had adopted a negative conclusion as there was no right of appeal against a deportation order for persons who were neither nationals of member states of the European Community nor of states bound by the European Convention on Establishment,

Observes that the Governmental Committee in accordance with Article 29 of the Charter has proposed that an individual recommendation be addressed to Ireland in relation to Article 1, paragraph 2, Article 4, paragraph 4, Article 6, paragraph 4, Article 7, paragraph 3 and Article 19, paragraph 8;

Recommends that the Irish Government take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts, and invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 7** on the application of the European Social Charter by Italy during the year 1991 (13th supervision cycle – part I)  
(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>99</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 21 November 1965 with respect to Italy;

Whereas, in accordance with Article 20, Italy has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Italy in 1992 submitted its 13th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour), the Committee of Independent Experts had adopted a negative conclusion since the 4th cycle as Sections 1091 and 1094 of the Navigation Code provide for

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99. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.



penal sanctions for seamen and civil aviation staff who desert their posts or refuse to obey orders in certain cases not involving the safety of the vessel or aeroplane or of the persons aboard;

Having noted also that in respect of Article 3, paragraph 2 (provision for the enforcement of safety and health regulations by measures of supervision), the Committee of Independent Experts had not received statistical information on the activities of the local health units enabling it to change its conclusion, which was negative since the 6th cycle;

Having noted further that as regards Article 4, paragraph 4 (reasonable notice of termination of employment), the Committee of Independent Experts had adopted a negative conclusion since the 1st cycle as the periods of notice were insufficient in certain branches of activity;

Having noted finally that as regards Article 4, paragraph 5 (limitation of deduction from wages), the Committee of Independent Experts had adopted a negative conclusion since the 8th cycle as no regulation of the deductions from their wages for workers' debts to their employers had been introduced,

Recalls that, as proposed by the Governmental Committee in its 12th report (II) it had on 8 April 1994 issued a recommendation to Italy in relation to Article 1, paragraph 2, Article 3, paragraph 2 and Article 4, paragraphs 4 and 5;

Observes that no change occurred in part I of the 13th cycle;

Observes that in respect of Article 4, paragraph 5, the Governmental Committee has underlined that employers and workers should be involved in the implementation of the principle set forth in the provision;

Recommends the Italian Government to take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and of this second recommendation of the Committee of Ministers and again invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 8** on the application of the European Social Charter by Italy during the year 1991 (13th supervision cycle – part I)

*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>100</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 21 November 1965 with respect to Italy;

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100. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas, in accordance with Article 20, Italy has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Italy in 1992 submitted its 13th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that in respect of Article 3, paragraphs 1 and 2 (issue of safety and health regulations and provision for the enforcement of safety and health regulations by measures of supervision), the Committee of Independent Experts had adopted a negative conclusion as self-employed workers in agriculture, trade and industry, together with members of their families working with them, were not covered by health and safety regulations,

Observes that the Governmental Committee, in accordance with Article 29 of the Charter, has proposed that an individual recommendation be addressed to Italy in relation to Article 3, paragraphs 1 and 2;

Recommends that the Italian Government take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 9** on the application of the European Social Charter by Spain during the year 1991 (13th supervision cycle – part I)  
*(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>101</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 5 June 1980 with respect to Spain;

Whereas, in accordance with Article 20, Spain has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Spain submitted in 1992 its 6th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

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101. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Having noted that in respect of Article 1, paragraph 2 (prohibition against forced labour), the Committee of Independent Experts adopted a negative conclusion since the 12th cycle as Act No. 359 of 22 December 1955 relating to merchant seamen, and Act No. 209 of 24 December 1964 relating to airmen, included provision for criminal sanctions in the event of disciplinary offences, even in those cases where neither the safety of the vessel or aeroplane, nor the life or health of those on board were threatened,

Recalls that, as proposed by the Governmental Committee in its 12th report (II) it had, on 8 April 1994, issued a recommendation to Spain in relation to Article 1, paragraph 2;

Having noted that Act No. 359 of 22 December 1955 had been abrogated since the recommendation was adopted,

Observes that no change had occurred in part I of the 13th cycle as regards Act No. 209 of 24 December 1964;

Recommends the Spanish Government to take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and of this second recommendation of the Committee of Ministers on this point and again invites it to provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 10** on the application of the European Social Charter by Sweden during the period 1990-91 (13th supervision cycle – part I) *(Adopted by the Committee of Ministers on 22 June 1995 at the 541st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>102</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Sweden;

Whereas, in accordance with Article 20, Sweden has accepted sixty-two out of the seventy-two provisions contained in the Charter;

Whereas the Government of Sweden submitted in 1992 its 13th report on the provisions of the Charter which it has accepted, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted also that in respect of Article 19, paragraph 8 (security against expulsion), the Committee of Independent Experts had adopted a negative conclusion

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102. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

because of the absence of a remedy before an independent body in cases of expulsion on grounds of national security,

Observes that the Governmental Committee, in accordance with Article 29 of the Charter, has proposed that an individual recommendation be addressed to Sweden in relation to Article 19, paragraph 8;

Recommends that the Swedish Government take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and invites it to provide information in its next report on the measures it has taken to this effect.

## 18. Thirteenth supervision cycle – second part

*Committee of Independent Experts – Conclusions XIII-2* (1995, 422 p., ISBN: 92-871-2665-8)

*Governmental Committee Thirteenth report (II)* (1996, 194 p., ISBN: 92-871-28677)

*Committee of Ministers*

■ **Resolution ChS (95) 2** on the implementation of the European Social Charter during the period 1991-92 (13th supervision cycle – part II)

*(Adopted by the Committee of Ministers on 14 December 1995 at the 552nd meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>103</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports submitted by the Governments of Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Malta, the Netherlands, Norway, Spain, Sweden and the United Kingdom;

Considering Conclusions XIII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow";

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the

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103. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Noting also that the Parliamentary Assembly, in a letter from its President to the Chairman of the Committee of Ministers of 3 September 1992, has decided to abstain from communicating its views on a particular set of conclusions of the Committee of Independent Experts as provided for under Article 28 of the Charter and to use these conclusions as a basis for periodic social policy debates to be held by the Assembly in accordance with Article 6 of the Amending Protocol,

Adopts the recommendations included in the Appendix to the present Resolution;

Reiterates the following recommendations to which no effect has yet been given:

- ▶ with regard to Ireland: Article 19 para. 8 (security against expulsion), reference period: 1992;<sup>104</sup>
- ▶ with regard to Italy: Article 7 para. 1 (minimum age of admission to employment), and Article 13 para. 1 (social and medical assistance for those in need), reference period: 1991-92;<sup>105</sup>
- ▶ with regard to Norway: Article 7 paragraph 3 (safeguarding the full benefit of compulsory education), reference period: 1991-92;<sup>106</sup>
- ▶ with regard to Sweden: Article 19 paragraph 8 (security against expulsion), reference period: 1992.<sup>107</sup>

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (95) 11** on the application of the European Social Charter by Greece during the period 1991-92 (13th supervision cycle – part II)  
*(Adopted by the Committee of Ministers on 14 December 1995 at the 552nd meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>108</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 6 July 1984 with respect to Greece and whereas, in accordance with Article 20, Greece has accepted sixty-seven out of the seventy-two provisions contained in the Charter;

104. Recommendation No. R-ChS (95) 6 of 22 June 1995.

105. Recommendation No. R-ChS (94) 4 of 8 April 1994.

106. Recommendation No. R-ChS (93) 2 of 7 September 1993.

107. Recommendation No. (95) 10 of 22 June 1995.

108. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas the Government of Greece submitted in 1993 its 5th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that no steps having been taken to simplify procedures in respect of nationals of Contracting Parties to the Charter, not members of the European Union and not parties to the Agreement on the European Economic Area, the Committee of Independent Experts had adopted a negative conclusion in respect of Article 18 para. 2 (simplifying existing formalities and reducing dues and taxes),

Following a proposal by the Governmental Committee;

Recommends that the Government of Greece take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation R ChS (95) 12** on the application of the European Social Charter by Italy during the period 1991-92 (13th supervision cycle – part II)  
*(Adopted by the Committee of Ministers on 14 December 1995 at the 552nd meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>109</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 21 November 1965 with respect to Italy and whereas, in accordance with Article 20, Italy has accepted all seventy-two provisions contained in the Charter;

Whereas the Government of Italy submitted in 1993 its 14th report under the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that as a result of the lack of legislation sufficiently limiting working hours for young persons under sixteen years of age, the Committee of Independent Experts had adopted a negative conclusion in respect of Article 7 para. 4 (working hours of persons under sixteen years of age),

Following a proposal by the Governmental Committee;

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109. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Recommends that the Government of Italy take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

## 19. Thirteenth supervision cycle – third part

*Committee of Independent Experts – Conclusions XIII-3* (1996, 504 p., ISBN: 92-871-2914-2)

*Governmental Committee Thirteenth report (III)* (1996, 168 p., ISBN: 92-871-3192-9)

*Committee of Ministers*

■ **Resolution ChS (97)1** on the implementation of the European Social Charter during the period 1992-93 (13th supervision cycle – part III)

*(Adopted by the Committee of Ministers on 15 January 1997 at the 581st meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>110</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports presented by the Governments of Austria, Cyprus, Denmark, Finland, France, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom;

Considering Conclusions XIII-3 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (III) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this protocol [the amending protocol] before its entry into force, in so far as the text of the Charter will allow";

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the amending protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party,

Draws the attention of the governments concerned to the recommendations adopted for the 13th supervision cycle (Part III), following a proposal by the Governmental Committee;

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110. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Reiterates the following recommendations to which no effect has yet been given:

- ▶ with regard to France: Article 1, paragraph 2 (prohibition of forced labour) – reference period: 1992-93;<sup>111</sup>
- ▶ with regard to Greece: Article 1, paragraph 2 (prohibition of forced labour) – reference period: 1992-93;<sup>112</sup>
- ▶ with regard to Italy: Article 1, paragraph 2 (prohibition of forced labour);<sup>113</sup> Article 3, paragraph 2 (supervision of safety and health regulations);<sup>114</sup> and Article 4, paragraph 5 (deduction from wages)<sup>115</sup> – reference period: 1992-93;

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (97)1** on the application of the European Social Charter by Malta during the year 1993 (13th supervision cycle – part III)  
(Adopted by the Committee of Ministers on 15 January 1997 at the 581st meeting of the Ministers' Deputies)

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>116</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 3 November 1988 with respect to Malta and whereas, in accordance with Article 20, Malta has accepted fifty-four of the provisions contained in the Charter;

Whereas the Government of Malta submitted in 1994 its 3rd report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-3 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (III) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 5 (right to organise) and 6, paragraph 2 (promotion of machinery for voluntary negotiations) for the following reason: police officers were still obliged to join the Maltese Police Association and were not entitled to become affiliated to another union or similar association;

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111. Recommendation No. R ChS (94) 2 of 8 April 1994 and Recommendation No. R ChS (95) 3 of 22 June 1995.

112. Recommendation No. R ChS (93) 1 of 7 September 1993 and Recommendation No. R ChS (95) 4 of 22 June 1995.

113. Recommendation No. R ChS (94) 4 of 8 April 1994 and Recommendation No. R ChS (95) 7 of 22 June 1995.

114. *Idem.*

115. *Idem.*

116. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.



Following a proposal by the Governmental Committee,

Recommends that the Government of Malta take account, in an appropriate manner, of the negative conclusions of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation R ChS (97) 2** on the application of the European Social Charter by Turkey during the period 1992-93 (13th supervision cycle – part III)  
(Adopted by the Committee of Ministers on 15 January 1997 at the 581st meeting of the Ministers' Deputies)

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>117</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 24 December 1989 with respect to Turkey and whereas, in accordance with Article 20, Turkey has accepted forty-six provisions contained in the Charter;

Whereas the Government of Turkey submitted in 1994 its 2nd report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-3 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (III) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 7, paragraph 3 (full benefit of compulsory education), for the following reason: Labour Act No. 1475, Article 67 of which provides for the prohibition of work for children did not apply to children working in some sectors of the economy (agriculture, craftwork, and building work falling within the scope of family businesses, domestic work or work in enterprises which correspond to the law on small commercial and craftwork enterprises);

Following a proposal by the Governmental Committee,

Recommends that the Government of Turkey take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (97) 3** on the application of the European Social Charter by the United Kingdom during the period 1992-93 (13th supervision cycle – part III)  
(Adopted by the Committee of Ministers on 15 January 1997 at the 581st meeting of the Ministers' Deputies)

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117. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

The Committee of Ministers, in its composition restricted to Contracting Parties to the European Social Charter,<sup>118</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to the United Kingdom and whereas, in accordance with Article 20, the United Kingdom has accepted sixty of the provisions contained in the Charter;

Whereas the Government of the United Kingdom submitted in 1994 its 15th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-3 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (III) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion:

1. as it considered with regard to Article 1, paragraph 2 (prohibition of forced labour), that Section 30.c of the Merchant Shipping Act of 1970 enabled criminal sanctions to be imposed on striking seamen even when neither the safety of the boat nor the life or health of those on board was threatened;
2. as it considered with regard to Articles 5 (right to organise) and 6, paragraph 2 (promotion of machinery for voluntary negotiations), that Section 13 of the Act of 1993 – which could be used by employers to dissuade workers to become or to remain trade union members – and Sections 64 to 67 of the Act of 1992 – which could result in restrictions on trade unions' liberty to draft their rules of procedure and in heavy financial penalties being imposed upon them – were an infringement on the rights to organise and to bargain collectively;
3. with regard to Article 6, paragraph 4 (right to collective action), because the employer can dismiss all workers who took part in strikes and re-employ them selectively three months after dismissal;

Following a proposal by the Governmental Committee,

Recommends that the Government of the United Kingdom take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

## 20. Thirteenth supervision cycle – fourth part

*Committee of Independent Experts – Conclusions XIII-4* (1996, 492 p., ISBN: 92-871-3091-4)

*Governmental Committee Thirteenth report (IV) and Thirteenth report (V)* (1998, 244 p., ISBN: 92-871-3701-3)

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118. Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom.

*Committee of Ministers*

■ **Resolution ChS (98) 1** on the implementation of the European Social Charter during the period 1993-94 (13th supervision cycle – part IV)

*(Adopted by the Committee of Ministers on 4 February 1998 at the 617th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>119</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports submitted by the Governments of Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Malta, the Netherlands, Norway, Spain, Sweden, Turkey and the United Kingdom;

Considering Conclusions XIII-4 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (IV) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the 30th anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow;

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party,

Draws the attention of the governments concerned to the recommendations adopted for the 13th supervision cycle (Part IV), following a proposal by the Governmental Committee;

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

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119. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

*Committee of Ministers*

■ **Recommendation No. R ChS (98) 1** on the application of the European Social Charter by France during the period 1993-94 (13th supervision cycle – part IV)  
*(Adopted by the Committee of Ministers on 4 February 1998 at the 617th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>120</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 8 April 1973 with respect to France and whereas, in accordance with Article 20, France has accepted seventy-two of the provisions contained in the Charter;

Whereas the Government of France submitted in 1995 its 11th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-4 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (IV) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 17 (the right of mothers and children to social and economic protection) because of the differences which still exist between the inheritance rights of children born in and out of marriage;

Following a proposal by the Governmental Committee,

Recommends that the Government of France take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (98) 2** on the application of the European Social Charter by Germany during the period 1993-94 (13th supervision cycle – part IV)  
*(Adopted by the Committee of Ministers on 4 February 1998 at the 617th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>121</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

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120. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

121. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Germany and whereas, in accordance with Article 20, Germany has accepted sixty-seven provisions contained in the Charter;

Whereas the Government of Germany submitted in 1995 its 14th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-4 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (IV) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 6 par. 4 (The right to collective action) as all strikes not aimed at achieving a collective agreement and not called or endorsed (*Übernahme*) by a trade union are forbidden in Germany;

Following a proposal by the Governmental Committee,

Recommends that the Government of Germany take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (98) 3** on the application of the European Social Charter by Italy during the period 1993-94 (13th supervision cycle – part IV)  
(Adopted by the Committee of Ministers on 4 February 1998 at the 617th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>122</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 21 November 1965 with respect to Italy and whereas, in accordance with Article 20, Italy has accepted the seventy-two provisions contained in the Charter;

Whereas the Government of Italy submitted in 1995 its 16th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

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These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

122. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Having examined Conclusions XIII-4 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (IV) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion considering Article 7 para. 2 (higher minimum age in certain occupations) as the minimum age for employment in occupations involving exposure to benzene was fixed at 16 years whilst it should be fixed at 18 years;

Following a proposal by the Governmental Committee,

Recommends that the Government of Italy take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (98) 4** on the application of the European Social Charter by Turkey during the period 1993-94 (13th supervision cycle – part IV)  
*(Adopted by the Committee of Ministers on 4 February 1998 at the 617th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>123</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 24 December 1989 with respect to Turkey and whereas, in accordance with Article 20, Turkey has accepted forty provisions contained in the Charter;

Whereas the Government of Turkey submitted in 1995 its 3rd report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-4 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (IV) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion:

1. considering that under Article 11 (the right to protection of health) the measures taken to reduce the particularly high rate of perinatal and infant mortality are not sufficient;
2. considering that under Article 16 (the right of the family to social, legal and economic protection) the proportion of families in receipt of family

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123. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

allowance is small; and that the civil code permits inequality within the couple as spouses as well as parents;

Following a proposal by the Governmental Committee,

Recommends that the Government of Turkey take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

## 21. Thirteenth supervision cycle – fifth part

*Committee of Independent Experts – Conclusions XIII-5* (1997, 350 p., ISBN: 92-871-3464-2)

*Governmental Committee Thirteenth report (IV) and Thirteenth report (V)* (1998, 244 p., ISBN: 92-871-3701-3)

*Committee of Ministers*

■ **Resolution ChS (98) 2** on the implementation of the European Social Charter during the period 1994-95 (13th supervision cycle – part V)  
(Adopted by the Committee of Ministers on 2 July 1998 at the 638th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>124</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Finland, Luxembourg, Portugal (period of reference 1994-1995) and the reports on the Additional Protocol of 1988 submitted by the Governments of Finland, Italy, Norway, the Netherlands and Sweden (period of reference 1994-1995);

Considering Conclusions XIII-5 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (V) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the 30th anniversary of the Charter, and by the Committee of Ministers in its decision of 11 December 1991, "to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow";

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124. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Draws the attention of the governments concerned to the recommendation adopted for the 13th supervision cycle (Part V), following a proposal by the Governmental Committee;

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

*Committee of Ministers*

■ **Recommendation No. R ChS (98) 5** on the application of the European Social Charter by Portugal during the period 1994-95 (13th supervision cycle – part V) (*Adopted by the Committee of Ministers on 2 July 1998 at the 638th meeting of the Ministers' Deputies*)

The Committee of Ministers,<sup>125</sup>

Having regard to the European Social Charter, in particular Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 30 October 1991 with respect to Portugal and whereas, in accordance with Article 20, Portugal has accepted seventy-two of the provisions contained in the Charter;

Whereas the Government of Portugal submitted in 1996 its 2nd report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIII-5 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 13th report (V) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 7 (minimum age of admission to employment) for the following reason: while the legislation was effectively in conformity with Article 7, paragraph 1 in law, in view of the extent of the violations of its provisions in practice during the reference period, the situation in Portugal was not in keeping with Article 7, paragraph 1;

Following a proposal by the Governmental Committee, which took into consideration the numerous legal and practical measures deployed by the Portuguese authorities

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125. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.



to combat illegal child labour, which noted that Portugal had ratified most of the relevant international instruments on the protection of children, thereby clearly demonstrating its political commitment to human rights and in particular children's rights; and which considered that it was its duty as a supervisory body of the Charter, clearly to mark its determination to combat illegal child labour,

Recommends that the Government of Portugal take into account, in an appropriate manner, the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

## 22. Fourteenth supervision cycle – first part

*Committee of Independent Experts – Conclusions XIV-1 Volumes 1 and 2* (1998, 860 p., ISBN: 92-871-3634-3)

*Governmental Committee Fourteenth report (I) and Fourteenth report (III)* (1998, 290 p., ISBN: 92-871-4086-3)

*Committee of Ministers*

■ **Resolution ChS (99) 2** on the implementation of the European Social Charter during the period 1994-96 (14th supervision cycle – part I)

*(Adopted by the Committee of Ministers on 4 March 1999 at the 662nd meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>126</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom (period of reference 1995-96);

Considering Conclusions XIV-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 14th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the Charter, and by the Committee of Ministers

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126. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

in its decision of 11 December 1991, “to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow”;

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party;

Draws the attention of the Governments concerned to the Recommendations adopted for the 14th supervision cycle (Part I), following a proposal by the Governmental Committee;<sup>127</sup>

Renews the following Recommendation which has not yet come into effect:

- ▶ relating to Greece: article 1 para. 2 (prohibition of forced labour), reference period: 1992-1993<sup>128</sup>
- ▶ relating to Germany: article 19 para.6 (right of migrant workers to family reunion), reference period: 1989-1990<sup>129</sup>
- ▶ relating to Ireland: article 19 para. 8 (Security against expulsion), reference period 1989-1990<sup>130</sup>

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee.

#### *Committee of Ministers*

■ **Recommendation No. R ChS (99) 1** on the application of the European Social Charter by Austria during the period 1994-96 (14th supervision cycle – part I)  
(Adopted by the Committee of Ministers on 4 March 1999 at the 662nd meeting of the Ministers’ Deputies)

The Committee of Ministers,<sup>131</sup>

Having regard to the European Social Charter, in particular Part V thereof;

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127. When adopting this Resolution at their 662nd meeting (2-8 March 1999), the Deputies agreed to postpone to their 671st meeting (19-20 May 1999) consideration of the draft individual recommendation on the application of the European Social Charter by Denmark proposed by the Governmental Committee. At the 671st meeting and the 686th meeting (27 October 1999) the Deputies agreed to postpone examination of this matter to a future meeting.

128. Recommendation No. R ChS (93) 1 of 7 September 1993 and Recommendation No. R ChS (95) 4 of 22 June 1995.

129. Recommendation No. R ChS (94) 3 of 8 April 1994.

130. Recommendation No. R ChS (95) 6 of 22 June 1995.

131. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”.

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 28 November 1969 with respect to Austria whereas, in accordance with Article 20, Austria has accepted 62 of the provisions contained in the Charter;

Whereas the Government of Austria submitted in 1997 its 15th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIV-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 14th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 5 for the following reasons:

- ▶ Only nationals of states members of the European Union or parties to the Agreement on the European Economic Area may be elected to works' councils. Thus, during the reference period, Cypriot, Maltese and Turkish nationals of Contracting Parties to the Charter were not eligible to works' councils;

Following a proposal by the Governmental Committee,

Recommends that the Government of Austria take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

*Committee of Ministers*

■ **Recommendation No. R ChS (99) 2** on the application of the European Social Charter by Ireland during the period 1994-96 (14th supervision cycle – part I)  
(Adopted by the Committee of Ministers on 4 March 1999 at the 662nd meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>132</sup>

Having regard to the European Social Charter, in particular Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Ireland and whereas, in accordance with Article 20, Ireland has accepted 63 of the provisions contained in the Charter;

Whereas the Government of Ireland submitted in 1998 its 16th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIV-1 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 14th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

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132. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter".

These states are presently Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Articles 5 and 6 para. 2 for the following reasons:

- ▶ The conditions for obtaining a negotiation licence are considered at variance with the Charter: to engage in collective bargaining, a trade union must have a negotiation licence, which is granted *inter alia* if the union: is registered (except for foreign-based trade unions); demonstrates that it has not less than 1,000 members resident in the state; deposits with the High Court a sum of money which varies according to the size of the union. Only authorised trade unions, their members and officials are entitled to protection against civil liability in respect of acts done in furtherance of a trade dispute and to certain advantages under the employment protection legislation accrue to authorised trade unions and their members.

Neither law nor practice comply with the Charter in relation to the right not to join a trade union. Both pre- and post-entry closed shop agreements exist in Ireland. The Courts have not ruled definitively on the constitutionality of either the pre-entry closed shop or the post-entry closed shop as it is applied to newly recruited employees;

Following a proposal by the Governmental Committee,

Recommends that the Government of Ireland take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

### 23. Fourteenth supervision cycle – second part

*Committee of Independent Experts – Conclusions XIV-2 Volumes 1 and 2* (1998, 828 p., ISBN: 92-871-3792-7)

*Governmental Committee Fourteenth report (I) and (II)* (1999, 290 p., ISBN: 92-871-4086-3)

*Committee of Ministers*

■ **Resolution ChS (99) 3** on the implementation of the European Social Charter (Articles 2, 3, 4, 9, 10 and 15) during the period 1993-1996 (14th supervision cycle – part II)

*(Adopted by the Committee of Ministers on 27 October 1999 at the 686th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom, and concerning Articles 2, 3, 4, 9, 10 and 15 (period of reference 1993-96);

Considering Conclusions XIV-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 14th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial Conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the European Social Charter, and by the Committee of Ministers in its decision of 11 December 1991, “to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow”;

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party,

Draws the attention of the Governments concerned to the Recommendation adopted for the 14th supervision cycle (part II), following a proposal by the Governmental Committee;

Recommends in addition that governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the Committee of Independent Experts and the report of the Governmental Committee

*Committee of Ministers*

■ **Recommendation No. R ChS (99) 3** on the application of the European Social Charter by Turkey during the period 1993-96 (14th supervision cycle – part II)  
*(Adopted by the Committee of Ministers on 27 October 1999 at the 686th meeting of the Ministers’ Deputies)*

The Committee of Ministers,

Having regard to the European Social Charter, in particular Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 24 December 1989 with respect to Turkey whereas, in accordance with Article 20, Turkey has accepted 46 of the provisions contained in the Charter;

Whereas the Government of Turkey submitted in 1998 its 5th report on the application of the Charter (concerning Articles 2, 3, 4, 9, 10 and 15), and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XIV-2 of the Committee of Independent Experts appointed under Article 25 of the Charter and the 14th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the Committee of Independent Experts had adopted a negative conclusion with regard to Article 4 para. 3 for the following reasons:

- ▶ The situation is not in conformity with this provision as national legislation (Labour Act No. 1475) does not set out the principle of equal pay for work

of equal value. It provides only in fact for equal pay within the framework of “work of a similar nature” with “equal efficiency”.

- ▶ In addition, the financial compensation provided (six weeks’ salary for workers employed for less than six months and twenty-four weeks’ salary for workers with over three years’ service) in cases of dismissal for claims of equal pay is not sufficient to dissuade employers from firing workers or to represent acceptable financial compensation for workers.
- ▶ Moreover, certain sectors of the economy not covered by the Labour Act (domestic services or craft work carried out at home by members of a same family or their close relatives) do not benefit from any specific protection with respect to equal pay.

Following a proposal by the Governmental Committee,

Recommends that the Government of Turkey take account, in an appropriate manner, of the negative conclusion of the Committee of Independent Experts and requests that it provide information in its next report on the measures it has taken to this effect.

## 24. Fifteenth supervision cycle – first part

*European Committee of Social Rights – Conclusions XV-1* (2000, 694 p.; ISBN: Volume 1: 92-871-4266-1, Volume 2: 92-871-4269-6), *Addendum (Ireland, Luxembourg, the Netherlands, Dutch Antilles and Poland)* (2000, 192 p.; ISBN: 92-871-4438-9) and *Addendum (Germany)* (2001, 61 p.; ISBN: 92-871-4613-6)

*Governmental Committee – Fifteenth report (I)* (doc. T-SG (2000)17) and *Addendum (Germany)* (doc. T-SG (2001)6)

*The Committee of Ministers*

■ **Resolution ResChS(2001)5** on the implementation of the European Social Charter (Articles 1, 5, 6, 12, 13, 16 and 19) during the period 1997-1998 (15th supervision cycle – part I),  
(adopted by the Committee of Ministers on 7 February 2001 at the 740th meeting of the Ministers Deputies)

The Committee of Ministers<sup>133</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter, submitted by the governments of Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Iceland, Ireland,

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133. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the Charter or the revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom (period of reference 1997-1998);

Considering Conclusions XV-1 of the European Committee of Social Rights appointed under Article 25 of the and the 15th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the ministers participating in the Ministerial conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion of the thirtieth anniversary of the European Social Charter, and by the Committee of Ministers in its decision of 11 December 1991, “to envisage the application of certain of the measures provided for in this Protocol the amending Protocol before its entry into force, in so far as the text of the Charter will allow”;

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of [the Amending Protocol], to select, in light of the reports of the European Committee of Social Rights and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should in its view, be the subject of recommendations to each Contracting Party;

Draws the attention of the Governments concerned to the Recommendations adopted for the 15th supervision cycle (part I), following a proposal by the Governmental Committee;

Renews the following recommendations which have not yet been implemented:

- ▶ in respect of Austria: Article 5 (equality of treatment);<sup>134</sup>
- ▶ in respect of Ireland: Articles 5 and 6 paragraph 2 (negotiation licence) and Article 19 paragraph 8 (procedural guarantees);<sup>135</sup>
- ▶ in respect of Turkey: Article 16 (equality between spouses)<sup>136</sup>

Recommends in addition that governments take account, in an appropriate manner, of all various observations made in the Conclusions of the European Committee of Social Rights and the report of the Governmental Committee.

*Committee of Ministers*

■ **Recommendation RecChS(2001)2** on the application of the European Social Charter by Ireland during the period 1997-1998, (15th supervision cycle – part I) (*Adopted by the Committee of Ministers on 7 February 2001 at the 740th meeting of the Ministers’ Deputies*)

The Committee of Ministers,<sup>137</sup>

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134. Recommendation No. R ChS(99)1 of 4 March 1999.

135. Recommendation No. R ChS(99)2 of March 4 1999 (Articles 5 and 6 paragraph 2) and Recommendation No. R ChS(95)6 of 22 June 1995.

136. Recommendation No. R ChS(98)4 of 4 February 1998.

137. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the Charter or the revised Charter are Austria,

Having regard to the European Social Charter, in particular Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to Ireland and whereas, in accordance with Article 20, Ireland has accepted sixty-three of the provisions contained in the Charter;

Whereas the Government of Ireland submitted in 2000 in its 18th report on the application of the Charter, and whereas this report has been examined in accordance with articles 24 to 27 of the Charter;

Having examined Conclusions XV-1 of the European Committee of Social Rights, the Committee of Independent Experts appointed under Article 25 of the Charter and the 15th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the European Committee of Social Rights had adopted a negative conclusion with regard to Article 6 paragraph 4 for the following reasons:

- ▶ only trade unions authorised to negotiate (that is, holding a negotiation license) and their members are afforded immunity against civil action in the event of a strike;
- ▶ under the Unfair Dismissals Act 1977 as amended an employer may dismiss all employees for taking part in strike action;

Following a proposal by the Governmental Committee:

Recommends that the Government of Ireland takes account, in an appropriate manner, of the negative conclusion of the European Committee of Social Rights and requests that it provide information in its next report on the measures it had taken to this effect.

*Committee of Ministers*

■ **Recommendation RecChS(2001)3** on the application of the European Social Charter by Malta during the period 1997-1998, (15th supervision cycle – part I) *(Adopted by the Committee of Ministers on 7 February 2001 at the 740th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>138</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 3 November 1989 with respect to Malta and whereas, in accordance with Article 20, Malta has accepted fifty-four of the provisions contained in the Charter;

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Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

138. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.



Whereas the Government of Malta submitted in 1999 in its 7th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XV-1 of the European Committee of Social Rights, the Committee of Independent Experts appointed under Article 25 of the Charter and the 15th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the European Committee of Social Rights had adopted a negative conclusion with regard to Articles 5 (the right to organise) and 6 paragraph 2 (promotion of machinery for voluntary negotiations) for the following reasons:

- ▶ the 1961 Police Ordinance prohibits members of the Police from joining a trade union or other similar organisation other than the Malta Police Association which has very limited rights and as membership of the association is compulsory and as the excessive restrictions on trade union rights in the police force infringe the right to bargain collectively in this sector,

Following a proposal by the Governmental Committee:

Recommends that the Government of Malta takes account, in an appropriate manner, of the negative conclusion of the European Committee of Social Rights and requests that it provide information in its next report on the measures it had taken to this effect.

■ **Addendum to Resolution ResChS(2001)5** on the implementation of the European Social Charter during the period 1997-1998 (15th supervision cycle – part I) *(Adopted by the Committee of Ministers on 5 September 2001 at the 762nd meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>139</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Having regard to Resolution ResChS(2001)5 on the implementation of the European Social Charter during the period 1997-1998 (fifteenth supervision cycle – part I) adopted by the Committee of Ministers on 7 February 2001;

Considering the report on the European Social Charter submitted by the Government of Germany (period of reference 1997-1998);

Considering the Addendum to Conclusions XV-1 (Germany) of the European Committee of Social Rights appointed under Article 25 of the Charter and the

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139. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the revised Charter are Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Turkey and the United Kingdom.

Addendum to the 15th report (I) of the Governmental Committee appointed under Article 27 of the Charter;

Decides to add in the paragraph “Renews the following recommendations which have not yet been implemented” the following:

“– in respect of Germany: Article 19 para. 6 (family reunion)”.<sup>140</sup>

## 25. Fifteenth supervision cycle – second part

*European Committee of Social Rights – Conclusions XV-2* (2001, 650 p.; ISBN: Volume 1: 92-871-4554-7, Volume 2: 92-871-4556-3), *Addendum (Cyprus, Germany, Luxembourg, Malta, Slovakia and Turkey)* (2001, 287 p.; ISBN: 92-871-4682-9) and *Addendum (Ireland)* (2001, 45 p.; ISBN: 92-871-4756-6)

*Governmental Committee – Fifteenth report (II)* (doc. T-SG (2001)21)

*Committee of Ministers*

■ **Resolution ResChS(2002)1** on the implementation of the European Social Charter during the period 1995-1998 (15th supervision cycle – part II)  
(Adopted by the Committee of Ministers on 16 January 2002 at the 780th meeting of the Ministers’ Deputies)

The Committee of Ministers,<sup>141</sup>

Referring to the European Social Charter, in particular to the provisions of Part V thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Turkey and the United Kingdom, and concerning period of reference 1995-1998;

Considering conclusions XV-2 of the European Committee of Social Rights appointed under Article 25 of the Charter and the 15th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Recalling the request made, both to the Contracting Parties to the Charter and the supervisory bodies, by the Ministers participating in the Ministerial conference on the European Social Charter held in Turin on 21 and 22 October 1991, on the occasion

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140. Recommendation No. R ChS(94)3 of 8 April 1994 and Resolution No. Res ChS(99)2 of 4 March 1999.

141. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

of the thirtieth anniversary of the European Social Charter, and by the Committee of Ministers in its decision of 11 December 1991, “to envisage the application of certain of the measures provided for in this Protocol [the Amending Protocol] before its entry into force, in so far as the text of the Charter will allow”;

Noting that the Governmental Committee, in view of this request, has decided, in accordance with Article 4 of the Amending Protocol, to select, in the light of the reports of the European Committee of Social Rights and of the Contracting Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each Contracting Party,

Draws the attention of the Governments concerned to the Recommendation adopted for the 15th supervision cycle (part II), following a proposal by the Governmental Committee;

Renews the following recommendation which has not yet been implemented:

- ▶ In respect of Ireland: Article 7 para. 3 (full benefit of compulsory education) the obligatory rest period for children still subject to compulsory education during the summer holidays is insufficient; children employed by a close relative are excluded from a number of important protective measures (minimum age for admission to employment, limits to daily and weekly working time during the school year and school holidays);<sup>142</sup>

Recommends in addition that Governments take account, in an appropriate manner, of all the various observations made in the Conclusions of the European Committee of Social Rights and the report of the Governmental Committee.

■ **Recommendation RecChS(2002)1** on the application of the European Social Charter by Turkey during the period 1995-1998 (fifteenth supervision cycle – part II) (*Adopted by the Committee of Ministers on 16 January 2002 at the 780th meeting of the Ministers’ Deputies*)

The Committee of Ministers,<sup>143</sup>

Having regard to the European Social Charter, in particular Part V thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 24 December 1989 with respect to Turkey and whereas, in accordance with Article 20, Turkey has accepted 46 of the provisions contained in the Charter;

Whereas the Government of Turkey submitted in 2000 its 7th report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

142. Recommendation No. R ChS (95) 6 of 22 June 1995.

143. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter.” The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

Having examined Conclusions XV-2 of the European Committee of Social Rights, appointed under Article 25 of the Charter, and the 15th report (II) of the Governmental Committee appointed under Article 27 of the Charter;

Having noted that the European Committee of Social Rights had adopted a negative conclusion with regard to Article 11 para. 1 (removal of the causes of ill-health) as the manifestly inadequate budget for health care and the inadequacy of equipment and health personnel do not guarantee access for the population, notably children, to health care of a satisfactory quality in the whole country;

Following a proposal by the Governmental Committee:

Recommends that the Government of Turkey take account, in an appropriate manner, of the negative conclusion of the European Committee of Social Rights and requests that it provide information in its next report on the measures it has taken to this effect.

## 26. Sixteenth supervision cycle – first part

*European Committee of Social Rights – Conclusions XVI-1* (2002, 709 p.; ISBN: Volume 1: 92-871-5003-6, Volume 2: 92-871-5005-2)

*Governmental Committee – Sixteenth report (I)* (doc. T-SG (2002)19)

*Committee of Ministers*

■ **Resolution ResChS(2004)4** on the implementation of the European Social Charter during the period 1999-2000 (16th supervision cycle – part I)  
(Adopted by the Committee of Ministers on 31 March 2004 at the 878th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>144</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Turkey and the United Kingdom (concerning period of reference 1999-2000);

Considering Conclusions XVI-1 of the European Committee of Social Rights appointed under Article 25 of the Charter,

Following the proposal made by the Governmental Committee established under Article 27 of the Charter;

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144. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

Renews the following recommendations which have not yet been implemented: Ireland – Articles 5 and 6§2 (negotiation license)<sup>145</sup> and Ireland – Article 19§8;<sup>146</sup>

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVI-1 of the European Committee of Social Rights and the report of the Governmental Committee.

## 27. Sixteenth supervision cycle – second part

*European Committee of Social Rights – Conclusions XVI-2* (2003, 948 p.; ISBN: Volume 1: 92-871-5243-8, Volume 2: 92-871-5245-4) and *Addendum (Ireland and Luxembourg)* (2004, 82 p.; ISBN: 92-871-5537-5)

*Governmental Committee – Sixteenth report (II)* (doc. T-SG (2003)27) and *Addendum (Ireland and Luxembourg)* (doc. T-SG (2004)24)

*Committee of Ministers*

■ **Resolution ResChS(2004)2** on the implementation of the European Social Charter during the period 1997-2000 (16th supervision cycle– part II)  
(Adopted by the Committee of Ministers on 17 March 2004 at the 876th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>147</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland, Malta, the Netherlands, Norway, Poland, Portugal, Slovak Republic, Spain, Turkey and the United Kingdom (concerning period of reference 1997-2000);

Considering Conclusions XVI-2 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVI-2 of the European Committee of Social Rights and the report of the Governmental Committee.

145. Recommendation No. RChS(1999)2 of 4 March 1999, renewed on 7 February 2001 – Resolution ResChS(2001)5.

146. Recommendation No. RChS(1995)6 of 21 June 1995, renewed on 4 March 1999 – Resolution RChS(1999) 2 and on 7 February 2001 – Resolution ResChS(2001)5.

147. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

## *Committee of Ministers*

■ **Resolution ResChS(2005)3** on the implementation of the European Social Charter during the period 1997-2000 (Ireland, Luxembourg), supplementing Resolution ResChS(2004)2 adopted at the Deputies' 876th meeting  
(Adopted by the Committee of Ministers on 4 May 2005 at the 925th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>148</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Referring to the Resolution ResChs(2004)2 adopted during the Deputies' 876th meeting;

Considering the reports on the European Social Charter submitted by the Governments of Ireland and Luxembourg (concerning period of reference 1997-2000);

Considering the Addendum to Conclusions XVI-2 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Renews the following Recommendation which has not yet been implemented: Ireland – Article 4, paragraph 4;<sup>149</sup>

Recommends that the Governments of Ireland and Luxembourg take account, in an appropriate manner, of all the various observations made in the Addendum to Conclusions XVI-2 of the European Committee of Social Rights and the report of the Governmental Committee.

## **28. Seventeenth supervision cycle – first part**

*European Committee of Social Rights – Conclusions XVII-1* (2004, 539 p.; ISBN: Volume 1: 92-871-5530-5, Volume 2: 92-871-5532-1)

*Governmental Committee – Seventeenth report (I)* (doc. T-SG (2004)22)

■ **Resolution ResChS(2005)4** on the implementation of the European Social Charter during the period 2001-2002 (17th supervision cycle – part I, “hard core” provisions of the Charter)  
(Adopted by the Committee of Ministers on 4 May 2005 at the 925th meeting of the Ministers' Deputies)

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148. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom.

149. Recommendation No. R ChS(1995)6 of 22 June 1995.

The Committee of Ministers,<sup>150</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Greece, Malta, the Netherlands (Kingdom in Europe and Aruba), Poland, Portugal, Spain, Turkey and the United Kingdom (concerning period of reference 2001-2002);

Considering Conclusions XVII-1 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Draws the attention of the Government concerned to the recommendation adopted for the 17th supervision cycle (part I);

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVII-1 of the European Committee of Social Rights and the report of the Governmental Committee.

■ **Recommendation RecChS(2005)1** on the application of the European Social Charter by the United Kingdom during the period 2001-2002 (17th supervision cycle – part I, “hard core” provisions of the Charter)  
*(Adopted by the Committee of Ministers on 4 May 2005 at the 925th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>151</sup>

Having regard to the European Social Charter, in particular Part IV thereof;

Whereas the European Social Charter, signed in Turin on 18 October 1961, came into force on 26 February 1965 with respect to the United Kingdom and whereas, in

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150. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom.

151. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom

accordance with Article 20, the United Kingdom has accepted 60 of the provisions contained in the Charter;

Whereas the Government of the United Kingdom submitted in 2003 its 23rd report on the application of the Charter, and whereas this report has been examined in accordance with Articles 24 to 27 of the Charter;

Having examined Conclusions XVII-1 of the European Committee of Social Rights, appointed under Article 25 of the Charter, and the report of the Governmental Committee, established under Article 27 of the Charter;

Having noted that the European Committee of Social Rights had concluded that the legislation of the United Kingdom (Schedule 5 of the 1999 Employment Relations Act) was not in conformity with Article 6, paragraph 4, of the Charter on the ground that the period of eight weeks beyond which strikers lost their employment protection was arbitrary and that protection against dismissals applied only to official strikes;

Following the proposal made by the Governmental Committee;

Recommends that the Government of the United Kingdom take account, in an appropriate manner, of the conclusion of the European Committee of Social Rights and requests that it provide information in its next report on the measures it has taken to bring the situation into conformity with the Charter.

## 29. Seventeenth supervision cycle – second part

*European Committee of Social Rights – Conclusions XVII-2* (2005, 849 p.; ISBN: Volume 1: 92-871-5828-4, Volume 2: 92-871-5830-7)

*Governmental Committee – Seventeenth report (II)* (doc. T-SG (2005)24)

*Committee of Ministers*

■ **Resolution ResChS(2006)1** on the implementation of the European Social Charter during the period 2001-2002 (17th supervision cycle – part II, “non-hard core” provisions of the Charter)

*(Adopted by the Committee of Ministers on 1 March 2006 at the 957th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>152</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

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152. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom.



Considering the reports on the European Social Charter submitted by the Governments of Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland, Latvia, Malta, Netherlands (Kingdom in Europe, the Netherlands Antilles and Aruba), Poland, Portugal, Spain, Turkey and United Kingdom (concerning period of reference 2001-2002);

Considering Conclusions XVII-2 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVII-2 of the European Committee of Social Rights and the report of the Governmental Committee.

### 30. Eighteenth supervision cycle – first part

*European Committee of Social Rights – Conclusions XVIII-1* (2006, 851 p.; ISBN: Volume 1: 92-871-6127-7, Volume 2: 92-871-6129-1)

*Governmental Committee – Eighteenth report (I)* (doc. T-SG (2007)10)

*Committee of Ministers*

■ **Resolution ResChS(2007)4** on the implementation of the European Social Charter during the period 2003-2004 (18th supervision cycle– part I , “hard core” provisions of the Charter)

*(Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>153</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the governments of Austria, Belgium, Croatia, the Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Luxembourg, Malta, the Netherlands (Kingdom in Europe, Aruba and Netherlands Antilles), Poland, the Slovak Republic, Spain, Turkey and the United Kingdom (concerning period of reference 2003-2004);

Considering Conclusions XVIII-1 of the European Committee of Social Rights appointed under Article 25 of the Charter;

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153. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVIII-1 of the European Committee of Social Rights and in the report of the Governmental Committee.

### 31. Eighteenth supervision cycle – second part

*European Committee of Social Rights – Conclusions XVIII-1I* (2007, 653 p.; ISBN: Volume 1: 92-871-6342-4, Volume 2: 92-871-6344-8)

*Governmental Committee – Eighteenth report (II)* (doc. T-SG (2008) ..)

[Procedure pending]

*European Committee of Social Rights – Conclusions XVIII-2* (2007, 653 p.; ISBN: Volume 1: 92-871-6342-4, Volume 2: 92-871-6344-8)

*Governmental Committee – Eighteenth report (II)* (doc. T-SG(2009)3)

■ **Resolution CM/ResChS(2009)4** on the implementation of the European Social Charter during the period 2001-2004 (Conclusions XVIII-2, second part, “non-hard core” provisions)

*(Adopted by the Committee of Ministers on 25 March 2009 at the 1052nd meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>154</sup>

Referring to the (revised) European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, the Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Latvia, Luxembourg, Malta, the Netherlands (Kingdom in Europe), Poland, the Slovak Republic, Spain, Turkey and the United Kingdom (concerning period of reference 2001-2004);<sup>155</sup>

Considering Conclusions XVIII-2 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

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154. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

155. For Latvia, it is the second full report.

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XVIII-2 of the European Committee of Social Rights and in the report of the Governmental Committee.

### 32. Nineteenth supervision cycle – first part

*European Committee of Social Rights – Conclusions XIX-1 (2008 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX1\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX1_en.pdf))*

*Governmental Committee – Nineteenth report (1) (doc. T-SG(2010)5)*

■ **Resolution CM/ResChS(2010)3** on the implementation of the European Social Charter during the period 2005-2006 (Conclusions XIX-1 (2008), provisions related to employment, training and equal opportunities)

*(Adopted by the Committee of Ministers on 31 March 2010 at the 1081st meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>156</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Croatia, Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Latvia, Luxembourg, Netherlands (Netherlands Antilles, Aruba), Poland, Slovak Republic, Spain, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom (concerning the reference period 2005-2006);

Considering Conclusions XIX-1 (2008) of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions XIX-1 (2008) of the European Committee of Social Rights and in the report of the Governmental Committee.

### 33. Nineteenth supervision cycle – second part

*European Committee of Social Rights – Conclusions XIX-2 (2009 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX2\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX2_en.pdf))*

*Governmental Committee – Nineteenth report (2) (doc. T-SG(2011)2)*

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156. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

■ **Resolution CM/ResChS(2011)2** on the implementation of the European Social Charter (Conclusions XIX-2 (2009), provisions related to health, social security and social protection)

*(Adopted by the Committee of Ministers on 16 February 2011 at the 1106th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>157</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the governments of Austria, Croatia, Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Latvia, Luxembourg, Netherlands (Netherlands Antilles, Aruba), Poland, Slovak Republic, Spain, "the former Yugoslav Republic of Macedonia" and the United Kingdom;

Considering Conclusions XIX-2 (2009) of the European Committee of Social Rights (ESCR) appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions XIX-2 (2009) of the ESCR and in the report of the Governmental Committee.

### 34. Nineteenth supervision cycle – third part

*European Committee of Social Rights – Conclusions XIX-3 (2010 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX3\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX3_en.pdf))*

*Governmental Committee – Nineteenth report (3) (doc. T-SG(2012)1)*

■ **Resolution CM/ResChS(2012)1** on the implementation of the European Social Charter (Conclusions XIX-3 (2010), provisions related to "Labour rights")

*(Adopted by the Committee of Ministers on 15 February 2012 at the 1134th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>158</sup>

157. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

158. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The States having ratified the European Social Charter or the European

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the governments of Austria, Croatia, the Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, the Netherlands (Antilles), Poland, Slovak Republic, Spain, “the former Yugoslav Republic of Macedonia” and the United Kingdom;

Having regard to the failure to submit a report in due time by Hungary, Luxembourg and the Netherlands (Aruba);

Considering Conclusions XIX-3 (2010) of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions XIX-3 (2010) of the European Committee of Social Rights and in the report of the Governmental Committee.

### 35. Nineteenth supervision cycle – fourth part

*European Committee of Social Rights – Conclusions XIX-4 (2011 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX4\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XIX4_en.pdf))*

*Governmental Committee – Nineteenth report (4) (doc. TSG(2012)31)*

■ **Resolution CM/ResChS(2013)4** on the implementation of the European Social Charter (Conclusions XIX-4 (2011), provisions related to “Children, families, migrants”)

*(Adopted by the Committee of Ministers on 27 March 2013 at the 1166th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>159</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

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Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

159. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxemburg, Netherlands (Aruba, Antilles), Poland, Spain, “the former Yugoslav Republic of Macedonia” and the United Kingdom;

Considering Conclusions XIX-4 (2011) of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions XIX-4 (2011) of the European Committee of Social Rights and in the report of the Governmental Committee.

### 36. Twentieth supervision cycle – first part

*European Committee of Social Rights – Conclusions XX-1 (2012 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XX1\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XX1_en.pdf))*

*Governmental Committee – Twentieth report (1) (doc. CG(2013)20)*

■ **Resolution CM/ResChS(2014)3** on the implementation of the European Social Charter during the period 2007-2010 (Conclusions XX-1 (2012), provisions related to the thematic group “Employment, training and equal opportunities”)

*(Adopted by the Committee of Ministers on 5 February 2014 at the 1190th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>160</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Austria, Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Netherlands in respect of Aruba and the Antilles, Poland, Spain, “the former Yugoslav Republic of Macedonia” and the United Kingdom;

Considering Conclusions XX-1 (2012) of the European Committee of Social Rights appointed under Article 25 of the Charter;

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160. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XX-1 (2012) of the European Committee of Social Rights and in the report of the Governmental Committee.

### 37. Twenty first supervision cycle – second part

*European Committee of Social Rights – Conclusions XX-2 (2013 – [http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XX2\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/XX2_en.pdf))*

*Governmental Committee – Twentieth report (2) (doc. T-SG(2014)20)*

■ **Resolution CM/ResChS(2015)2** on the implementation of the European Social Charter during the period 2008-2011 (Conclusions XX-2 (2013), provisions related to the thematic group “Health, social security and social protection”)

*(Adopted by the Committee of Ministers on 18 February 2015, at the 1220th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>161</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of

Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Poland, Spain, “the former Yugoslav Republic of Macedonia” and the United Kingdom;

Considering Conclusions XX-2 (2013) of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions XX-2 (2013) of the European Committee of Social Rights and in the report of the Governmental Committee.

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161. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are (1 January 2015): Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

## **B. Supervision relating to the reports submitted in pursuance of the revised European Social Charter (1996)**

### **1. Conclusions 2002**

*European Committee of Social Rights – Conclusions 2002* (2002, 265 p.; ISBN: 92-871-4925-9)

*Governmental Committee – Conclusions 2002* (doc. T-SG (2002) 18)

*Committee of Ministers*

**Resolution ResChS(2002)7** on the implementation of the Revised European Social Charter during the period 1999-2000 (conclusion 2002)

*(Adopted by the Committee of Ministers on 11 December 2002 at the 821st meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>162</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the Revised European Social Charter submitted by the Governments of France, Italy, Romania, Slovenia and Sweden (reference period 1999-2000);

Considering Conclusions 2002 of the European Committee of Social Rights appointed under Article 25 of the Charter,

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2002 of the European Committee of Social Rights and in the report of the Governmental Committee.

### **2. Conclusions 2003**

*European Committee of Social Rights – Conclusions 2003* (2003, 660 p.; ISBN: Volume 1: 92-871-5338-8, Volume 2: 92-871-5341-8)

*Governmental Committee – Conclusions 2003* (doc. T-SG (2003) 28)

*Committee of Ministers*

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162. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.



■ **Resolution ResChS(2004)3** on the implementation of the European Social Charter (revised) during the period 1999-2000 (Conclusions 2002)  
(Adopted by the Committee of Ministers on 17 March 2004 at the 876th meeting of the Ministers' Deputies)

The Committee of Ministers,<sup>163</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Bulgaria, France, Italy, Romania, Slovenia and Sweden (concerning period of reference 1999-2000);

Considering Conclusions 2003 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter;

Renews the recommendations relating to Italy which have not yet come into effect with regard to:

- ▶ Article 3 paragraph 3 (provision for the enforcement of safety and health regulations by measure of supervision);<sup>164</sup> (the Italian authorities are invited to produce in their reports information on the activities monitoring the application of occupational health and safety regulations);
- ▶ Article 4 paragraph 4 (reasonable notice of termination of employment)<sup>165</sup> (in some sectors the periods of notice for termination of employment are too short);

Recommends in addition that Governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2003 of the European Committee of Social Rights and in the report of the Governmental Committee.

### 3. Conclusions 2004

*European Committee of Social Rights – Conclusions 2004* (2004, 601 p.; ISBN: Volume 1: 92-871-5539-9, Volume 2: 92-871-5541-0)

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163. At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the Charter or the Revised Charter are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

164. Recommendation No. R ChS(94)4 of 8 April 1994 as well as Recommendation R ChS(95)7 of 22 June 1995, which were already renewed by Resolution(97)1 of 15 January 1997. It is recalled that Article 3 paragraph 3 of the European Social Charter (revised) sets out (a modified form of) the right which originally appeared under Article 3 paragraph 2 of the 1961 European Social Charter.

165. Recommendation No. R ChS(95)7 of 22 June 1995.

*Governmental Committee – Conclusions 2004* (doc. T-SG (2004) 23)

*Committee of Ministers*

■ **Resolution ResChS(2005)5** on the implementation of the European Social Charter (revised) during the period 2001-2002 (“hard core” provisions)  
(Adopted by the Committee of Ministers on 4 May 2005 at the 925th meeting of the Ministers’ Deputies)

The Committee of Ministers,<sup>166</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Bulgaria, Cyprus, Estonia, France, Ireland, Italy, Lithuania, Norway, Romania, Slovenia and Sweden (concerning period of reference 2001-2002);

Considering Conclusions 2004 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2004 of the European Committee of Social Rights and in the report of the Governmental Committee.

#### **4. Conclusions 2005**

*European Committee of Social Rights – Conclusions 2005* (2005, 737 p.; ISBN: Volume 1: 92-871-5832-1, Volume 2: 92-871-5834-5)

*Governmental Committee – Conclusions 2005* (doc. T-SG (2005) 25)

*Committee of Ministers*

■ **Resolution ResChS(2006)2** on the implementation of the European Social Charter (revised) during the period 2001-2002 (“non-hard core” provisions)  
(Adopted by the Committee of Ministers on 1 March 2006 at the 957th meeting of the Ministers’ Deputies)

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166. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom.

The Committee of Ministers,<sup>167</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Bulgaria, Cyprus, Estonia, France, Lithuania, Moldova, Norway, Romania, Slovenia and Sweden (concerning period of reference 2001-2002);<sup>168</sup>

Considering Conclusions 2005 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2005 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 5. Conclusions 2006

*Committee of Ministers*

■ **Resolution CM/ResChS(2007)5** on the implementation of the European Social Charter (revised) during the period 2003-2004 (Conclusions 2006, “hard core” provisions of the Charter)

*(Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>169</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

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167. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey and United Kingdom.

168. As far as Bulgaria, Cyprus, Estonia and Moldova are concerned, the beginning of the reference period coincided with the entry into force of the European Social Charter (revised) for each of these states.

169. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the governments of Albania, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Moldova, Norway, Portugal, Romania, Slovenia and Sweden (concerning period of reference 2003-2004);<sup>170</sup>

Considering Conclusions 2006 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2006 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 6. Conclusions 2007

*European Committee of Social Rights - Conclusions 2007* (2007, tome 1 ISBN 978-92-871-6337-0, tome 2 ISBN 978-92-871-6339-4)

*Governmental Committee – Conclusions 2007* (doc. T-SG(2009)4)

*Committee of Ministers*

■ *Resolution CM/ResChS(2009)5* on the implementation of the European Social Charter (revised) during the period 2001-2004 (Conclusions 2007, “non-hard core” provisions)

*(Adopted by the Committee of Ministers on 25 March 2009 at the 1052nd meeting of the Ministers’ Deputies)*

The Committee of Ministers,<sup>171</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the governments of Albania, Armenia, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Moldova, Norway, Romania, Slovenia and Sweden (concerning

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170. As far as Albania, Finland and Portugal are concerned, the beginning of the reference period coincided with the entry into force of the European Social Charter (revised) for each of these states.

171. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

period of reference 2001-2004)<sup>172</sup> with the exception of conclusions relating to Portugal, who did not submit a report;

Considering Conclusions 2007 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Renews Recommendation No. RChS (95) 6<sup>173</sup> which has not yet been implemented: Ireland, Article 4, paragraph 4 (the periods of notice laid down in the 1973 Act in case of termination of employment are inadequate);

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2007 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 7. Conclusions 2008

*European Committee of Social Rights – Conclusions 2008* (2008, Tome 1 ISBN 978-92-871-6529-9, Tome 2 ISBN 978-92-871-6531-2)

*Governmental Committee – Conclusions 2008* (doc. T-SG(2010)6)

Committee of Ministers

■ **Resolution CM/ResChS(2010)4** on the implementation of the European Social Charter (revised) during the period 2005-2006 (Conclusions 2008, provisions related to employment, training and equal opportunities)

*(Adopted by the Committee of Ministers on 31 March 2010 at the 1081st meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>174</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

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172. As far as Armenia and Belgium are concerned, it is the first report covering exceptionally all “non-hard core” provisions, the beginning of the reference period corresponded to the entry into force of the European Social Charter (revised) for each of these states. For Albania and Finland, it is the second report covering exceptionally all “non-hard core” provisions.

173. Recommendation No. RChS (95) 6 of 22 June 1995, renewed for the first time by Resolution No. ResChS(2005)3 of 4 May 2005.

174. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Considering the reports on the European Social Charter (revised) submitted by the Governments of Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Italy, Lithuania, Malta, Moldova, Netherlands (Kingdom in Europe), Norway, Portugal, Romania, Slovenia and Sweden (concerning the reference period 2005-2006); with the exception of Ireland, which did not submit a report;

Considering the Conclusions 2008 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2008 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 8. Conclusions 2009

*European Committee of Social Rights – Conclusions 2009* (2009, Tome 1 ISBN 978-92-871-6877-1, Tome 2 ISBN 978-92-871-6879-5)

*Governmental Committee – Conclusions 2009* (doc. T-SG(2011)1)

*Committee of Ministers*

■ **Resolution CM/ResChS(2011)3** on the implementation of the European Social Charter (revised) (Conclusions 2009, provisions related to health, social security and social protection)

*(Adopted by the Committee of Ministers on 16 February 2011 at the 1106th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>175</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the governments of Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Italy, Lithuania, Malta, Moldova, Netherlands (Kingdom in Europe), Norway, Portugal, Romania, Slovenia, Sweden, Turkey and Ukraine;

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175. At the 492nd meeting of the Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

Considering Conclusions 2009 of the European Committee of Social Rights (ESCR) appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions 2009 of the ESCR and in the report of the Governmental Committee.

## 9. Conclusions 2010

*European Committee of Social Rights – Conclusions 2010* (2010, Tome 1 ISBN 978-92-871-7146-7, Tome 2 ISBN 978-92-871-7148-1)

*Governmental Committee – Conclusions 2010* (doc. T-SG(2012)2 final)

*Committee of Ministers*

■ **Resolution CM/ResChS(2012)2** on the implementation of the European Social Charter (revised) (Conclusions 2010, provisions related to “Labour rights”) (*Adopted by the Committee of Ministers on 15 February 2012 at the 1134th meeting of the Ministers’ Deputies*)

The Committee of Ministers,<sup>176</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the governments of Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Italy, Lithuania, Malta, Republic of Moldova, Netherlands (Kingdom in Europe), Norway, Portugal, Romania, Slovenia, Sweden, Turkey and Ukraine;

Having regard to the failure to submit a report in due time by Finland and Ireland;

Considering Conclusions 2010 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

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176. At the 492nd meeting of Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions 2010 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 10. Conclusions 2011

*European Committee of Social Rights – Conclusions 2011* (2011, Tome 1 ISBN 978-92-871-7625-7, Tome 2 ISBN 978-92-871-7627-1, Tome 3 ISBN 978-92-871-7629-5)

*Governmental Committee – Conclusions 2011* (doc. GC(2012)32)

*Committee of Ministers*

■ **Resolution CM/ResChS(2013)5** on the implementation of the European Social Charter (revised) (Conclusions 2011, provisions related to “Children, families, migrants”) (Adopted by the Committee of Ministers on 27 March 2013 at the 1166th meeting of the Ministers’ Deputies)

The Committee of Ministers,<sup>177</sup>

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, the Republic of Moldova, the Netherlands (Kingdom in Europe), Norway, Portugal, Romania, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine;

Considering Conclusions 2011 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in Conclusions 2011 of the European Committee of Social Rights and in the report of the Governmental Committee.

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177. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.



## 11. Conclusions 2012

*European Committee of Social Rights – Conclusions 2012* (2012, [http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear\\_EN.asp?](http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear_EN.asp?))

*Governmental Committee – Conclusions 2012* (doc. GC(2013)25)

*Committee of Ministers*

■ **Resolution CM/ResChS(2014)4** on the implementation of the European Social Charter (revised) during the period 2007-2010 (Conclusions 2012, provisions related to the thematic group “Employment, training and equal opportunities”) (Adopted by the Committee of Ministers on 5 February 2014 at the 1190th meeting of the Ministers’ Deputies)

The Committee of Ministers,<sup>178</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands (Kingdom in Europe), Norway, Portugal, Romania, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine;

Considering Conclusions 2012 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2012 of the European Committee of Social Rights and in the report of the Governmental Committee.

## 12. Conclusions 2013

*European Committee of Social Rights – Conclusions 2013* (2013, [http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear\\_EN.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear_EN.asp))

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178. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

*Governmental Committee – Conclusions 2013* (doc. GC(2014)21)

*Committee of Ministers*

■ **Resolution CM/ResChS(2015)3** on the implementation of the European Social Charter (revised) during the period 2008-2011 (Conclusions 2013, provisions related to the thematic group “Health, social security and social protection”) (*Adopted by the Committee of Ministers on 18 February 2015 at the 1220th meeting of the Ministers’ Deputies*)

The Committee of Ministers,<sup>179</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the governments of Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Portugal, Romania, Russian Federation, Serbia, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine;

Considering Conclusions 2013 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2013 of the European Committee of Social Rights and in the report of the Governmental Committee.

### **13. Conclusions 2014**

*European Committee of Social Rights – Conclusions 2014* (2014, [http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear\\_EN.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear_EN.asp))

*Governmental Committee – Conclusions 2014* (doc.

[in progress])

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179. At the 492nd meeting of the Ministers’ Deputies in April 1993, the Deputies “agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter”. The States having ratified the European Social Charter or the European Social Charter (revised) are (1 January 2015): Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

## C. Supervision relating to reports submitted under Article 22 of the European Social Charter (1961) from 1981 to 2002

### 1. First exercise

*First report on certain provisions of the Charter which have not been accepted* (1981, 28 p.)

*Parliamentary Assembly of the Council of Europe* (thirty-fourth ordinary session)

■ **Opinion No. 111 (1982)**<sup>180</sup> on some provisions of the European Social Charter which have not been accepted

The Assembly,

1. Noting that in recent years some of the signatories to the Social Charter have declared themselves bound by provisions of the Charter which they did not accept when ratifying it;
2. Noting, however, that a large number of provisions have still not been accepted (780 acceptances of a total of 72 provisions by 13 Contracting Parties, as against 156 non-acceptances, including non-acceptances of important provisions) (see appendix);
3. Welcoming the Committee of Ministers' decision to implement for the first time the procedure provided for in Article 22 of the Social Charter and consequently ask the Contracting Parties to report on certain non-accepted provisions;
4. Considering that this procedure is designed, on the one hand, to complement the procedure relating to accepted provisions for the purpose of assessing the state of the Contracting Parties' legislation and practice with regard to the Charter as a whole and, on the other hand, to promote acceptance of further provisions of the Charter;
5. Having examined the national reports and the reports of the Committee of Independent Experts and the governmental committee on the same subject, and noted that the committees' views converge in various respects;
6. Noting that the initial implementation of Article 22 relates to Article 4, paragraph 3 (right of men and women workers to equal pay for work of equal value), Article 7, paragraph 1 (prohibition of child labour; fixing of a minimum age for admission to employment), Article 8, paragraph 1 (maternity leave) and Article 8, paragraph 2 (prohibition of dismissal during maternity leave);
7. Noting that the legislation of some of the Contracting Parties very nearly fulfils the conditions governing acceptance of the aforementioned provisions, whereas the situation elsewhere still seems incompatible with the Charter's requirements;
8. Being of the opinion that the Assembly should also take this opportunity of urging states which have not yet signed or ratified the Charter to speed up necessary amendments to their legislation with a view to joining the group of thirteen Contracting Parties as soon as possible. As Articles 21 and 22 require reviews of the

180. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 2 July 1982. See Doc. 4917, report of the Committee on Social and Health Questions.

situation of accepting states, fairness demands that similar pressure be brought to bear on the eight states not yet bound by the Charter. Although, as the preamble states, practice in countries with systems of customary law may prove difficult to reconcile with practice in countries with systems of statute law, the fact remains that the future of the European Social Charter depends on the participation of all states;

9. Recommends that the Committee of Ministers:
  - i. ask the governments of states whose de jure or de facto situation is relatively close to meeting the requirements of the Charter to adopt measures enabling them to accept the provisions referred to in paragraph 6 above;
  - ii. ask the governments of states whose legislation or practice are still far short of the level of social protection required by the Charter to consider gradually approximating their standards to the requirements for acceptance of the relevant provisions;
  - iii. ask the governments of Belgium, Greece, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey, which have not yet ratified the Social Charter, to note this opinion and do everything possible to upgrade their legislation as necessary with a view to ratifying the Charter;
10. Asks the Committee of Ministers to continue to implement Article 22 regularly, while henceforth consulting the Assembly in the selection of the provisions on which national reports are to be submitted;
11. Hereby confirms its commitment to the principles of the Social Charter, which effectively safeguard fundamental rights and freedoms.

#### *Committee of Ministers*

### ■ **Resolution ChS (83) 2** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 23 March 1983 at the 357th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the first reports submitted under Article 22 – Reports on non-accepted provisions – concerning the following articles:

- ▶ Article 4, paragraph 3,
- ▶ Article 7, paragraph 1,
- ▶ Article 8, paragraph 1,
- ▶ Article 8, paragraph 2;

Having taken note of the first report containing the conclusions of the Governmental Committee of the European Social Charter on certain provisions of the Charter which have not been accepted, to which is appended the first report of the Committee of Independent Experts concerning these same provisions, and Assembly Opinion

No. 111 (1982), prepared from the reports submitted by the Governments of Austria, Cyprus, Denmark, the Federal Republic of Germany, Ireland, Norway, Sweden and the United Kingdom.

Resolves to transmit the three aforesaid documents to the governments of these states, calling their attention to the passages concerning them and in particular to paragraphs 9.i and 9.ii of Opinion No. 111.

## 2. Second exercise

*Second report on certain provisions of the Charter which have not been accepted* (1982, 24 p.)  
*Parliamentary Assembly of the Council of Europe* (thirty-fifth ordinary session)

■ **Opinion No. 117 (1983)**<sup>181</sup> on some provisions of the European Social Charter which have not been accepted

The Assembly,

1. Having regard to Part IV of the European Social Charter, and in particular to Articles 22 and 28;
2. Noting that the Committee of Ministers has, for the second time, asked states bound by the Charter to submit a report on certain non-accepted provisions in that instrument;
3. Having examined the second report of the Committee of Independent Experts on certain non-accepted provisions of the Charter, which analyses the reports submitted by contracting states as requested by the Committee of Ministers, and having taken into consideration the second report on the same subject submitted by the Governmental Committee of the European Social Charter;
4. Observing that the reports requested from the Contracting Parties by the Committee of Ministers concerned the following provisions of the Charter: Article 2, paragraph 4 (working conditions for workers in dangerous or unhealthy occupations); Article 7, paragraph 4 (working hours of persons under 16 years of age); Article 8, paragraph 4 (regulation of night work and prohibition of dangerous, unhealthy or arduous work for women workers); Article 19, paragraph 8 (security against expulsion);
5. Considering that this procedure has enabled a number of states to review their legislation or practice regarding some of the above matters covered in their reports, and hence to consider the possibility of accepting further provisions of the European Social Charter;
6. Concluding that the procedure established under Article 22 of the Charter has thereby fully proved its worth.
7. Recommends that the Committee of Ministers:
  - i. ask the governments of states whose legislation or practice already meets the requirements of any of the provisions of the Charter referred to in paragraph 4 above to accept such provision or provisions formally;

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181. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 November 1983. See Doc. 5144, report of the Committee on Social and Health Questions.

- ii. ask the governments of states whose legislation or practice appears relatively close to meeting the standard of protection required by the Charter to adopt measures enabling them to accept the aforementioned provisions;
  - iii. ask the governments of states whose legislation or practice is still far short of the level of social protection required by the Charter under the aforementioned provisions to consider gradually approximating their standards to the requirements for the acceptance of those provisions;
8. Requests the Committee of Ministers to continue applying Article 22 of the Social Charter regularly, and to associate the Assembly with the selection of the provisions on which national reports are to be submitted;
9. Hereby asks the Committee of Ministers to invite the following governments of member states: Belgium, Greece, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey, which have not ratified the Social Charter, to do everything possible with a view to ratifying the Charter.

*Committee of Ministers*

■ **Resolution ChS (84) 1** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 25 January 1984 at the 366th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on non-accepted provisions – concerning the following articles:

- ▶ Article 2, paragraph 4,
- ▶ Article 7, paragraph 4,
- ▶ Article 8, paragraph 4,
- ▶ Article 19, paragraph 8;

Having taken note of the second report containing the conclusions of the Governmental Committee of the European Social Charter on certain provisions of the Charter which have not been accepted, to which is appended the second report of the Committee of Independent Experts concerning these same provisions, and Assembly Opinion No. 117 (1983), prepared from the information submitted by the Governments of Austria, Cyprus, Denmark, France, the Federal Republic of Germany, Iceland, Norway, Sweden and the United Kingdom,

Resolves to transmit the three aforesaid documents to the governments of these states, calling their attention to the passages concerning them and in particular to paragraphs 7.i, ii and iii of Opinion No. 117.

### 3. Third exercise

*Third report on certain provisions of the Charter which have not been accepted* (1989, 44 p., ISBN: 92-871-1744-6)

*Parliamentary Assembly of the Council of Europe* (forty-third ordinary session)

■ **Opinion No. 160 (1991)**<sup>182</sup> on some provisions of the Social Charter of the Council of Europe which have not been accepted

1. The Council of Europe's Social Charter is a catalogue of social rights which states that ratify the Charter may accept on an "à la carte" basis so they do not necessarily have to subscribe to all nineteen articles at once. The ultimate objective is nevertheless to achieve full acceptance of all the social rights embodied in the Charter; with this in mind, the Contracting Parties are requested, in principle at regular intervals, to submit reports on the articles or paragraphs they have not accepted (procedure under Article 22).
2. The Assembly is therefore pleased to note that, in accordance with Article 22, the Committee of Ministers has, for the third time,<sup>183</sup> invited the states party to the Charter to submit reports on certain provisions they have not accepted, namely:
  - i. reasonable daily and weekly working hours (Article 2, paragraph 1);
  - ii. the right of young workers and apprentices to a fair wage or other appropriate allowances (Article 7, paragraph 5);
  - iii. inclusion of the time spent by young persons in vocational training as part of the normal working day (Article 7, paragraph 6);
  - iv. minimum of three weeks' annual holiday with pay for employed persons under 18 years of age (Article 7, paragraph 7).
3. The Assembly has examined the situations in the countries concerned (Austria, Cyprus, Denmark, Sweden, United Kingdom, Iceland and Ireland) in the light of the 3rd Report of the Committee of Independent Experts and the report on the same subject presented by the Governmental Committee.
4. It confirms its conviction regarding the usefulness of this critical examination in identifying and eliminating the real or imaginary obstacles to acceptance of the provisions concerned, thereby achieving a situation in which all the Contracting Parties share the same social values and together constitute a single European social area.
5. However, it also points out the current limitations to this procedure: the excessive lapse of time since the procedure was last implemented, the small number of additional articles or paragraphs that have been accepted since the Charter came into force, the fact that it is limited to those Contracting Parties already bound by the Charter.

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182. Assembly debate on 24 September 1991 (17th Sitting) (see Doc. 6476, report of the Social, Health and Family Affairs Committee, Rapporteur: Mr Beix). Text adopted by the Assembly on 24 September 1991 (17th sitting).

183. The first two procedures under Article 22 date back to 1982 and 1983.

6. Accordingly, and subject to the renewal of the Social Charter foreseen for Turin in October 1991, the Assembly recommends that the Committee of Ministers:
- i. implement this procedure on a regular basis, preferably every two years, linking the reports submitted by virtue of Article 22 to those on accepted provisions, submitted under Article 21, so that both reports can be examined together;
  - ii. give priority, when the procedure under Article 22 is next implemented, to the questions of prior notice of termination of employment (Article 4, paragraph 4) and the treatment of migrant workers in respect of remuneration, working conditions, trade union rights and accommodation (Article 19, paragraph 4);
  - iii. implement a procedure on the same grounds and for the same purpose as the procedure under Article 22, along lines yet to be define, with a view to determining the current situation of social rights in Council of Europe member states which have not ratified the Charter, and the reasons and obstacles behind their failure to do so;
  - iv. invite the states concerned, in the light of the conclusions reached by the supervisory organs of the Charter, to bring their legislation and practice into line with the provisions of the Charter mentioned in paragraph 2 above, with a view to their acceptance in the near future;
  - v. urge the states concerned to pay particular attention to the status and protection of employed persons under 18 years of age; employment is the principal means of socially integrating young people and priority must be given to facilitating their search for jobs; but measures taken with this in mind must not result in their becoming cheap labour, underpaid and rejected as soon as they are adults. Conditions of work, including pay, for this category of workers must be fair; in particular, all young people throughout Europe must be given at least three weeks' annual leave with pay, considering that most adult workers nowadays have four or five weeks' annual leave.

#### *Committee of Ministers*

#### **Resolution ChS (92) 1** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 13 January 1992 at the 469th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on provisions which are not accepted – concerning the following articles:

- ▶ Article 2, paragraph 1,
- ▶ Article 7, paragraph 5,



- ▶ Article 7, paragraph 6,
- ▶ Article 7, paragraph 7;

Having taken note of the 3rd report containing the conclusions of the Governmental Committee of the European Social Charter on certain provisions which have not been accepted, to which is appended the 3rd report of the Committee of Independent Experts of the European Social Charter concerning these same provisions, and Assembly Opinion No. 160 (1991), prepared from the information submitted by the Governments of Austria, Cyprus, Denmark, Iceland, Ireland, Sweden and the United Kingdom,

Resolves to transmit the three aforesaid documents to the governments of these states.

#### 4. Fourth exercise

*Fourth report on certain provisions of the Charter which have not been accepted (1995, 40 p., ISBN: 92-871-2912-6)*

*Committee of Ministers*

■ **Resolution ChS (95) 3** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 14 December 1995 at the 552nd meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on non-accepted provisions – concerning the following articles:

- ▶ Article 7, paragraph 9,
- ▶ Article 19, paragraph 4;

Having taken note of the fourth report containing the conclusions of the Governmental Committee of the European Social Charter on certain provisions which have not been accepted, to which is appended the fourth report of the Committee of Independent Experts of the European Social Charter concerning these same provisions, prepared from the information submitted by the Governments of Austria, Cyprus, Denmark, Finland, Iceland, Ireland, Malta and Norway,

Decided to transmit the aforesaid documents to the governments of these states.

#### 5. Fifth exercise

*Fifth report on certain provisions of the Charter which have not been accepted (1997, 34 p., ISBN: 92-871-3423-5)*

Committee of Ministers<sup>184</sup>

184. The Committee of Ministers adopted a single Resolution for the 5th and 6th procedures on non-accepted provisions (Article 22): see point 6 below.

## 6. Sixth exercise

*Sixth report on certain provisions of the Charter which have not been accepted* (1998, 66 p., ISBN: 92-871-3732-3)

*Committee of Ministers*

■ **Resolution ChS (99) 1** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 21 January 1999 at the 657th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on non-accepted provision – concerning the following articles:

- ▶ Article 4 para. 4,
- ▶ Articles 5 and 6;

Having taken note of the fifth and sixth reports of the Governmental Committee of the European Social Charter on certain provisions which have not been accepted, to which are appended the fifth and sixth reports of the Committee of Independent Experts concerning these same provisions prepared from the information submitted by the Governments of Austria, Cyprus, Denmark, Finland, Germany, Greece, Luxembourg and Turkey,

Decided to transmit the aforesaid documents to the Governments of these States.

## 7. Seventh exercise

*Seventh report on certain non-accepted provisions of the Charter* (2000, 65 p., ISBN: 92-871-4391-9)

■ **Resolution ResChS(2001)1** of the Committee of Ministers on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 31 January 2001 at the 738th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on certain non-accepted provisions – concerning the following articles:

- ▶ Articles 5 and 6
- ▶ Article 13;

Having taken note of the seventh report of the Governmental Committee of the European Social Charter on certain provisions which have not been accepted, to which is appended the seventh report of the European Committee of Social Rights concerning these same provisions prepared from the information submitted by the Governments of Austria, Cyprus, Greece, Poland, Slovakia and Turkey, and also concerning Luxembourg,

Decided to transmit the aforesaid documents to the Governments of these States.

## 8. Eighth exercise

*Eighth report on certain non-accepted provisions of the Charter (2001, 18 p.)*

*Committee of Ministers*

■ **Resolution ResChS(2001)8** on certain non-accepted provisions of the European Social Charter

*(Adopted by the Committee of Ministers on 19 December 2001 at the 778th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Referring to the European Social Charter and particularly to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Acting in the context of the examination of the reports submitted under Article 22 – reports on non-accepted provisions – concerning the following articles:

- ▶ Article 7 paras. 1, 3 and 4;

Having taken note of the eighth report of the Governmental Committee of the European Social Charter on certain provisions which have not been accepted, to which is appended the eighth report of the European Committee of Social Rights concerning these same provisions prepared from the information submitted by the Governments of Austria, Denmark, Germany, Iceland, Norway, Poland, Turkey and the United Kingdom,

Decided to transmit the aforesaid documents to the governments of these states.

## D. Procedure on non-accepted provisions of the European Social Charter (implementation of Article 22 of the 1961 Charter) as from 2003

### 1. New procedure

■ **Decision 4.1** adopted during the 821st meeting of the Committee of Ministers (11 December 2002)

*Committee of Ministers*

...

c. Implementation of Article 22 of the Social Charter (non-accepted provisions) (CM(2002)184)

## *Decisions*

In accordance with Article 29 of the European Social Charter and the decision adopted by the Committee of Ministers at the 541st meeting of the Deputies (June 1995, item 4.6), the Deputies, Representatives of the Contracting Parties to the European Social Charter or the Revised Charter in the Committee of Ministers<sup>185</sup> on the basis of the abridged report of the Governmental Committee of the European Social Charter concerning Conclusions XVI-1 (CM(2002)182) and the abridged report of the Governmental Committee concerning Conclusions 2002 (Revised European Social Charter) (CM(2002)183 and corrigendum):

...

In application of Article 22 of the European Social Charter,

3. decided that states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification;
4. invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned.

### **2. 2003**

In 2003, only Sweden, which ratified the Revised Charter in 1998, was concerned. Sweden has not accepted 15 provisions of the Revised Charter. The meeting took place in Stockholm on 26 and 27 November 2003.

### **3. 2004**

Romania, Slovenia and Italy, all of which ratified the Revised Charter in 1999, were concerned by this procedure in 2004. Romania has not accepted 33 provisions, Slovenia has not accepted 3 provisions, and Italy has not accepted one provision. Meetings were held as follows:

- ▶ Romania: (Bucharest, 18-19 May 2004);
- ▶ Slovenia: (Ljubljana, 13-15 September 2004);
- ▶ Italy: (written procedure).

### **4. 2005**

Bulgaria, Cyprus, Estonia and Ireland, which ratified the Revised Charter in 2000, were concerned by the procedure in 2005. Meetings were held as follows:

- ▶ Bulgaria, which has not accepted 37 provisions (Sofia, 3-5 October 2005);
- ▶ Cyprus, which has not accepted 35 provisions (meeting postponed at the beginning of 2006, i.e. Nicosia, 31 January-1 February 2006);
- ▶ Estonia, which has not accepted 19 provisions (Tallinn, April 2005);
- ▶ Ireland, which has not accepted 6 provisions (Dublin, 5-6 October 2005).

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185. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

## 5. 2006

Lithuania, Norway and Moldova, all of which ratified the Revised Charter in 2001, were concerned by this procedure in 2004. Moreover the meeting relating to Cyprus (Nicosia, 31 January-1 February 2006), the other meetings were held as follows:

- ▶ Moldova, which has not accepted 35 provisions, (Chişinău, 21 March 2006);
- ▶ Norway, which has not accepted 18 provisions (Oslo, 28 March 2006);
- ▶ Lithuania, which has not accepted 12 provisions (Vilnius, 27 October 2006).

## 6. 2007

Albania, Finland and Portugal, which ratified the Revised Charter in 2002, were concerned by this procedure in 2007. Meetings were held as follows:

- ▶ Albania, which has not accepted 34 provisions, (Tirana, 14-15 November 2007);
- ▶ Finland, which has not accepted 10 provisions (Helsinki, 15-16 November 2007);
- ▶ Portugal, which accepted all provisions (meeting postponed on 8 January 2008 in Lisbon).

## 7. 2008

In 2008, the countries concerned were Portugal (ratification in 2002), Sweden (ratification in 1998).

The meetings were held:

- ▶ In Portugal, Lisbon, 8 January 2008 (0 non-accepted provisions)
- ▶ With the Swedish authorities in France, Strasbourg, 21 October 2008 (15 non-accepted provisions)

## 8. 2009

In 2009, the countries concerned were Azerbaijan (ratification in 2004), Belgium (ratification in 2001), Italy (ratification in 1993), Romania (ratification in 1999) and Slovenia (ratification in 1999).

The meetings were held:

- ▶ In Azerbaijan, Baku, 23-24 June 2009 (51 non-accepted provisions)
- ▶ With the Belgian authorities in France, Strasbourg, 3 February 2009 (4 non-accepted provisions)
- ▶ In Romania, Bucharest, 6 May 2009 (33 non-accepted provisions)

The written procedure was followed in respect of:

- ▶ Italy (1 non-accepted provision) (10 December 2009)
- ▶ Slovenia (3 non-accepted provisions)

## 9. 2010

In 2010, the countries concerned were Estonia (ratification in 2000) and Malta (ratification in 2005).

The meetings were held:

- ▶ In Estonia, Tallinn, 20 September 2010 (19 non-accepted provisions)
- ▶ In Malta, Valetta, 7 December 2010 (26 non-accepted provisions)

## 10. 2011

In 2011, the countries concerned were Moldova (ratification in 2001) and the Netherlands (ratification in 2006).

The meetings were held:

- ▶ In Moldova, Chisinau, 1<sup>st</sup> December 2011 (35 non-accepted provisions)

The written procedure was followed in respect of:

- ▶ the Netherlands (1 non-accepted provision)

## 11. 2012

In 2012, the countries concerned are Albania (ratification in 2002), Andorra (ratification in 2004), Bulgaria (ratification in 2000), Cyprus (ratification in 2000), Finland (ratification in 2002), Georgia (ratification in 2005), Ireland (ratification in 2000) and Ukraine (ratification in 2006).

The meetings were held:

- ▶ In Albania, Tirana, 5 June 2012 (34 non-accepted provisions)
- ▶ In Andorra, Andorra la Vella, 18 February 2011 (19 non-accepted provisions)

The written procedure was followed in respect of:

- ▶ Bulgaria (36 non-accepted provisions)
- ▶ Cyprus (26 non-accepted provisions)
- ▶ Finland (10 non-accepted provisions)
- ▶ Georgia (35 non-accepted provisions)
- ▶ Ireland (6 non-accepted provisions)
- ▶ Ukraine (24 non-accepted provisions)

## 12. 2013

In 2013, the countries concerned were Bosnia and Herzegovina (ratification in 2008), Lithuania (ratification in 2001), Norway (ratification in 2001) and Turkey (ratification in 2007).

The meetings were held:

- ▶ In Bosnia and Herzegovina, Sarajevo, 26 June 2013 (47 non-accepted provisions)
- ▶ In Lithuania, Vilnius, 21 June 2011 (12 non-accepted provisions)
- ▶ In Turkey, Ankara, 6 May 2013 (7 non-accepted provisions)

The written procedure was followed in respect of:

- ▶ Norway (18 non-accepted provisions)

### **13. 2014**

In 2014, the countries concerned were Azerbaijan (ratification in 2004), Belgium (ratification in 2004), Italy (ratification in 1999) and Sweden (ratification in 1998).

The written procedure was followed in respect of:

- ▶ In Azerbaijan (51 non-accepted provisions)
- ▶ In Belgium (11 non-accepted provisions)
- ▶ In Italy (1 non-accepted provision)
- ▶ In Sweden (15 non-accepted provisions)

### **14. 2015**

In 2015, the countries concerned are Serbia (ratification 2009), .....

The written procedure was followed in respect of:

In Serbia (10 non-accepted provisions)

.....





# X. Collective complaints

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## A. Procedure<sup>186</sup>

■ Decision of the Committee of Ministers adopted during the 541st meeting of the Ministers' Deputies on 22 June 1995

The Deputies

1. adopted the text of the Protocol of the European Social Charter providing for a system of collective complaints as it appears in Appendix 18 to the current volume of Decisions [see Part I.A.4. of the current Collected Texts];
2. decide to open this Protocol to the signature of member States setting the date for the 9 November 1995 (97th Session of the Committee of Ministers) to this effect;
3. authorised the publication of the explanatory report to the said Protocol, as it appears in Appendix 19 to the present volume of Decision;
4. adopted the procedure for selecting international non-governmental organisations other than employers' and workers' organisations as it appears in Appendix 20 to the present volume of Decisions.

## ■ Appendix 20

Procedure for selecting international Non-Governmental organisations other than employers' and workers' organisations

This list is drawn up by the Governmental Committee using the following procedure:

- ▶ INGOs which hold consultative status with the Council of Europe and consider themselves particularly competent in any matters governed by the Charter are invited to express their wish to be included on a special list of INGOs entitled to submit complaints;
- ▶ each application must be supported by detailed and accurate documentation aiming to show in particular that the INGO has access to authoritative sources of information and is able to carry the necessary verifications, to obtain appropriate legal opinions, etc. in order to draw up complaint files that meet basic requirements of reliability;

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186. See current Collected Texts: Additional Protocol of 1995 providing for a system of collective complaints (Part I. Basic Texts, under A.4.) and explanatory report (Part III. Explanatory Report, under C.).

- ▶ all applications are transmitted to the Governmental Committee, accompanied by an opinion of the Secretary General which reflects the degree of interest and participation shown by the INGO in its normal dealings with the Council of Europe;
- ▶ an application is considered accepted by the Governmental Committee unless it is rejected in a ballot by a simple majority of votes cast;
- ▶ inclusion on the special list is valid for a period of four years, after which it lapses unless the organisation applies for renewal in the six-month period preceding the expiry date. The procedure described above applies to renewal applications.

## **B. List of International non-governmental Organisations (INGOS) entitled to submit collective complaints<sup>187</sup> (as from 1st January 2015)**

### **Organisations registered for a period of 4 years: 1 July 2011 - 30 June 2015**

- ▶ European Action of the Disabled (**AEH**)
- ▶ International Alliance of Women (**IAW**)
- ▶ Amnesty International (**AI**)
- ▶ Caritas Internationalis (International Confederation of Catholic Charities)
- ▶ European Council of WIZO Federations (**ECWF**)
- ▶ Marangopoulos Foundation for Human Rights (**MFHR**)
- ▶ Médecins du Monde – International

### **Organisations registered for a period of 4 years: 1 January 2012 – 31 December 2015**

- ▶ European Committee for Home-based Priority Action for the Child and the Family (**EUROCEF**);
- ▶ Platform for International Cooperation on Undocumented Migrants (**PICUM**).

### **Organisations registered for a period of 4 years: 1 July 2012 – 30 June 2016**

- ▶ European Network of Ombudspersons for Children (**ENOC**)

### **Organisations registered for a period of 4 years: 1 January 2013 - 31 December 2016**

- ▶ European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (**ILGA-Europe**)
- ▶ Mental Disability Advocacy Center (**MDAC**)
- ▶ European Federation of National Organisations Working with the Homeless (**FEANTSA**)
- ▶ European Disability Forum (**EDF**)

187. List established by the Governmental Committee following the decision of the Committee of Ministers on 22 June 1995 (see §20 of the Explanatory Report to the Protocol). The organisations are registered on this list – in French alphabetical order – for a duration of 4 years.

- ▶ Foodfirst Information and Action Network (**FIAN**)

**Organisations registered for a period of 4 years: 1 July 2013 – 30 June 2017**

- ▶ Open Society European Policy Institute (**OSEPI**)
- ▶ Federation of European Bars (**FEB**)

**Organisations registered for a period of 4 years: 1 January 2014 – 31 December 2017**

- ▶ AGE Platform Europe (**AGE**)
- ▶ European Council on Refugees and Exiles (**ECRE**)
- ▶ Soroptimist international of Europe (**SI/E**)

**Organisations registered for a period of 4 years: 1 July 2014 – 30 June 2018**

- ▶ International Union of Tenants (**IUT**)
- ▶ Alzheimer Europe (**AE**)
- ▶ Association for the Protection of all Children Ltd - **APPROACH** Ltd
- ▶ European Association of Railwaymen (**EAR**)
- ▶ European Association of Teachers (**EAT**)
- ▶ International Association Autism-Europe (**IAAE**)
- ▶ International Association of Charities (**AIC**)
- ▶ World Association of Children's Friends (**AMADE**)
- ▶ European Centre of the International Council of Women (**ECICW**)
- ▶ European Roma Rights Centre (**ERRC**)
- ▶ International Commission of Jurists (**ICJ**)
- ▶ European Committee for the Education of Children and Adolescents who are Intellectually Advanced, Highly Gifted, Talented (**EUROTALENT**)
- ▶ European Confederation of Police (**EUROCOP**)
- ▶ European Confederation of Independent Trade Unions (**CESI**)
- ▶ Conference of European Churches (**CEC**)
- ▶ International Scientific Conference Minorities for Europe of Tomorrow (**ISCOMET**)
- ▶ European Council of Police Trade Unions (**CESP**)
- ▶ International Council on Social Welfare (**ICSW**)
- ▶ Defence for Children International (**DCI**)
- ▶ Federation of Catholic Family Associations in Europe (**FAFCE**)
- ▶ European Federation of Employees in Public Services (**EUROFEDOP**)
- ▶ International Federation of Associations of the Elderly (**FIAPA**)
- ▶ International Federation of Human Rights (**FIDH**)
- ▶ International Federation for Peace and Conciliation (**IFPC**)
- ▶ International Federation for Hydrocephalus and Spina Bifida (**IF**)
- ▶ International Planned Parenthood Federation – European Network (**IPPF EN**)
- ▶ European Roma and Travellers Forum (**ERTF**)
- ▶ Inclusion International - Inclusion Europe

- ▶ European Ombudsman Institute (**EOI**)
- ▶ Education International (**EI**)
- ▶ Lions Clubs International, European Districts (**LCI**)
- ▶ European Judges for Democracy and Liberties (**MEDEL**)
- ▶ Movement ATD - Fourth World
- ▶ European Organisation of Military Associations (**EUROMIL**)
- ▶ Disabled People's International (**DPI**)
- ▶ World Organisation Against Torture (**OMCT**)
- ▶ Rehabilitation International (**RI**)
- ▶ European Anti-Poverty Network (**EAPN**)
- ▶ Mental Health Europe
- ▶ European Blind Union (**EBU**)
- ▶ European Union of Women (**EUW**)
- ▶ European Union of Rechtspfleger (**EUR**)
- ▶ European Union of the Deaf (**EUD**)
- ▶ International Association of Lawyers (**UIA**)
- ▶ International Union of European Guides and Scouts (**IUEGS**)
- ▶ International Professional Union of Gynecologists and Obstetricians (**UPIGO**)
- ▶ European Youth Forum (**YFJ**)

**Organisations inscrites pour une période de 4 ans: 1 janvier 2015 – 31 décembre 2018**

**Organisations registered for a period of 4 years: 1 January 2015 – 31 December 2018**

- ▶ European Lawyers Union (**UAE**)
- ▶ Transgender Europe (**TGEU**)

### **C. List of registered collective complaints<sup>188</sup>**

**Complaint No. 1/1998**

International Commission of Jurists v. Portugal

The complaint, lodged on 12 October 1998, relates to Article 7§1 (prohibition of employment under the age of 15) of the European Social Charter. It is alleged that the situation in practice in Portugal is in violation of this provision.

The European Committee of Social Rights declared the complaint admissible on 10 March 1999.

The European Committee of Social Rights concluded that there was a violation of Article 7§1 and transmitted its decision on the merits of the complaint to the Parties

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<sup>188</sup>. List dated 1st January 2015.

and to the Committee of Ministers on 10 September 1999. The Committee of Ministers adopted Resolution ResChS(99)4 on 15 December 1999.

### **Complaint No. 2/1999**

European Federation of Employees in Public Services (EUROFEDOP) v. France

The complaint, lodged on 13 August 1999, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the European Social Charter and of the Revised European Social Charter. It is alleged that the armed forces are denied these rights.

The European Committee of Social Rights declared the complaint admissible on 10 February 2000.

The European Committee of Social Rights concluded that there was no violation of Articles 5 and 6 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 12 December 2000. The Committee of Ministers adopted Resolution ResChS(2001)2 on 7 February 2001.

### **Complaint No. No. 3/1999**

European Federation of Employees in Public Services (EUROFEDOP) v. Greece

The complaint, lodged on 13 August 1999, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the European Social Charter. It is alleged that the armed forces are denied these rights.

The European Committee of Social Rights declared the complaint inadmissible on 13 October 1999.

### **Complaint No. 4 No. 4/1999**

European Federation of Employees in Public Services (EUROFEDOP) v. Italy

The complaint, lodged on 13 August 1999, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the European Social Charter and of the Revised European Social Charter. It is alleged that the armed forces are denied these rights.

The European Committee of Social Rights declared the complaint admissible on 10 February 2000.

The European Committee of Social Rights concluded that there was no violation of Articles 5 and 6 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 12 December 2000. The Committee of Ministers adopted Resolution ResChS(2001)3 on 7 February 2001.

### **Complaint No. 5/1999**

European Federation of Employees in Public Services (EUROFEDOP) v. Portugal

The complaint, lodged on 13 August 1999, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the European Social Charter. It is alleged that the armed forces are denied these rights.

The European Committee of Social Rights declared the complaint admissible on 10 February 2000.

The European Committee of Social Rights concluded that there was no violation of Articles 5 and 6 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 12 December 2000. The Committee of Ministers adopted Resolution ResChS(2001)4 on 7 February 2001.

### **Complaint No. 6/1999**

Syndicat national des professions du tourisme v. France

The complaint, lodged on 30 August 1999, relates to Articles 1§2 (prohibition against all forms of discrimination in access to employment), 10 (the right to vocational training) and E (non-discrimination) of the Revised European Social Charter. It is alleged discrimination in access to work and vocational training for guide-interpreters and national lecturers.

The European Committee of Social Rights declared the complain admissible on 10 February 2000.

The European Committee of Social Rights concluded that there was a violation of Article 1§2 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 10 October 2000. The Committee of Ministers adopted Recommendation RecChS(2001)1 on 30 January 2001.

### **Complaint No. 7/2000**

International Federation of Human Rights Leagues (FIDH) v. Greece

The complaint, lodged on 7 February 2000, relates to Article 1§2 (prohibition of forced labour). It is alleged that a number of legislative provisions and regulations do not respect the prohibition of forced labour.

The European Committee of Social Rights declared the complaint admissible on 28 June 2000.

The European Committee of Social Rights concluded that there was a violation of Article 1§2 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 12 December 2000. The Committee of Ministers adopted Resolution ResChS(2001)6 on 5 April 2001.

### **Complaint No. 8/2000**

Quaker Council for European Affairs (QCEA) v. Greece

The complaint, lodged on 10 March 2000, relates to Article 1§2 (prohibition of forced labour) of the European Social Charter. It is alleged that the application in practice of the act authorising alternative forms of military service for conscientious objectors does not respect the prohibition of forced labour.

The European Committee of Social Rights declared the complaint admissible on 28 June 2000.

The European Committee of Social Rights concluded that there was a violation of Article 1§2 and transmitted its decision on the merits of the complaint to the Parties

and to the Committee of Ministers on 27 April 2001. The Committee of Ministers adopted Resolution ResChS(2002)3 on 6 March 2002.

### **Complaint No. 9/2000**

Confédération Française de l'Encadrement (CGC) v. France

The complaint, lodged on 20 June 2000, relates to Articles 2 (the right to just conditions of work), 4 (the right to a fair remuneration), 6 (the right to bargain collectively including the right to strike) and 27 (the right of workers with family responsibilities to equal opportunities and equal treatment) of the Revised European Social Charter. It is alleged that the provisions relating to the working hours of managers (cadres) contained in the second Act on the Reduction of Working Hours (Act No. 2000-37 of 19 January 2000 – “Loi Aubry No. 2”) violates these provisions.

The European Committee of Social Rights declared the complaint admissible on 16 November 2001.

The European Committee of Social Rights concluded that there was a violation of Article 2§1 and of Article 4§2 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 11 December 2001. The Committee of Ministers adopted Resolution ResChS(2002)4 on 26 March 2002.

### **Complaint No. 10/2000**

Tehy ry and STTK ry v. Finland

The complaint, lodged on 23 October 2000, relates to Article 2§4 (the right to additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations) of the European Social Charter. It is alleged that the fact that hospital personnel who are subjected to the hazards of radiation during the course of their work are no longer entitled to special leave due to the exposure to radiation, violates this provision of the Charter.

The European Committee of Social Rights declared the complaint admissible on 12 February 2001.

The European Committee of Social Rights concluded that there was a violation of Article 2§4 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 17 October 2001. The Committee of Ministers adopted Resolution ResChS(2002)2 on 21 February 2002.

### **Complaint No. 11/2001**

European Council of Police Trade Unions v. Portugal

The complaint, lodged on 18 July 2001, relates to Articles 5 (the right to organise) and 6 (the right to collective bargaining) of the European Social Charter. It is alleged that members of the Polícia de Segurança Pública are not guaranteed these rights.

The European Committee of Social Rights declared the complaint admissible on 17 October 2001.

The European Committee of Social Rights concluded that there was no violation of Articles 5 and 6 and transmitted its decision on the merits of the complaint to

the Parties and to the Committee of Ministers on 21 May 2002. The Committee of Ministers adopted Resolution ResChS(2002)5 on 17 July 2002.

### **Complaint No. 12/2002**

Confederation of Swedish Enterprise v. Sweden

The complaint, lodged on 4 April 2002, relates to Article 5 (the right to organise). It is alleged that the right not to belong to a trade union is not guaranteed in the manner required under Article 5.

The European Committee of Social Rights declared the complaint admissible on 19 June 2002. It held a public hearing on 31 March 2003.

The European Committee of Social Rights concluded that there was a violation of Article 5 (regarding pre-entry closed shop clauses) and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 22 May 2003. The Committee of Ministers adopted Resolution ResChS(2003)1 on 26 September 2003.

### **Complaint No. 13/2002**

International Association Autism-Europe (IAAE) v. France

The complaint, lodged on 27 July 2002, relates to Article 15 (the right of persons with disabilities), Article 17 (the right of children and young persons to social, legal and economic protection), and to Article E (non-discrimination) of the Revised European Social Charter. It is alleged insufficient educational provision for autistic persons constituting a violation of the above provisions.

The European Committee of Social Rights declared the complaint admissible on 12 December 2002. A public hearing was held on 29 September 2003.

The European Committee of Social Rights concluded that there was a violation of Articles 15, 17 and E and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 7 November 2003. The Committee of Ministers adopted Resolution ResChS(2004)1 on 10 March 2004.

### **Complaint No. 14/2003**

International Federation of Human Rights Leagues (FIDH) v. France

The complaint, lodged on 3 March 2003, relates to Articles 13 (the right to social and medical assistance), 17 (the right of children and young persons to social, legal and economic protection) as well as Article E of the Revised European Social Charter (prohibition of all forms of discrimination in the application of the rights guaranteed by the treaty). It is alleged that recent reforms of the "Aide médicale de l'Etat" (State medical assistance) and to the "Couverture maladie universelle" (Universal sickness cover) deprive a large number of adults and children with insufficient resources of the right to medical assistance.

The European Committee of Social Rights declared the complaint admissible on 16 May 2003.

The European Committee of Social Rights concluded that there was a violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties



and to the Committee of Ministers on 3 November 2004. The Committee of Ministers adopted Resolution ResChS(2005)6 on 4 May 2005.

### **Complaint No. 15/2003**

European Roma Rights Centre (ERRC) v. Greece

The complaint, lodged on 4 April 2003, relates to Article 16 (the right of the family to social, legal and economic protection) and the Preamble (non-discrimination) of the European Social Charter. It is alleged that there is widespread discrimination both in law and in practice against Roma in the field of housing.

The European Committee of Social Rights declared the complaint admissible on 16 June 2003. A public hearing was held on 11 October 2004.

The European Committee of Social Rights concluded that there was a violation of Article 16 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 7 February 2005. The Committee of Ministers adopted Resolution ResChS(2005)11 on 8 June 2005.

### **Complaint No. 16/2003**

Confédération Française de l'Encadrement (CFE CGC) v. France

The complaint, lodged on 14 May 2003, relates to Articles 2 (the right to just conditions of work), 4 (the right to a fair remuneration), 6 (the right to bargain collectively including the right to strike) and 27 (the right of workers with family responsibilities to equal opportunities and equal treatment) of the Revised European Social Charter. It is alleged that the provisions relating to the working hours of certain managers (cadres) contained in Act No 2003-47 of 17 January 2003 violate these provisions.

The European Committee of Social Rights declared the complaint admissible on 16 June 2003.

The European Committee of Social Rights concluded that there was a violation of Article 2§1 (regarding the situation of managerial staff in the working days system, and treating on-call time as rest time) and of Article 4§2 (regarding the situation of managerial staff in the working days system) and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 30 November 2004. The Committee of Ministers adopted Resolution ResChS(2005)7 on 4 May 2005.

### **Complaint No. 17/2003**

World Organisation against Torture (OMCT) v. Greece

The complaint, lodged on 28 July 2003, relates to Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter. It is alleged that Greek law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 9 December 2003.

The European Committee of Social Rights concluded that there was a violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 January 2005. The Committee of Ministers adopted Resolution ResChS(2005)12 on 8 June 2005.

### **Complaint No. 18/2003**

World Organisation against Torture (OMCT) v. Ireland

The complaint, lodged on 28 July 2003, relates to Article 17 (the right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. It is alleged that Irish law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 9 December 2003.

The European Committee of Social Rights concluded that there was a violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 January 2005. The Committee of Ministers adopted Resolution ResChS(2005)9 on 8 June 2005.

### **Complaint No. 19/2003**

World Organisation against Torture (OMCT) v. Italy

The complaint, lodged on 1 August 2003, relates to Article 17 (the right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. It is alleged that Italian law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 9 December 2003.

The European Committee of Social Rights concluded that there was no violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 January 2005. The Committee of Ministers adopted Resolution ResChS(2005)1 on 20 April 2005.

### **Complaint No. 20/2003**

World Organisation against Torture (OMCT) v. Portugal

The complaint, lodged on 31 July 2003, relates to Article 17 (the right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. It is alleged that Portuguese law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 9 December 2003.

The European Committee of Social Rights concluded that there was no violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 January 2005. The Committee of Ministers adopted Resolution ResChS(2005)2 on 20 April 2005.

### **Complaint No. 21/2003**

World Organisation against Torture (OMCT) v. Belgium

The complaint, lodged on 23 September 2003, relates to Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter. It is alleged that Belgium has not effectively prohibited all corporal punishment of children, nor has it prohibited any other form of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 9 December 2003.

The European Committee of Social Rights concluded that there was a violation of Article 17 and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 January 2005. The Committee of Ministers adopted Resolution ResChS(2005)10 on 8 June 2005.

### **Complaint No. 22/2003**

Confédération générale du travail (CGT) v. France

The complaint, lodged on 24 October 2003, relates to Articles 2 (right to just conditions of work), 3 (right to safe and healthy working conditions) and 11 (right to protection of health) of the Revised European Social Charter. It is alleged that the provisions of Act No. 2003-47 of 17 January 2003 (known as the "loi Fillon II") relating to wages, working time and development of employment violate these provisions.

The European Committee of Social Rights declared the complaint admissible on 9 February 2004.

The European Committee of Social Rights concluded that there was a violation of Article 2§1 of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 8 September 2004. The Committee of Ministers adopted Resolution ResChS(2005)8 on 4 May 2005.

### **Complaint No. 23/2003**

Syndicat occitan de l'éducation v. France

The complaint, lodged on 18 November 2003, relates to Articles 5 (right to organise) and 6 (right to collective bargaining) of the Revised European Social Charter. It is alleged that the prohibition on non-representative professional organisation from presenting candidates in professional elections violates these provisions.

The European Committee of Social Rights declared the complaint admissible on 13 February 2004.

The European Committee of Social Rights concluded that there was no violation of Articles 5 and 6§1 of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 8 September 2004. The Committee of Ministers adopted Resolution ResChS(2004)6 on 17 November 2004.

#### **Complaint No. 24/2004**

Syndicat SUD Travail Affaires Sociales v. France

The complaint, lodged on 6 February 2004, relates to Article 1§2 (prohibition of all forms of discrimination in employment) of the Revised European Social Charter. It is alleged that under the Labour Code (Article L.122-45) numerous categories of workers are excluded from the protection against discrimination in employment.

The European Committee of Social Rights declared the complaint admissible on 7 December 2004.

The European Committee of Social Rights concluded that there was a violation of Article 1§2 of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 November 2005. The Committee of Ministers adopted Resolution ResChS(2006)5 on 12 July 2006.

#### **Complaint No. 25/2004**

Centrale générale des services publics v. Belgium

The complaint, lodged on 23 February 2004, relates to Article 6§§1-2 (right to collective bargaining: joint consultation and machinery for voluntary negotiations) of the European Social Charter. It is alleged that Belgium does not guarantee the effectiveness of the legislation on the exercise of the right to collective bargaining in the Belgian public sector.

The European Committee of Social Rights declared the complaint admissible on 6 September 2004.

The European Committee of Social Rights concluded that there was no violation of Article 6§§1-2 of the European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 27 May 2005. The Committee of Ministers adopted Resolution ResChS(2005)13 on 7 July 2005.

#### **Complaint No. 26/2004**

Syndicat des Agrégés de l'Enseignement Supérieur (SAGES) v. France

The complaint, lodged on 27 April 2004, relates to Article 5 (right to organise) alone or in combination with Articles E (non-discrimination), G (restrictions) and I (implementation of the undertakings given) of the Revised European Social Charter. It is alleged that French legislation impairs the freedom to organise since Decree No. 89-1 on the National Council for higher education and research (Conseil national de l'enseignement supérieur et la recherche – CNESER) does not guarantee collective legal remedies.

The European Committee of Social Rights declared the complaint admissible on 7 December 2004

The European Committee of Social Rights concluded that there was no violation of Article 5 alone or in combination with Articles E, G and I of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 1st July 2005. The Committee of Ministers adopted Resolution ResChS(2005)14 on 7 September 2005.

#### **Complaint No. 27/2004**

European Roma Rights Center (ERRC) v. Italy

The complaint, lodged on 28 June 2004, relates to Article 31 (right to housing) alone or in combination with Articles E (non-discrimination) of the Revised European Social Charter. The complaint alleges that the situation of Roma in Italy amounts to a violation of Article 31 of the Revised European Social Charter. In addition, it alleges that policies and practices in the field of housing constitute, inter alia, racial discrimination and racial segregation, both contrary to Article 31 alone or read in conjunction with Article E.

The European Committee of Social Rights declared the complaint admissible on 6 December 2004.

The European Committee of Social Rights concluded that there was a violation of Article 31 of the revised European Social Charter taken together with Article E and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 21 December 2005. The Committee of Ministers adopted Resolution ResChS(2006)4 on 3 May 2006.

#### **Complaint No. 28/2004**

Syndicat national des dermato-vénérologues (SNDV) v. France

The complaint, lodged on 12 July 2004, relates to Article 152 (prohibition of all forms of discrimination in employment) of the Revised European Social Charter. It is alleged that the applicable French regulation on fees for independent medical doctors is discriminatory.

The European Committee of Social Rights declared the complaint inadmissible on 13 June 2005.

#### **Complaint No. 29/2005**

Syndicat des hauts fonctionnaires (SAIG) v. France

The complaint, lodged on 7 February 2005, relates to Article 5 (right to organise) of the Revised European Social Charter. It is alleged that there are no effective remedies in the event of a breach of the right to organise where the State is acting as an employer.

The European Committee of Social Rights declared the complaint inadmissible on 14 June 2005.

### **Complaint No. 30/2005**

Marangopoulos Foundation for Human Rights (MFHR) v. Greece

The complaint, lodged on 4 April 2005, relates to Article 11 (right to protection of health), Article 2§4 (right to reduced working hours or additional holidays for workers in dangerous or unhealthy occupations), Article 3§1 (safety and health regulations at work) and Article 3§2 (provision for the enforcement of safety and health regulations by measures of supervision) of the European Social Charter. It is alleged that in the main areas where lignite is mined, the State has not adequately prevented the impact for the environment nor has developed an appropriate strategy in order to prevent and respond to the health hazards for the population. It is also alleged that there is no legal framework guaranteeing security and safety of persons working in lignite mines and that the latter do not benefit from reduced working hours or additional holidays.

The European Committee of Social Rights declared the complaint admissible on 10 October 2005.

The European Committee of Social Rights concluded that there was a violation of Articles 2§4, 3§2 and 11§§1 to 3 and no violation of Article 3§1 of the Charter. It transmitted its decision on the merits to the Committee of Ministers and to the Parties on 6 December 2006. The Committee of Ministers adopted Resolution CM/ResChS(2008)1 on 16 January 2008.

### **Complaint No. 31/2005**

European Roma Rights Center (ERRC) v. Bulgaria

The complaint, lodged on 22 April 2005, relates to Article 16 (right to social, economic, and legal protection) alone or in combination with Article E (non-discrimination) of the Revised European Social Charter. It is alleged that the situation of Roma in Bulgaria amounts to a violation of the right to adequate housing.

The European Committee of Social Rights declared the complaint admissible on 10 October 2005.

The European Committee of Social Rights concluded that there was violation of Article 16 in combination with Article 3 and transmitted its decision on the merits adopted on 18 October 2006, to the Committee of Ministers in the form of a report on 30 November 2006. The Committee of Ministers adopted Resolution ResChS(2007)2 on 5 September 2007.

### **Complaint No. 32/2005**

European Trade Union Confederation (ETUC), Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") v. Bulgaria

The complaint, lodged on 16 June 2005, relates to Article 6§4 (right to strike) of the Revised European Social Charter. It is alleged that the right to strike is restricted in several sectors of the economy in a manner that is not in conformity with the Revised Charter.

The European Committee of Social Rights declared the complaint admissible on 7 November 2005.

The European Committee of Social Rights concluded that there was violation of Article 6§4 and transmitted its decision on the merits adopted on 16 October 2006, to the Committee of Ministers in the form of a report, on 29 November 2006.

### **Complaint No. 33/2006**

International Movement ATD Fourth World v. France

The complaint, lodged on 1 February 2006, relates to Article 16 (right of the family to social, legal and economic protection), Article 30 (right to protection against poverty and social exclusion), Article 31 (right to housing) alone or in combination with Article E (non-discrimination) of the Revised Social Charter. It alleges violations of the right to housing of persons in extreme poverty.

The European Committee of Social Rights declared the complaint admissible on 12 June 2006.

The European Committee of Social Rights concluded that there was a violation of Articles 30 (alone and in conjunction with Article E), 31§§1 and 2 and 31§3 in conjunction with Article E of the revised European Social Charter and transmitted its decision on the merits to the Committee of Ministers on 4 February 2008. The Committee of Ministers adopted Resolution Res ChS (2008)7 on 2 July 2008.

### **Complaint No. 34/2006**

World Organisation Against Torture v. Portugal

The complaint, lodged on 31 May 2006, relates to Article 17 (right of children and young persons to social, legal and economic protection of the Revised Social Charter. It is alleged that domestic law does not explicitly nor effectively prohibit all corporal punishment of children.

The European Committee of Social Rights declared the complaint admissible on 12 June 2006.

The European Committee of Social Rights concluded unanimously that there was violation of Article 17 and transmitted its decision on the merits adopted on 5 December 2006 to the Committee of Ministers in the form of a report on 22 January 2007. The Committee of Ministers adopted Resolution ResChS(2008)4 on 27 February 2008.

### **Complaint No. 35/2006**

Federation of Finnish Enterprises v. Finland

The complaint, lodged on 30 June 2006, relates to Article 5 (freedom to organise). It is alleged that legislation violates the right to organise since it contains stricter provisions for enterprises not belonging to an employers' organisation than for those which belong to such an organisation.

The European Committee of Social Rights declared the complaint admissible on 5 December 2006.

The European Committee of Social Rights concluded that there was no violation of Article 5 of the Revised European Social Charter. It adopted its decision on the merits on 16 October 2007 and transmitted it to the Committee of Ministers and

to the Parties on 26 October 2007. The Committee of Ministers adopted Resolution CM/ResChS (2008) 2 on 16 January 2008.

### **Complaint No. 36/2006**

Frente Comum de Sindicatos da Administração Pública v. Portugal

The complaint, lodged on 3 July 2006, relates in particular to Article 6§2 (the right to bargain collectively) of the revised Social Charter. It alleges a breach of the right to collective bargaining and discrimination, since the Government refused to continue negotiations with the complainant organisation on issues related to the General Employees' Statute.

The European Committee of Social Rights declared the complaint inadmissible on 5 December 2006.

### **Complaint No. 37/2006**

European Council of Police Trade Unions (CESP) v. Portugal

The complaint, lodged on 29 September 2006, relates to Article 4 §§ 1-2 (right to adequate remuneration and right to increased rate of remuneration for overtime work) and Article 6 §§1-2 (right to collective bargaining: joint consultation and machinery for voluntary negotiations) of the Revised European Social Charter. It is alleged that the Portuguese state has not observed the democratic rules of collective bargaining, having decided unilaterally to apply to the criminal investigation personnel of the Criminal Police a rule reducing their basic pay by 25%, thus avoiding payment of the on-call bonus.

The European Committee of Social Rights declared the complaint admissible on 5 December 2006.

The European Committee of Social Rights concluded that there was no violation of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 3 December 2007. The Committee of Ministers adopted Resolution ResChS(2008)5 on 27 February 2008.

### **Complaint No. 38/2006**

European Council of Police Trade Unions (CESP) v. France

The complaint was lodged on 20 October 2006 and relates to the Article 4§2 (right to increased rate of remuneration for overtime work) of the Revised European Social Charter. It is alleged that the French legislation does not allow the Operational Command Corps of the National Police Force, which is classified as an A-grade body within the national civil service, to receive compensation for the overtime worked as a result of anti-governmental demonstrations held in France in the first half of 2006.

The European Committee of Social Rights declared the complaint admissible on 19 March 2007.

The European Committee of Social Rights concluded that there was a violation of Article 4§2 of the Revised European Social Charter and transmitted its decision on the merits of the complaint to the Committee of Ministers on 3 December 2007. The Committee of Ministers adopted Resolution ResChS(2008)6 on 23 April 2008.



**Complaint No. 39/2006**

European Federation of National Organisations Working with the Homeless (FEANTSA) v. France

The complaint registered on 2 November 2006 relates to Article 31 (the right to housing) of the Revised European Social Charter. It is alleged that the manner in which legislation related to housing is implemented in France results in a situation of non conformity with this Article.

The European Committee of Social Rights declared the complaint admissible on 19 March 2007.

The European Committee of Social Rights concluded that there was violation of Articles 31§§1 and 2 and Article 31§3 in conjunction with Article E of the revised European Social Charter and transmitted its decision on the merits of the complaint to the Committee of Ministers on 4 February 2008. The Committee of Ministers adopted Resolution Res ChS(2008)8 on 2 July 2008.

**Complaint No. 40/2007,**

European Council of Police Trade Unions (CESP) v. Portugal

The complaint registered on 7 February 2007 relates to Articles 6§§1-2 (the right to bargain collectively), 21 (the right to information and consultation) and 22 (the right to take part in the determination and improvement of the working conditions and working environment) of the Revised European Social Charter. It is alleged that in practice police officers do not enjoy these rights in Portugal.

The European Committee on Social Rights declared the complaint admissible on 21 May 2007

**Complaint No. 41/2007,**

Mental Disability Advocacy Centre (MDAC) v. Bulgaria

The complaint registered on 20 February 2007 relates to Article 17§2 (the right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E (non-discrimination) of the Revised European Social Charter. It is alleged that children living in Homes for Mentally Disabled Children in Bulgaria receive no education.

The European Committee of Social Rights declared the complaint admissible on 27 June 2007.

The European Committee of Social Rights concluded that there was violation of Article 17§2 alone and in conjunction with Article E of the Revised Charter and transmitted its decision on the merits to the Committee of Ministers on 10 June 2008.

**Complaint No. 42/2007,**

International Federation of Human Rights (FIDH) v. Ireland

The complaint registered on 26 February 2007 relates to Article 23 (the right of elderly persons to social protection) read in conjunction with Article E (non-discrimination) and to Article 12§4 (the right to social security) of the Revised European Social Charter.

It is alleged that the situation constitutes a discrimination against persons in receipt of Irish Contributory Old Age Pensions who do not reside permanently in Ireland in that they do not have access to the Free Travel scheme when they return to Ireland.

The European Committee of Social Rights declared the complaint admissible on 16 October 2007.

The European Committee of Social Rights concluded that there was no violation of Articles 23 and 12§4 in conjunction with Article E and transmitted its decision on the merits to the Committee of Ministers on 4 July 2008.

The Committee of Ministers adopted Resolution CM/ResChS(2008)9 on 4 September 2008.

#### **Complaint No. 43/2007,**

Sindicato dos Magistrados do Ministério Público (SMMP) v. Portugal

The complaint registered on 17 April 2007 relates to Article 12§1, 2, 3 (the right to social security) of the Revised European Social Charter. It is alleged that staff of the Public Prosecutor's Office in Portugal are excluded from the Social Welfare Service of the Ministry of Justice (Legislative Decree No. 212/2005 of 9 December 2005)

The European Committee of Social Rights declared the complaint admissible on 16 October 2007.

#### **Complaint No. 44/2007,**

International Helsinki Federation for Human Rights (IHF) v. Bulgaria

The complaint registered on 8 August 2007 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 3 December 2007.

On 5 March 2008, as a result of the insolvency proceedings of the complainant organisation which now lacks the capacity to take part in further proceedings in respect of this complaint, the European Committee of Social Rights decided to strike out the case from the list of complaints.

#### **Complaint No. 45/2007,**

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia

The complaint registered on 12 October 2007 relates to Article 11 (right to health), Article 16 (right of the family to social, legal and economic protection) and Article 17 (right of children and young persons to social, legal and economic protection) of the European Social Charter. It is alleged that Croatian schools do not provide comprehensive or adequate sexual and reproductive health education for children and young people.

The European Committee of Social Rights declared the complaint admissible on 1 April 2008.

**Complaint No. 46/2007,**

European Roma Rights Centre v. Bulgaria

The complaint registered on 22 October 2007 relates to Article 11 (right to health) and Article 13 (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 legislation excludes a large number of Roma persons from health insurance coverage, that government policies do not adequately address the specific health risks affecting Romani communities, and that there is widespread discriminatory practices on the part of health care practitioners against Roma in the provision of health services.

The European Committee of Social Rights declared the complaint admissible on 5 February 2008.

**Complaint 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 (non-discrimination) of the European Social Charter (revised).

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

**Complaint No. 48/2008 European Roma Rights Centre**

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.

**Complaint 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.

### **Complaint 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.

### **Complaint 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.

### **Complaint 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 (nondiscrimination) 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.

The European Committee of Social Rights concluded that there was a violation of Article 16 read in the light of the non-discrimination clause of the Preamble to the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 7 July 2010.

### **Complaint 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 report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 29 September 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, i.e. 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.

The European Committee of Social Rights concluded that there was no violation of Articles 2§1 and 4§2 and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 3 December 2010.

**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.

The European Committee of Social Rights concluded that there was a violation of Articles 2§1, 2§5 and 4§2 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 13 September 2010.

**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.

The European Committee of Social Rights concluded that there was a violation of Articles 2§1 and 4§2 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 13 September 2010.

**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.

The European Committee of Social Rights concluded that there was a violation of Article 4§2 of the Revised Charter and transmitted its report containing its decision

on the merits of the complaint to the Parties and to the Committee of Ministers on 3 December 2010.

**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 (nondiscrimination) 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.

The European Committee of Social Rights concluded that there was a violation of Articles 16, 19, 30 and 31 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 6 July 2010.

**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.

The European Committee of Social Rights concluded that there was a violation of Article 6§4 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 16 September 2011.

**No. 60/2010**

European Council of Police Trade Unions (CESP) v. Portugal

The complaint registered on 18 March 2010, relates to Article 4§§1 and 2 (right to adequate remuneration and right to increased rate of remuneration for overtime work), Article 6§§1 and 2 (right to collective bargaining: joint consultation and machinery for voluntary negotiations) and Article 22 (right to take part in the determination and improvement of the working conditions and working environment) of the Revised

European Social Charter. The CESP claims that that Portuguese legislation does not allow the investigative personnel of the Criminal Police to receive compensation for overtime work. The CESP also contends that the Portuguese state refuses to negotiate on this matter with national trade unions.

The European Committee of Social Rights declared the complaint admissible on 22 June 2010.

The European Committee of Social Rights concluded that there was a violation of Article 4§2 and that there was no violation of Article 6§§1 and 2 and Article 22 of the Revised Charter, and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 17 October 2011.

#### **No. 61/2010**

European Roma Rights Centre (ERRC) v. Portugal

The complaint was registered on 23 April 2010. The complainant organisation pleads a violation of Articles 16 (the right of the family to social, legal and economic protection), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read alone or in conjunction with Article E (nondiscrimination) of the Revised Charter. The ERRC maintains that the sum of housing-related injustices in Portugal (including problems of access to social housing, substandard quality of housing, lack of access to basic utilities, residential segregation of Romani communities and other systemic violations of the right to housing) violates these provisions.

The European Committee of Social Rights declared the complaint admissible on 17 September 2010.

The European Committee of Social Rights concluded that there was a violation of Articles 16, 30 and 31§1, read alone or in conjunction with Article E, of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 1 July 2011.

#### **No. 62/2010**

International Federation of Human Rights (FIDH) v. Belgium

The complaint was registered on 30 September 2010. The complainant organisation alleges a violation of rights related to housing for Travellers under the European Social Charter. It concerns the insufficiency of stopping places, problems stemming from the non-recognition of caravans as a home; lack of respect of the required conditions when carrying out evictions, lack of a global and coordinated policy to combat poverty and social exclusion of Travellers, among other issues. These allegations concern Article 16 (the right of the family to social, legal and economic protection) and 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter as well as the non-discrimination clause (Article E).

The European Committee of Social Rights declared the complaint admissible on 1 December 2010.

The European Committee of Social Rights concluded that there was a violation of Article E read in conjunction with Article 16 of the Revised Charter and transmitted



its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 21 March 2012.

#### **No. 63/2010**

Centre on Housing Rights and Evictions (COHRE) v. France

The complaint was registered on 15 November 2010. It concerns the eviction and expulsion of Roma from their homes and from France during the summer of 2010. The complainant organisation alleges that such evictions and expulsions amount to violations of Article 31 (right to housing) and Article 19§8 (guarantees concerning expulsion) of the Revised Charter. The complainant organisation also argues that the facts at stake constitute discrimination (Article E) in the enjoyment of the above mentioned rights.

The European Committee of Social Rights declared the complaint admissible on 25 January 2011.

The European Committee of Social Rights concluded that there was a violation of Article E in conjunction with Articles 31§2 and 19§8 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 13 July 2011.

#### **No. 64/2011**

European Roma and Travellers Forum (ERTF) v. France

The complaint was registered on 28 January 2011. According to the complainant organisation the French Government continues to forcibly evict Roma without providing suitable alternative accommodation and that Roma in France continue to suffer discrimination in access to housing, in violation of Articles 16 (right of the family to social, legal and economic protection), 19§8 (guarantees concerning expulsion), 30 (right to protection against poverty and social exclusion) and 31 (right to housing) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E.

The European Committee of Social Rights declared the complaint admissible on 11 May 2011.

The European Committee of Social Rights concluded that there was a violation of Article E in conjunction with Articles 19§8, 30, 31§§1, 2, and 3, and Article 16 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 1 February 2012.

#### **No. 65/2011**

General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece

The complaint was registered on 21 February 2011. According to the complainant trade unions the measures relating to remuneration and working conditions contained in Act No. 3899/2010 of 17 December 2010 are in violation of Article 4 (right to a fair remuneration) of the European Social Charter and Article 3 of the Additional

Protocol of 1988 (right to take part in the determination and improvement of the working conditions and working environment).

The European Committee of Social Rights declared the complaint admissible on 30 June 2011.

The European Committee of Social Rights concluded that there was a violation of Article 4§4 of the 1961 Charter and that Article 3§1a of the 1988 Additional Protocol to the 1961 Charter is not applicable, and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 18 June 2012.

#### **No. 66/2011**

General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece

The complaint was registered on 21 February 2011. According to the complainant trade unions the measures relating to remuneration and working conditions contained in Act No. 3899/2010 of 17 December 2010 are in violation of Articles 1 (right to work), 4 (right to a fair remuneration), 7 (the right of children and young persons to protection), 10 (right to vocational training), and 12 (right to social security) of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 30 June 2011.

The European Committee of Social Rights concluded that there was a violation of Articles 7§7, 10§2, 12§3 and 4§1 of the 1961 Charter, and no violation of Articles 1§1 and 7§§ 2 and 9 of the 1961 Charter, and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 18 June 2012.

#### **No. 67/2011**

*Médecins du Monde - International* v. France

The complaint was registered on 19 April 2011. According to the complainant organisation the rights of Roma living in France with regard to housing, education for their children, social protection and health care are not respected, in breach of 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), 19§8 (guarantees concerning expulsion), 30 (right to protection against poverty and social exclusion) and 31 (right to housing) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E.

The European Committee of Social Rights declared the complaint admissible on 13 September 2011.

The European Committee of Social Rights concluded that there was a violation of Article E read in conjunction with Articles 11§§1-3, 13§1, 16, 17§2, 19§8, 30 and 31§§1-2 of the Revised Charter and of Article 13§4. In regard to other situations, the

Committee concluded that there was no violation of Article E, read in conjunction with Article 16 and of Article 13§4. It transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 September 2012.

**No. 68/2011**

European Council of Police Trade Unions (CESP) v. France

The complaint was registered on 18 May 2011. The complainant organisation alleges that the new regulations concerning working conditions for police officers, as from 1 April 2008, removing payment for overtime worked or compensatory time off (Decree No. 2000-194 of 3 March 2000 modified by Decree No. 2008-340 of 15 April 2008, General Rules of Application of the National Police of 6 June 2006 modified by ministerial Decree NOR IOCC0804409A of 15 April 2008 and Directive NOR INTC0800092C of 17 April 2008), is in breach of Article 4 § 2 (right to a fair remuneration) of the Revised Charter.

The European Committee of Social Rights declared the complaint admissible on 13 September 2011.

The Committee unanimously concluded that there was a violation of Article 4§2 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 5 November 2012.

**No. 69/2011**

Defence for Children International (DCI) v. Belgium

The complaint was registered on 21 June 2011. The complainant organisation alleges that foreign children living accompanied or not, either as illegal residents or asylum seekers in Belgium, are currently excluded from social assistance in breach of Articles 7§10 (Special protection against physical and moral dangers), 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 (non-discrimination) of the European Social Charter (revised).

The European Committee of Social Rights declared the complaint admissible on 7 December 2011.

The Committee concluded that there was a violation of Article 17, of Article 7§10, and of Article 11 §§1 and 3 of the Revised Charter. It concluded that that Article 30 and Article E of the Charter does not apply in the instant case. It transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 November 2012.

**No. 70/2011**

The Central Association of Carers in Finland v. Finland

The complaint was registered on 6 July 2011. It concerns the situation of family and friend caregivers in Finland. The complainant organisation alleges that the system of

financial support for family and friend caregivers is not equal, as it varies according to their place of residence in Finland. The complainant organisation invokes Article 23 (right of elderly persons to social protection) of the Revised Social Charter). In October 2011, the complainant organisation previously called “Association of Care Giving Relatives and Friends” took the decision to change its name to “The Central Association of Carers in Finland”.

The European Committee of Social Rights declared the complaint admissible on 7 December 2011.

The European Committee of Social Rights concluded that there is a violation of Article 23 of the Charter and it transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

#### **No. 71/2011**

The Central Association of Carers in Finland v. Finland

The complaint was registered on 6 July 2011. It concerns the situation of family and friend caregivers in Finland. The complainant organisation alleges that the system of financial support for family and friend caregivers is not equal, as it varies according to their place of residence in Finland. The complainant organisation invokes Article 23 (right of elderly persons to social protection) of the Revised Social Charter). In October 2011, the complainant organisation previously called “Association of Care Giving Relatives and Friends” took the decision to change its name to “The Central Association of Carers in Finland”.

The European Committee of Social Rights declared the complaint admissible on 7 December 2011.

The European Committee of Social Rights concluded that there is a violation of Article 23 of the Charter, that there are no separate issues arise under Article 14 § 1 of the Charter and that Articles 13 and 16 of the Charter are not applicable in the instant case. It transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

#### **No. 72/2011**

International Federation for Human Rights (FIDH) v. Greece

The complaint was registered on 8 July 2011. It concerns the effects of massive environmental pollution on the health of persons living near the Asopos river and in proximity to the industrial zone of Inofyta, located 50 km north of Athens. The complainant organisation alleges that the State has not taken adequate measures to eliminate or reduce these dangerous effects and to ensure the right to health protection, in violation of Article 11 (right to health) of the Social Charter.

The European Committee of Social Rights declared the complaint admissible on 7 December 2011.

The European Committee of Social Rights concluded that there was a violation of Article 11 §§ 1, 2 and 3 of the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 4 February 2013.

### **No. 73/2011**

*Syndicat de Défense des Fonctionnaires v. France*

The complaint was registered on 19 July 2011. It concerns the situation of so-called “redeployed” civil servants, employed by *France Télécom* and *La Poste*, who have remained at the grades of the former Post and Telecommunications service. The complainant trade union alleges failure to acknowledge discrimination, breach of the right to information, denial of the right to career development and of the right to social security for this category of employee within the above-mentioned companies, in violation of Articles 2 (the right to just conditions of work), 12 (the right to social security), 20 (right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex) and E (non-discrimination) of the Revised Social Charter.

The European Committee of Social Rights declared the complaint admissible on 7 December 2011.

The European Committee of Social Rights unanimously concluded that Articles 2§6, 20 and E are not applicable and that there is no violation of Articles 12 and 1§2 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 12 September 2012.

### **No. 74/2011**

*Fellesforbundet for Sjøfolk (FFFS) v. Norway*

The complaint was registered on 27 September 2011. It concerns the compulsory retirement of seamen in Norway. The complainant trade union considers that the upper age limit of 62 years in the Norwegian Seamen’s Act in reality implies an unjustified work ban and is thus a discriminatory withdrawal of seamen’s rights to work as seamen, in breach of Articles 1 §§ 1 and 2 (Right to work) and 24 (Right to protection in case of dismissal), read alone or in conjunction with Article E (non-discrimination) of the Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights unanimously concluded that there is a violation of Article 24 and Article 1§2 of the Charter. It transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 5 July 2013.

### **No. 75/2011**

*International Federation of Human Rights (FIDH) v. Belgium*

The complaint was registered on 13 December 2011. It concerns the situation of highly dependent disabled adults in need of reception facilities and accommodation, and their relatives. The complainant organisation alleges that Belgium has not taken adequate measures to comply with Articles 13 (right to social and medical assistance), 14 (right to benefit from social welfare services), 15 (the right of persons with disabilities), 16 (right to appropriate social, legal and economic protection for the family), taken alone or in combination with Article E (non-discrimination) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible on 22 March 2012.

The European Committee of Social Rights unanimously concluded that there are violations of Articles 14§1, 16, and 30 of the Charter, that there is a violation of Article E taken in conjunction with Article 14§1 of the Charter due to the fact that Belgium is not creating sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with disabilities from services appropriate to their specific needs, that there is no violation of Article E taken in conjunction with Article 14§1 of the Charter due to the fact that the Brussels-Capital Region has no institutions providing advice and personal assistance to the disabled, that no separate question is raised under article 13§3 of the Charter, and that there is no violation of Article E taken in conjunction with Articles 13§3 and 15§3 of the Charter. The Committee transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 26 March 2013.

#### **No. 76/2012**

Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece

The complaint was registered on 2 January 2012. The complainant trade union alleges that recent legislation passed in Greece (Law No. 3845 of 6 May 2010, Law No. 3847 of 11 May 2010, Law No. 3863 of 15 July 2010, Law No. 3865 of 21 July 2010, Law No.3896 of 1 July 2011 and Law No. 4024 of 27 October 2011) impose a reduction in pension schemes, both in the private and public sectors, and are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights concluded that there was a violation of Article 12§3 of the 1961 Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

#### **No. 77/2012**

Panhellenic Federation of Public Service Pensioners v. Greece

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organisation alleges that these laws are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights concluded that there was a violation of Article 12§3 of the 1961 Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

**No. 78/2012**

Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organisation alleges that these laws are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights concluded that there was a violation of Article 12§3 of the 1961 Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

**No. 79/2012**

Panhellenic Federation of pensioners of the public electricity corporation (POS-DEI) v. Greece

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organisation alleges that these laws are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights concluded that there was a violation of Article 12§3 of the 1961 Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

**No. 80/2012**

Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organisation alleges that these laws are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights concluded that there was a violation of Article 12§3 of the 1961 Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 20 December 2012.

**No. 81/2012**

*Action européenne des handicapés* (AEH) v. France

The complaint was registered on 3 April 2012. It concerns the problems regarding access of autistic children and adolescents to education and access of young adults

with autism to vocational training. The complainant organisation alleges that France does not comply with its obligations under Articles 10 (right to vocational training), 15 (right of persons with disabilities to independence, social integration and participation in the life of the community), taken alone or in combination with Article E (non-discrimination) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible on 12 September 2012.

The European Committee of Social Rights concluded that there was a violation of Article 15§1 and of Article E taken in conjunction with Article 15§1 of the Revised Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 4 October 2013.

#### **No. 82/2012**

*Comité européen d'action spécialisée pour l'Enfant et la Famille dans leur milieu de vie* (EUROCEF) v. France

The complaint was registered on 4 April 2012. It concerns the suspension of family allowances in cases of truancy, in application of the laws of 28 September 2010 and 24 March 2011. The complainant organisation alleges that France does not comply with its obligations under Articles 16 (right to appropriate social, legal and economic protection for the family) and 30 (right to protection against poverty and social exclusion), taken alone or in combination with Article E (non-discrimination) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible on 19 March 2013. It concluded that there no violation of Articles 16 and 30 of the Charter, that it is not necessary to examine the allegations of a breach of Article 3 of the Charter read in conjunction with Article 16, and that no separate issue arises under Article E read in conjunction with Article 30 and it transmitted its report containing its decision on admissibility and on the merits of the complaint to the Parties and to the Committee of Ministers on 28 March 2013

#### **No. 83/2012**

European Confederation of Police (EUROCOP) v. Ireland

The complaint was registered on 7 June 2012. The complainant organisation alleges that police representative associations in Ireland, and more specifically, the Association of Garda Sergeants and Inspectors (AGSI), do not enjoy full trade unions rights, which include, in particular, the right to join an umbrella organisation and the right to bargain collectively. The complainant organisation alleges a violation of Articles 5 (the right to organise), 6 (the right to bargain collectively), and 21 (the right to information and consultation) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible as far as it concerns Article 5 and 6 of the Charter, declared the remainder of the complaint inadmissible and concluded that there was a violation of Articles 5, 6§2 and 6§4 of the Charter and transmitted its report containing its decision on admissibility and the merits of the complaint to the Parties and to the Committee of Ministers on 16 January 2014.



**No. 84/2012**

*Union syndicale des magistrats administratifs (USMA) v. France*

The complaint was registered on 13 June 2012. The complainant organisation alleges that the compensation rate for accumulated unused vacation days on time-saving accounts of administrative judges fails to take into account the right to increased remuneration of overtime work, in violation of Article 4§2 (the right to increased rate of remuneration for overtime work) of the European Social Charter (Revised).

The European Committee of Social Rights unanimously, declared the complaint admissible and concluded that there is no violation of Article 4§2 of the Charter and transmitted its report containing its decision on admissibility and the merits of the complaint to the Parties and to the Committee of Ministers on 10 December 2013.

**No. 85/2012**

Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden

The complaint was registered on 27 June 2012. The complainant trade unions allege that following the ECJ judgment in the Laval case (C-341/05), subsequent amendments to Swedish legislation have restricted the rights to freedom of association and collective bargaining, in violation of Articles 4 (the right to a fair remuneration), 6 (the right to bargain collectively) and 19,4 (Equality regarding employment, right to organize and accommodation) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible and concluded that there was a violation of Articles 6§2, 6§4, 19§4a and 19§4b, Charter and transmitted its report containing its decision on admissibility and the merits of the complaint to the Parties and to the Committee of Ministers on 19 July 2013.

**No. 86/2012**

European Federation of National Organisations working with the Homeless (FEANTSA) v The Netherlands

The complaint was registered on 4 July 2012. The complainant organisation alleges that The Netherlands' legislation, policy and practice regarding sheltering the homeless is not in compatible with is not compatible with Articles 13 (right to social and medical assistance), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons 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), 31 (right to housing), taken alone or in conjunction with Article E of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 1 July 2013.

The European Committee of Social Rights adopted a decision on immediate measures on 25 October 2013.

The European Committee of Social Rights concluded that there was a violation of Articles 31§2, 13§§1 and 4, 19§4(c) et 30 of the Charter and transmitted its report

containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 9 July 2014.

#### **No. 87/2012**

International Planned Parenthood Federation European Network (IPPF EN) v. Italy

The complaint was registered on 9 August 2012. The complainant organisation alleges that the formulation of Article 9 of Law No. 194 of 1978, which governs the conscientious objection of medical practitioners in relation to the termination of pregnancy, is in violation of Article 11 (the right to health) of the European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E, in that it does not protect the right to access termination of pregnancy procedures.

The European Committee of Social Rights declared the complaint admissible on 22 October 2012.

The European Committee of Social Rights concluded that there was a violation of Article 11§1 and of Article E read in conjunction with Article 11 of the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 7 November 2013.

#### **No. 88/2012**

Finnish Society of Social Rights v. Finland

The complaint was registered on 13 December 2012. The complainant association alleges that Finland has not maintained the social security at a satisfactory level and has not endeavored to raise progressively the system of social security to a higher level, in violation of Article 12 (the right to social security) of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 14 May 2013.

The European Committee of Social Rights concluded that there was a violation of Articles 12§1 and 13§1 and that there was no violation of Article 12§3 of the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 10 October 2014.

#### **No. 89/2013**

Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland

The complaint was registered on 3 January 2013. The complainant organisation, the FAFCE, alleges that Ireland has failed to protect child victims of human trafficking. The FAFCE submits that these weaknesses of the Irish authorities are in breach of Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

The European Committee of Social Rights concluded by 11 votes to 1 that there is no violation of Article 7§10 and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 7 November 2014.

**No. 90/2013**

Conference of European Churches (CEC) v. The Netherlands

The complaint was registered on 17 January 2013. The complainant organisation, the Conference of European Churches, alleges that the Dutch government has failed to fulfil its obligations under the European Social Charter to respect the rights of undocumented adults to food, clothing and shelter. The complainant organisation alleges that law and practice in the Netherlands is not in conformity with Article 13 § 4 (the right to social and medical assistance – specific emergency assistance for non-residents) and Article 31 § 2 (the right to housing – reduction of homelessness).

The European Committee of Social Rights declared the complaint admissible on 1 July 2013.

The European Committee of Social Rights adopted a decision on immediate measures on 25 October 2013.

The European Committee of Social Rights concluded that there was a violation of Articles 13§4 and 31§2 of the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 9 July 2014.

**No. 91/2013**

*Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*

The complaint was registered on 17 January 2013. The complainant trade union, *Confederazione Generale italiana del Lavoro (CGIL)*, alleges that the formulation of Article 9 of Law No. 194 of 1978, which governs the conscientious objection of medical practitioners in relation to the termination of pregnancy, is in violation of Article 11 (the right to health) of the European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E, in that it does not protect the right guaranteed to women with respect to the access to termination of pregnancy procedures. It alleges also a violation of Article 1 (the right to work), 2 (the right to just conditions of work), 3 (the right to safe and healthy working conditions), 26 (the right of dignity at work) of the European Social Charter, the latter articles read alone or in conjunction with the non-discrimination clause in Article E, in that it not does not protect the rights of the workers involved in the above-mentioned procedures. Moreover, the complainant organisation asks the Committee to recognise, with respect to the subject-matter of the complaint, the relevance of Articles 21 (the right to information and consultation) and 22 (the right to take part in the determination and improvement of the working conditions and working environment) of the European Social Charter.

**No. 92/2013**

Association for the Protection of All Children (APPROACH) Ltd v. France

The complaint was registered on 4 February 2013. The complainant organisation alleges that France does not comply with its obligations under Article 17 (the right of mothers and children to social and economic protection) of the

European Social Charter because of the lack of explicit and effective prohibition of all corporal punishment of children, in the family, schools and other settings, and because France has failed to act with due diligence to eliminate such punishment in practice.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

The European Committee of Social Rights concluded that there was a violation of Article 17§1 of the Charter and transmitted its report containing its decision on the merits of the complaint to the Parties and to the Committee of Ministers on 3 November 2014.

### **No. 93/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Ireland

The complaint was registered on 4 February 2013. The complainant organisation alleges that Ireland has taken no effective action to remedy its violation of Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter by prohibiting all corporal punishment and other cruel or degrading forms of punishment of children. APPROACH claims in particular that the existence of the Irish common law of “reasonable chastisement” allows parents and some other adults to assault children with impunity.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

The European Committee of Social Rights adopted a decision on immediate measures on 2 December 2013.

### **No. 94/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Italy

The complaint was registered on 4 February 2013. The complainant organisation alleges that many children in Italy are still suffering corporal punishment, and violent punishment of children is still culturally and socially accepted. APPROACH complains of the failure of Italy to adopt the necessary legislation and its lack of diligence to eliminate violent punishment of children in practice in violation of Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

### **No. 95/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Slovenia

The complaint was registered on 4 February 2013. The complainant organisation alleges that Slovenia does not comply with its obligations under Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter because of the lack of explicit and effective prohibition of all corporal

punishment of children, in the family, schools and other settings, and because Slovenia has failed to act with due diligence to eliminate such punishment in practice.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

**No. 96/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Czech Republic

The complaint was registered on 4 February 2013. The complainant organisation alleges that the lack of explicit prohibition of corporal punishment in the family, in all forms of alternative care and in schools violates Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter. In addition APPROACH claims that the Czech Republic has not acted with due diligence to eliminate such violent punishment of children in practice.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

**No. 97/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Cyprus

The complaint was registered on 4 February 2013. The complainant organisation alleges that Cyprus does not comply with its obligations under Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter because of the lack of explicit prohibition of all corporal punishment of children, in the family, schools and other settings, and because Cyprus has failed to act with due diligence to eliminate such punishment in practice.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

The European Committee of Social Rights decided to strike out the case from the list of complaints on 12 May 2014.

**No. 98/2013**

Association for the Protection of All Children (APPROACH) Ltd v. Belgium

The complaint was registered on 4 February 2013. The complainant organisation alleges that the lack of explicit prohibition of corporal punishment in the family, in all forms of alternative care and in schools, both state and private, throughout all communities in Belgium violates Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter. The complaint invokes also Article 7§10 (Right of children and young persons to protection -special protection against physical and morals dangers) of the European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 2 July 2013.

The European Committee of Social Rights adopted a decision on immediate measures on 2 December 2013.

**No. 99/2013**

Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden

The complaint was registered on 7 mars 2013. The complainant Organisation claims that Sweden does not comply with its obligations under Article 11 (the right to protection of health) and Article E (non-discrimination), by failing to enact a comprehensive and clear legal and policy framework governing the practice of conscientious objection by healthcare providers in Sweden, by allowing conscientious objectors to be treated in a discriminatory way, and by failing to enact comprehensive and clear policy and guidelines to prevent serious incidents or deficiencies when abortion is recommended.

The European Committee of Social Rights declared the complaint admissible on 10 September 2013.

**No. 100/2013**

European Roma Rights Centre (ERRC) v. Ireland

The complaint was registered on 16 April 2013. The complaint concerns Article 16 (right of the family to social, legal and economic protection), Article 17 (right of children and young persons to social, legal and economic protection) and Article 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E. The complaint alleges that the Government of Ireland has not ensured the satisfactory application of the above-mentioned articles, particularly with respect to housing conditions and evictions of Travellers and, as regards child Travellers, also with respect to social, legal and economic protection.

The European Committee of Social Rights declared the complaint admissible on 21 October 2013.

**No. 101/2013**

European Council of Police Trade Unions (CESP) v. France

The complaint was registered on 10 June 2013. It concerns the military status granted to members of the National Gendarmerie precluding any right to organise. The complainant organisation alleges that the French Government, in deliberately subjecting the so-called "military" personnel of the National Gendarmerie, i.e. officers, NCOs and volunteers of the National Gendarmerie, to military regulations has violated Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Revised European Social Charter.

The European Committee of Social Rights declared the complaint admissible on 21 October 2013.

**No. 102/2013**

*Associazione Nazionale Giudici di Pace* v. Italy

The complaint, registered on 2 August 2013, relates to Article 12 (right to social security) of the European Social Charter. The complainant organisation, the *Associazione Nazionale Giudici di Pace* (the National Association of Justices of the Peace), alleges

that Italian law does not provide any social security and welfare protection for this category of honorary Judges, in violation of the Charter provision relied on.

The European Committee of Social Rights declared the complaint admissible on 2 December 2014.

**No. 103/2013**

*Bedriftsforbundet v. Norway*

The complaint, registered on 9 September 2013, relates to Article 5 (the right to organise) of the European Social Charter. The complainant organisation, the *Bedriftsforbundet*, alleged that the practice at Norwegian ports, requiring that employees have membership of the dock worker union in order to be allowed to take up work, constitutes a breach of the above mentioned provision.

The European Committee of Social Rights declared the complaint admissible on 14 May 2014.

**No. 104/2014**

*European Roma and Travellers Forum (ERTF) v. Czech Republic*

The complaint, registered on 3 March 2014, relates to Article 11 (the right to protection of health) and 16 (right of the family to social, legal and economic protection), alone or in conjunction with the non-discrimination principle stated in the Preamble of the 1961 Charter. The complainant organisation, the ERTF, alleges that, in the Czech Republic, Roma are disproportionately subjected to residential segregation, substandard housing conditions, forced evictions and other systemic violations of the right to adequate housing and the right to health.

The European Committee of Social Rights declared the complaint admissible on 30 June 2014.

**No. 105/2014**

*Associazione sindacale «La Voce dei Giusti» v. Italy*

The complaint registered on 22 April 2014, relates to Article 10 (right to vocational training) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E. The complainant organisation alleges that teaching staff in a certain category is prevented from undertaking or continuing specialised studies in view of the increasing burden of workload imposed on it, in violation of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 17 March 2015.

**No. 106/2014**

*Finnish Society of Social Rights v. Finland*

The complaint registered on 29 April 2014, relates to Article 24 (right to protection in cases of termination of employment) of the Revised European Social Charter. The complainant organisation alleges that, in case of unlawful dismissal, the Finnish

legislation does not provide any possibility to reinstatement and requires the dismissal indemnity to be capped, in breach of the above mentioned provision.

**No. 107/2014**

Finnish Society of Social Rights v. Finland

The complaint registered on 29 April 2014, relates to Article 24 (right to protection in cases of termination of employment) of the Revised European Social Charter. The complainant organisation alleges that Finland is allowing dismissals and redundancy of employees, just to increase profit, without economic necessity or for subcontracting or secondary contracts, in breach of the above mentioned provision.

**No. 108/2014**

Finnish Society of Social Rights v. Finland

The complaint, registered on 29 April 2014, relates to Article 12 (right to social security) of the Revised European Social Charter. The complainant organisation alleges that, in seeking continuously to erase unemployment pension, Finland is not maintaining a system of social security at a satisfactory level or endeavoring to raise the system to a higher level, but worsening it sharply, in breach of the above mentioned provision.

**No. 109/2014**

Mental Disability Advocacy Center (MDAC) v. Belgium

The complaint registered on 30 April 2014, relates to Articles 15 (right of persons with disabilities to independence, social integration and participation in the life of the community) and 17 (right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. The complaint alleges that Belgium has failed to provide education and training for children with intellectual and mental disabilities who are denied access to mainstream education and to the supports necessary to ensure such inclusion, in violation of the above mentioned provisions.

**No. 110/2014**

International Federation for Human Rights (FIDH) v. Ireland

The complaint registered on 18 July 2014, relates to Articles 11 (the right to protection of health), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons to social, legal and economic protection) and 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E of the Revised European Social Charter. The complainant organisation, FIDH, alleges that Irish law, policy and practices on social housing do not comply with European housing, social protection and anti-discrimination standards, in breach of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 17 March 2015.



**No. 111/2014**

Greek General Confederation of Labour (GSEE) v. Greece

The complaint registered on 26 September 2014, concerns Article 1 (the right to work), Article 2 (the right to just conditions of work), Article 4 (the right to a fair remuneration) and Article 7 (the right of children and young persons to protection) of the 1961 Charter, as well as Article 3 of the 1988 Additional Protocol (the right to take part in the determination and improvement of the working conditions and working environment). The complainant trade union, G.S.E.E., alleges that some of the new legislation enacted as part of the austerity measures adopted in Greece during the economic and financial crisis affects workers' rights in a manner that is contrary to the Charter.

**No. 112/2014**

European Organisation of Military Associations (EUROMIL) v. Ireland

The complaint registered on 4 November 2014, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Revised European Social Charter. The complainant organisation, EUROMIL, alleges that Defence Forces representative associations in Ireland do not have full trade unions rights including the right to join an umbrella organisation, in breach of the above mentioned provisions.

**No. 113/2014**

*Unione Italiana del Lavoro U.I.L. Scuola – Sicilia* v. Italy

The complaint registered on 14 November 2014, relates to Articles 12 (the right to social security), 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer) in combination with clause non-discrimination contained in section E of the Revised European Social Charter. The complainant trade union alleges that the Italian regulations on social protection - particularly the Interministerial Decree No. 83473 of 1 August 2014 - by excluding, in Sicily, the employees of the training sector from the system of the redundancy fund, *La Cassa Integrazione Guadagni in deroga* (paying cash salary supplements), violates the aforementioned provisions of the Charter.





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