



Strasbourg, 19 December 2002

T-SG (2002) 18

GOVERNMENTAL COMMITTEE OF THE EUROPEAN SOCIAL CHARTER

REPORT

Conclusions 2002

*This document contains the full report of the Governmental Committee established by Article 27 para. 3 of the European Social Charter.
A summary of the report is available on www.coe.int*

CONTENTS

	<i>Page</i>
I. Introduction	5
II. Examination of national situations on the basis of Conclusions 2002 of the European Committee of Social Rights	7
 <i>Appendix I</i>	
Chart of signatures and ratifications.....	33
 <i>Appendix II</i>	
List of cases of non-compliance	35
 <i>Appendix III</i>	
List of deferred conclusions because of a question asked for the first time or additional questions	37
 <i>Appendix IV</i>	
Warnings.....	39

I. INTRODUCTION

1. This summary report is submitted by the Governmental Committee of the European Social Charter made up of delegates of each of the twenty-nine states bound by the Social Charter or the Revised Social Charter¹. Representatives of international organisations of employers and workers (presently the European Trade Union Confederation (ETUC), the Union of Industrial and Employers' Confederations of Europe (UNICE) and the International Organisation of Employers (IOE)) attend in a consultative capacity meetings of the Committee.

2. The supervision of the application of the Charter is based on an analysis of the national reports submitted at regular intervals by the states. According to the Charter, the States Parties are under the obligation to consult the national organisations of employers and the national trade unions on the content of the report. Reports are published on www.coe.int.

3. The first responsibility for the analysis lies with the European Committee of Social Rights (Article 25 of the Charter), whose decisions are set out in a volume of "Conclusions". On the basis of these conclusions, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may "make to each Contracting Party any necessary recommendations" (Article 29 of the Charter).

4. In accordance with Article 27 of the Charter, the Governmental Committee has examined national reports relating to the first national reports submitted by France, Italy, Romania, Slovenia and Sweden in application of the European Social Charter (Revised). Reports were due on 30 June 2001 at the latest. The Governmental Committee repeats that it attaches a great importance to the respect of the deadline by the States Parties.

5. Conclusions 2002 of the European Committee of Social Rights were adopted in March 2002.

6. The Governmental Committee held three meetings (14-16 May 2002, 9-13 September 2002 and 14-18 October 2002), which were chaired by Mr Edward GATT (Malta).

7. Following a decision in October 1992 by the Ministers' Deputies, observers from member states of central and eastern Europe having signed the European Social Charter or the Revised European Social Charter (Albania, Armenia, Azerbaijan, Croatia, Georgia, the Russian Federation, "the former Yugoslav Republic of Macedonia" and Ukraine) were also invited to attend the meetings of the Governmental Committee, for the purpose of preparing their ratification of this instrument. Since a decision of the Ministers' Deputies in December 1998, other

¹ List of the states : Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

signatory states were also invited to attend the meetings of the Committee (namely Andorra, Liechtenstein, San Marino and Switzerland).

8. The Committee did not consider any issue in respect of which it was deemed necessary to consult non-Governmental organisations, as provided for in Article 27 para. 2 of the Charter.

9. The Committee was satisfied to note that since the last supervisory cycle, the following signatures and ratifications had taken place:

- on 8 November 2001 :
 - Moldova ratified the Revised European Social Charter
- on 31 January 2002 :
 - Latvia ratified the European Social Charter
- on 30 May 2002 :
 - Portugal ratified the Revised European Social Charter
- on 21 June 2002 :
 - Finland ratified the Revised European Social Charter

10. The state of signatures and ratifications on 30 October 2002 is therefore as it appears in Appendix I to the present report.

II. EXAMINATION OF NATIONAL SITUATIONS ON THE BASIS OF CONCLUSIONS 2002 OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

11. The Committee examined the situations not in conformity with the Charter listed in Appendix II to the present report.

12. The Committee took note of the cases where the conclusion is deferred because of new questions put by the European Committee of Social Charter as they appear in Appendix III to the present report. It asked governments to fully reply to the questions in their next reports.

13. During its examination, the Committee took note of important positive developments in several States Parties. It urges governments to continue their efforts with a view to ensure compliance with the Charter.

14. The Committee proposes to the Committee of Ministers to adopt the following Resolution:

Resolution on the implementation of the Revised European Social Charter during the period 1999-2000

*(Adopted by the Committee of Ministers
on
at the meeting of the Ministers' Deputies)*

The Committee of Ministers,²

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 (Revised) submitted by the Governments of France, Italy, Romania, Slovenia and Sweden (concerning period of reference 1999-2000);

Considering Conclusions 2002 of the European Committee of Social Rights appointed under Article 25 of the Charter,

² 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, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the 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 2002 of the European Committee of Social Rights and in the report of the Governmental Committee.

EXAMINATION ARTICLE BY ARTICLE

A. Cases of non-compliance

Art. 1§1

ITALY

15. The Italian delegate applauded ECSR's decision to reach conclusions under Article 1§1. He considered, however, that negative conclusions should be reserved for cases where states had made no efforts to combat unemployment at all. As documented in both the National Action Plan for Employment and the Italian report the Government has undertaken significant efforts in recent years and results have been achieved, especially outside the reference period with the unemployment rate dropping to 9.8% in 2001. Consequently, he could not accept that the situation in Italy should not be in conformity with the Revised Charter. In his opinion ECSR should be more patient in assessing the situations, but he acknowledged that Italy had perhaps started its active efforts later than some other states and that not all measures had had the desired effects. However, the Government was firmly committed to pursuing its efforts and making any reforms necessary to improve the situation. In conclusion, the delegate stated that it would have been more appropriate for ECSR to congratulate the Government on its results and encourage it to keep up the good work.

16. The ETUC representative congratulated ECSR on its decision to reach conclusions under Article 1§1 as the obligation to pursue full employment which flows from this provision is very special in international law. As regards the Italian situation he did not consider it necessary to vote on a recommendation or a warning at this stage, but the Committee should send a message to the Government asking it to be more pro-active in its employment policy while not sacrificing the quality of employment.

17. The United Kingdom delegate saw no need to send a strong message to Italy, especially given the progress made in 2001. She looked forward to seeing how ECSR would assess the impact of economic policy and labour market programmes and she hoped that its approach would be consistent with that adopted by the European Union. In this respect she underlined that expenditure on labour market programmes is not a good indicator of state effort, the focus should be on the results obtained. She felt that the Committee given its mandate would have a particularly important role to play as far as Article 1§1 was concerned.

18. The Portuguese delegate congratulated ECSR on its new approach, which addressed what is Europe's main social problem, namely unemployment. However, she also wished to congratulate the Italian Government on the efforts made and the results obtained and in her opinion the Committee should ask the Government to keep up the efforts to reduce unemployment.

19. Taking into account the efforts made by the Italian Government and the recent positive trends, the Committee decided to ask the Italian Government to continue its efforts to create employment, reduce unemployment and to ensure tangible results.

Art. 1§2

FRANCE

20. The French delegate recalled that his country had acknowledged the existence of the problems, had undertaken to comply with Recommendation RecChS(2001) of 31 January 2001 and had explained the measures it intended to take in a letter to the European Committee of Social Rights (CEDS). The additional information requested by the CEDS would be supplied before 30 June 2002. Concerning the third point, some local authorities had stated that for security reasons only official guides met the security requirements because of their special knowledge of the premises.

21. The German delegate stressed the importance of security following the events of 11 September, but considered that any obstacles to the ban on discrimination in employment should be based on objective criteria and that an appeal should be lodged against the decisions taken.

22. The Portuguese delegate noted that Recommendation RecChS(2001) to France was recent, so there was no need to reach a decision on renewal.

23. The Committee decided to wait for the CEDS' evaluation of the information that France will provide soon.

ITALY

Criminal sanctions against seamen and civil aviation staff

24. The Italian delegate recalled that the measures in question were being examined by a committee that had been set up to revise the navigation code in full. However, because of the change of government a new committee had been appointed and the process had momentarily come to a standstill. He reminded the Committee that the measures concerned had not been applied for decades.

25. Certain delegates (Portugal, Malta) and the CES representative regretted that in spite of the two recommendations the Committee of Ministers had addressed to Italy on this subject, the law had still not been brought into conformity with the Charter.

26. The proposal to renew the recommendation to Italy was adopted by 18 votes in favour, 3 against and 6 abstentions.

Essential services

27. The Italian delegate recalled that the purpose of Act No. 146/1990 was to ensure that the right to strike did not encroach on the rights of others. The Watchdog Committee had discretionary power, when the trade unions failed to agree, to determine those sectors in which requisitions were necessary. The list of essential services adopted by Parliament and challenged by the CEDS served as a guide. Of the 90 reported cases of requisitions, 55 requisition orders had been issued in this context in sectors whose essential nature in respect of Article 31 of the Charter could not be denied (transport and civil aviation). There had also been requisitions in other sectors (energy and health, for example), where agreements had been reached with the unions.

28. The IOE representative pointed out that the right to strike was soundly guaranteed in Italy, in law and in practice. She stressed that the Watchdog Committee was composed of independent experts who reached their decisions based on common sense.

29. The proposal to adopt a warning was rejected (0 votes in favour, 7 against and 21 abstentions).

ROMANIA

30. The Romanian delegate explained that a reform was in progress to reduce the length of military service to 8 and, in some cases, 6 months and the duration of the alternative service required of people whose religion and beliefs dispensed them from military service to 12 months. The draft law had yet to be discussed by the Ministry of Defence before being submitted to Parliament. The new law could be passed by the end of the year.

31. The Committee decided to wait for the CEDS' evaluation of the information contained in the next report.

Art. 5

FRANCE

32. The French delegate recalled the historical role of the CGT as an employment agency for the book sector, conditional to become member of the trade union. According to the delegate, the situation has evolved since it is no longer compulsory to adhere to the trade union and employers look for employees even outside the privileged relationship with the CGT (for example the newspaper Liberation).

33. The ETUC representative confirmed the evolution of the situation according to which the CGT is only an employment agency, but there is no longer the obligation of membership.

34. The OIE representative expressed her disagreement with the monopoly of a trade union for placement.

35. The Committee took note of the information provided by the French delegate.

ROMANIA

36. The Romanian delegate clarified that the payment of a contribution by non-members of a trade union is not compulsory and it is different from the monthly trade union subscription. The legal basis of such contribution is the collective agreement 2001/02 at national level, which provides that industrial parties may convene in a special clause the payment of a monthly contribution by employees that are not trade union members, for the purpose of carrying out collective negotiations.

37. With respect to the right of civil servants to join trade unions, Act no 54/1991 on trade unions is currently being replaced by the new draft law on trade unions, which, in the version adopted by the Chamber of Deputies, provides at Article 2, paragraph 1 that "Employed people, as well as civil servants, hereinafter called employees, have the right to set up and join trade unions, without any restriction or preliminary authorisation".

38. As to the issue of nationality, the delegate explained that the Romanian legislation, starting with the Constitution, forbids any form of discrimination on grounds of nationality. On the contrary, Act no 54/1991 on trade unions requires Romanian citizenship and membership of a trade union to be elected to top-level positions in the trade unions. However, the new draft law on trade union will delete this condition. Act 109/1997 on the organising and functioning of the Economic and Social Council, which requires Romanian citizenship for representation of management and labour in the Economic and Social Council, will remain, though the act is under modification.

39. Being the first Romanian report and given the additional information provided by the delegate, the Committee decided to await the next assessment by the European Committee of Social Rights.

SWEDEN

40. The Swedish delegate referred about the current situation according to which closed shop clause are provided only by the old substitute agreements (previous to 1999) of the building sector, and not in recent collective agreements. There are about 9024 such substitute agreements, but, according to Swedish trade unions, not all of them contain the closed-shop clause.

41. As to the legal situation, the delegate considers that there is in Sweden protection of the pre-entry closed shop clause since the European Convention for the Protection of Fundamental Rights and Freedoms is incorporated into Swedish law. Accordingly, the negative right of freedom of association is protected. So far there has been no case law on the issue of closed shop.

42. A meeting with trade unions on the pre-entry closed shop clause was organised last year by the Ministry of Labour and it will be renewed. Following the meeting, the Building sector trade union sent out instructions to its branches and to employers not to invoke the use of the clause at issue.

43. The Swedish delegate explained that the government prefers not to legislate because social dialogue is traditionally the means to regulate the labour market in Sweden and, so far, dialogue has been successful. Moreover, the practice of closed shop is disappearing.

44. Several delegates (United Kingdom, Norway, Ireland, Iceland, Finland and the representative of the ETUC) were of the opinion that the Swedish government is doing clear efforts and it should be awaited the next examination from the European Committee of Social Rights.

45. Portugal, Belgium and the Netherlands, though recognising the effort of the Swedish government and the effectiveness of the social dialogue tradition in the Nordic countries, insisted on the fact that the government should increase its efforts in order to bring the situation in conformity with the Charter.

46. The proposal of a recommendation for Sweden was not adopted (with 18 votes against, 10 abstentions and none in favour).

Art. 6§3**SLOVENIA**

47. The Slovenian delegate clarified that arbitration procedure, which is one of the procedures provided by law to settle disputes outside courts, can start only if there is the consent of all parties involved. If there is lack of consent for arbitration by one party, the parties can eventually consider the other procedures of disputes' settlement provided in the collective agreements.

48. As to the nomination of the chairman of the arbitration senate, the Slovenian delegate made clear that it is not up to the Labour Court to nominate an arbitrator if there is lack of agreement between the parties to go on with arbitration. It can do so only in the context of the Collective Agreement for the non-economic sector when parties fail to reach agreement on the chairman but they want to proceed with arbitration.

49. In case a party fails to nominate an arbitrator or fails to attend, the other party can go to the Labour Court, but the latter can only decide upon issues falling under its competence, that is the existence or non-existence of a collective agreement and its implementation, the competence for collective negotiation, the mutual compatibility of collective agreements and their compatibility with the law. The Court cannot force parties to go on with arbitration if there is no agreement. The delegate also added that the next report will be clearer on this point.

50. Being the first Slovenian report and given the additional information provided by the delegate, the Committee decided to await the next assessment by the European Committee of Social Rights.

Art. 6§4**FRANCE**

51. As regards the right to strike in the public sector, the French delegate observed that it was not a question of a restriction on the right to strike. Although only the most representative organisations at the national level, within the occupational category, within the enterprise, within the institution or service may call a strike in the public sector, this is only a matter of the organisation of the right to strike. Permitting any group of workers to call a strike in the public sector would in effect risk creating a state of disorganisation of the tasks to be performed by the public service. It should be noted that union density is highest in the public sector and that if non-representative organisations wish to call a strike they have the possibility of asking the representative organisations to do so.

52. The ETUC representative supported the French delegate on this point. He said that the ECSR, instead of latching on to marginal issues, should address real and serious problems.

53. As there had been no change to the situation, the President proposed that the Committee vote on a warning. The large majority of the Committee abstained and the proposal was not carried. Nevertheless, the Committee expressed its hope that France would remedy the situation in the near future.

54. With respect to the deduction of one thirtieth of the monthly wage from the wages of state civil servants for strikes of less than one day, regardless of their duration, the French delegate stated that there had been no change to the situation. He said that it was possible that the new administration would address the issue, but he emphasised that he could not say it with any certainty.

55. The Committee voted on a warning. The large majority of the Committee abstained and the warning was not adopted. Nevertheless, the Committee expressed its hope that France would remedy the situation in the near future.

ROMANIA

56. The Romanian delegate stated that Act No 168/1999 on the settlement of labour disputes required workers and employers engaged in a dispute to reach an agreement or to avail themselves of the statutory procedures, the purpose being to avoid any premature strikes. As regards the criteria to be met for a union to call a strike, she said that they were intended to ensure that the strike was really supported by the workers concerned. She also said that the criteria did not apply to brief protest strikes and workers' meetings, but only to strikes proper.

57. The ETUC representative would not disagree with the aim of social dialogue and he did not consider that it should necessarily be very easy to call a strike, but the restrictions in Romania were clearly excessive. In his view the degree of support for a strike among workers is purely an internal matter of the union calling the strike.

58. The Portuguese delegate tended to agree with the ETUC statement. She was particularly concerned about the seemingly indefinite time limit for conciliation, which might prevent the effective exercise of the right to strike. She did not consider a warning necessary at this stage, but the Committee should nevertheless state its opinion.

59. The Romanian delegate stated that the Act provided for the compulsory conciliation process as such to last no more than seven days. If conciliation failed, the parties could agree to attempt mediation, which could not exceed thirty days as from the date on which the chosen mediator agreed to intervene.

60. Furthermore, if they so wished, the parties to the dispute could decide at any point during the conflict to submit their demands to an arbitration board. Once it had received all the documents and arguments relating to their demands, this board would then have ten days in which to reach a final decision. The arbitration board's decision would then be incorporated into the collective agreements.

61. The Committee took note of the information provided by the Romanian delegate and asked the Government to take steps to bring the situation into conformity with the Revised Charter.

SWEDEN

1. Who is entitled to take collective action?

62. The Swedish delegate confirmed that according to Swedish law only organisations can take collective action, which means, *inter alia*, that a group of non-unionised workers cannot call a strike. He referred the high degree of unionisation in the Nordic countries, the traditional autonomy of the social partners and the predominance of collective agreements as a means of regulating labour market affairs. On that basis the Government considered it only logical that the right to strike rests with the organisations. Moreover, he underlined that in Sweden it is very easy to form an organisation for the purpose of a strike. All in all, the Government considered that the situation was in conformity with the Charter and it had noted that this view was shared by several members of ECSR.

63. The Executive Secretary to ECSR pointed out that the Governmental Committee is not called upon to make an assessment of the conformity of the situation; that is the exclusive prerogative of ECSR. As regards the substance of the Swedish situation he observed that the restriction on the right to call a strike followed directly from the Swedish Constitution. The remarks concerning the autonomy of the social partners and the importance of collective agreements were therefore hardly relevant.

64. The Norwegian delegate observed that ECSR's conclusion represented a change of case law and he referred to the dissenting opinions published by a number of members. He supported the views expressed by the Swedish delegate and did not find that the Committee should take measures in this respect.

65. The Icelandic and Romanian delegates expressed their agreement with the Norwegian delegate.

66. The Irish delegate asked about the possibilities for breakaway unions to call a strike and about immunity in connection with collective action, eg. picketing.

67. The Swedish delegate referred to his earlier comments on the forming of unions, which was very easy and could in principle be done by two persons from one day to the next. Individual liability was not an issue in Sweden, except if an individual commits criminal acts in the course of collective action.

68. The Portuguese delegate was not concerned that only trade unions could call a strike given that trade union freedom is so well established in Sweden.

69. The Committee took note of the information provided, but decided not to make any specific requests to Sweden at this stage.

2. Fines imposed at the request of the National Mediation Office

70. The Swedish delegate gave a brief presentation of the newly established National Mediation Office and its tasks. Pursuant to Act on the National Mediation Office fines or notification charges may be imposed on organisations that take collective action in violation of notice rules and an increased charge may be imposed for violation of an order postponing a strike. The fines were substantial, but this was only natural given that their aim was to deter the organisations from breaking the law. In any event the amounts were not disproportionate in the Swedish context. The delegate underlined that fines were decided by district courts, which considered a number of factors in fixing the amount: was the collective action triggered by mistake? Had it happened before? Was it a large organisation? What was the impact of the strike? In certain situation the fines might be waived entirely. The district court decisions could be appealed to the Labour Court. However, as the National Mediation Office was only established recently there is still no case law in this respect. Finally, the delegate observed that ECSR had been divided also on this issue.

71. The Portuguese delegate considered the fines to be high, especially when taking into account that the new legislation had also extended cooling-off periods slightly. In her view the situation was not in conformity with the Charter.

72. The French delegate supported the Portuguese view.

73. The ETUC representative found it difficult why the fines had to be so high in the context of a voluntary mediation system. They were clearly not technical or administrative “fees”, but fines.

74. The United Kingdom delegate did not find that it was possible to reach a decision on the basis of the amounts in isolation as long as there was no evidence on the impact of the legislation. She proposed that the Committee ask the Government to provide such evidence in the next report.

75. The Committee asked the Government to provide details on any fines imposed in the next report and decided to await the examination by ECSR.

Art. 7§1

FRANCE

76. The French delegate confirmed that the situation as regards the employment of children in family enterprises had been remedied outside the reference period as also noted by ECSR in the conclusion. He further informed the Committee that the rules now in force also cover home working.

77. The ETUC representative asked whether the implementing regulations referred to in the conclusion had been adopted.

78. The French delegate replied that the implementing decree was still under preparation.

79. The Committee took note of the information provided by the French delegate and decided to await the next assessment of ECSR.

ITALY

80. The Italian delegate stated that his Government rejected the ECSR's conclusion based as it was on a single unofficial source. He underlined that in Italy ISTAT is the only official source of statistical information and he could not accept that a study carried out by a trade union, CGIL, on the basis of criteria and premises which were not known should form the basis for a negative conclusion. He added that ISTAT in cooperation with ILO was in the process of finalising reliable and in-depth research into minors at work. The study was scheduled to have been completed in June 2002, but had been delayed; however it would be ready before the end of the year. Although the final results were not yet in, it could already now be stated with certainty that the ISTAT data would reveal a situation very much different from the one described by the CGIL study.

81. The Belgian delegate observed that although the research results in question were not official, there was reason to express concern about the situation in practice. Moreover, the Committee could not wait forever on the official data.

82. The Portuguese delegate recalled that Portugal had launched its inquiry into child labour at about the same time as Italy in a similar situation where the only existing information came from less than reliable unofficial source. However, she was of the view that the Committee should request the Italian Government to speed up the process and take the necessary measures to remedy a serious problem.

83. The ETUC representative noted that the legislative framework had evolved in a positive direction, but the situation in practice was worrying. He recalled that child labour was linked to and perpetuated poverty and the Committee should look upon the situation with the utmost seriousness. As regards the CGIL study he underlined that it was a serious piece of research based on a proper methodology and there were no reasons whatsoever to cast doubts on its quality and veracity. It was not the first time that non-official research succeeded in documenting pressing social problems. ETUC would recommend to Government as it had done to its Italian member unions that Italy adopt an approach similar to that of Portugal, where there had been a veritable national mobilisation against the phenomenon of child labour.

84. The OIE representative considered that negative conclusions should always be based on objective information and not on unreliable and questionable sources. She was satisfied to note that such objective information was now being prepared by ISTAT. She proposed that the Committee await the results of the ISTAT study.

85. The Greek delegate suggested that more time be given to the Italian Government since the time that had lapsed between the adoption of the new legislation in 1999 and the publication of the CGIL study in 2000 was too short for the results of the legislation to appear in practice.

86. The Dutch delegate agreed with the Belgian delegate that there were indications of a serious problem in practice, but she wondered whether the Committee could postpone its decision until September or October hoping that the results of the ISTAT study would be ready by then.

87. The Executive Secretary to ECSR pointed out that the Italian delegate had not questioned the existence of child labour and therefore the precise figures were perhaps less important than what practical measures were taken to combat the phenomenon. As regards a postponement of the Committee's decision this was indeed possible, but since there was no guarantee that the ISTAT study would be ready in time, the Committee might find itself in the same situation in September or October.

88. The Italian delegate emphasised that a number of practical measures had been taken in the past few years to combat child labour and referred inter alia to reforms concerning compulsory schooling and investigations made concerning poverty. He further indicated that the Government would do everything it could to speed up the completion of the ISTAT study and he would send it to the Secretariat in Italian as soon as it was ready.

89. The Portuguese delegate admitted that it was a difficult situation. She referred to the Recommendation addressed to Portugal on the issue of child labour. She considered that had not been justified and she would therefore not now propose to address a Recommendation to Italy. However, she felt that it was necessary to send a strong signal to Italy in order to get the correct data on child labour.

90. The Committee decided to adopt a warning to Italy (11 votes in favour, 3 against and 14 abstentions).

Art. 7§2

FRANCE

91. The French delegate stated that in the Government's view the situation on this point was in conformity with the Revised Charter and the next report would contain detailed information explaining this view. In essence, unhealthy work is either forbidden for children or permitted only under certain restrictive conditions, ie. it is subject to approval by the Labour Inspectorate and an occupational doctor. As a matter of principle the Government considers it preferable that young people in the said situations benefit from training aimed at preventing occupational risks. The delegate further underlined that all permissions are granted for a limited period and they may always be revoked if necessary.

92. The Belgian, French, Maltese, Portuguese and United Kingdom delegates queried ECSR's interpretation of the words "absolutely necessary" pointing out that states need to know what is required in order to be in conformity with the Revised Charter.

93. The ETUC representative proposed that the Committee ask the French Government to do its best to bring the situation into conformity with this provision, which had been amended in the Revised Charter.

94. The Committee decided to ask ECSR to clarify its interpretation of the notion of absolute necessity and meanwhile await the next examination of the situation.

ITALY

95. The Italian delegate did not consider it necessary to repeat the interventions already made concerning the notion of absolute necessity. Italian legislation provides that minors may only perform hazardous work on the basis of an authorisation in each individual case pursuant to an opinion by the enterprise doctor and solely where necessary for the purpose of training. It was entirely unclear to the Italian Government why this situation was not in conformity with Article 7§2 of the Revised Charter.

96. The Committee decided to ask ECSR to clarify its interpretation of the notion of absolute necessity and meanwhile await the next examination of the situation.

Art. 7§3**FRANCE**

97. As regards children working in family enterprises, the French delegate referred to the statement under Article 7§1. The delegate then explained the situation with respect to children who take part in public performances. Employers must obtain prior authorisation from the Prefect who only grants the authorisation after having consulted a committee of experts from various fields. The procedure took place on an individual, case-by-case, basis and involved a systematic check of whether leave periods, rest periods, etc. were satisfactory. The delegate considered that this procedure had not been described sufficiently clearly in the French report. She said that the procedure guarantees rest periods for the children concerned.

98. The Committee referred to its decision under Article 7§1.

ITALY

99. The Italian delegate referred to his statements under Article 7§1.

100. The Committee referred to its decision under Article 7§1.

SWEDEN

101. The Swedish delegate emphasised that the level of protection of children in Sweden is very high and the general rule is that the employment of minors is prohibited. Where children may exceptionally work the Labour Inspection and School Management ensures that the work does not deprive the children of the benefits of education. Moreover, in practice rather few children actually work. The delegate said that generally speaking the school days in Sweden are shorter than in most other countries and the amount of homework is less. She further stated that recent research by the National Agency for Education indicated that the work was not among the main causes of poor school performance by children. Unfortunately this research had been published too late to be included in the report. As regards the length of school holidays the Government considered that four continuous weeks was more than sufficient given the very long summer holidays in Sweden (10-12 weeks). In the Swedish reality the problem is more that children have too little to do during these long holidays.

102. The ETUC representative did not find any new elements in the statement by the Swedish delegate. Despite having modified its case law slightly on work during holidays ECSR still arrived at a negative conclusion. Moreover, in the opinion of the ETUC representative the length of the school day as described by the Swedish delegate did not seem short at all, especially when taking into account that two hours of work could be added to the school day. He proposed that a warning be addressed to Sweden.

103. The Portuguese delegate said that despite the high level of protection in general, national law did not conform to the Revised Charter on these particular points and she could in principle go along with a warning to Sweden.

104. The Committee decided not to address a warning to Sweden (2 votes in favour, 16 against and 10 abstentions).

Art. 7§5

ITALY

105. The Italian delegate stated that young workers covered by collective agreement receive the same wage as adult workers on the first (lowest) pay scale. Young workers not covered by collective agreement are protected by Article 36 of the Italian Constitution, which guarantees the right to a fair wage. The wages of apprentices were determined in standards contracts and amount to 75% of the wage of a qualified worker in the first year of the apprenticeship rising to 85% in the last year. The delegate acknowledged that the report had not been adequate on these points, but the Government had now made an effort to produce the necessary information, including the creation of an internet site with wage statistics and he would immediately hand over information to the Secretariat. Information would also be included in the next report.

106. The ETUC representative found the situation to be embarrassing and urged states to fulfil their reporting obligation in good faith.

107. The Committee voted on a proposal for a recommendation to Italy, which was not carried (4 votes in favour, 4 votes against and 21 abstentions). Instead it decided to address a warning (24 votes in favour, 1 against and 4 abstentions).

108. The Italian delegate questioned the motivation of the warning and asked what it meant.

109. The Executive Secretary to ECSR explained that if the Government did not provide in its next report the information necessary for a proper assessment of the situation, the Committee would, in accordance with its working methods, be led to consider a proposal for a Recommendation to Italy.

Art. 7§9**SWEDEN**

110. The Swedish delegate stated that Swedish working environment legislation focuses on the notion of prevention and the legislation applicable to minors at work imposes far-reaching obligations on employers, who may only employ minors where their safety can be guaranteed. Among the obligations of employers is organise medical checks, if deemed necessary. The work of minors in hazardous occupations is prohibited except in two situations: firstly, where it takes place as teacher-controlled training and secondly where the minor is over 16 years and the work forms part of vocational training or the minor has already completed vocational training for such work. For certain occupations there is the additional requirement of medical certificate (but only where such a certificate may contribute to reduce risk). Finally, the Labour Inspection is empowered to ask employers whether they have employed minors and may issue fines and injunctions as necessary.

111. The ETUC representative noted that in general Sweden has a good record in health and safety matters, but the fact remained that Sweden had accepted Article 7§9, which requires compulsory medical examinations of minors in hazardous work on a regular basis. This requirement is not met by Swedish legislation. He considered it to be a serious case and would prefer to apply the Committee's working methods.

112. The Belgian delegate wondered in which cases medical examination was deemed necessary.

113. The Swedish delegate replied that examinations should be carried out where there was a particular risk to a given person and moreover a medical certificate was required in certain occupations.

114. The Portuguese delegate said that even if the problem was perhaps not a major one given the overall level of protection in Sweden, it was nevertheless a violation of the Revised Charter and there seemed to be no intention of changing the situation. On that basis a warning might be appropriate.

115. The Committee decided to express its concern at the situation notwithstanding the high level of protection in general in Sweden.

Art. 12§4**FRANCE**

116. The French delegate gives a presentation of the rationale behind the legislative provisions which have determined the decision of non-conformity and points out that these provisions will not be amended soon. He states that family benefits should only be paid on the basis of clear connecting criteria. Since nationality would be discriminatory, France has chosen to take into consideration the residence of the dependant child. This choice has also been determined by the need to monitor the real situation of the child, which is not always an easy task in Contracting parties not subject to European Community law with which there is no bilateral agreement.

117. He also states that the Franco-Turkish convention mentioned in the conclusion does not address family benefits, which do not exist in Turkey, but provides for a specific allowance unilaterally granted by France to Turkish nationals.

118. Finally, the French delegate recalls that France does not guarantee the maintenance of accruing rights for nationals of states which are not subject to European Community regulations and have not concluded any bilateral agreement with France but states that, where there is no such agreement, it would be extremely difficult to assess the true nature of the information provided by the persons in question. In this respect, he confirms that France is ready to conclude bilateral agreements with any State wishing to do so.

119. The Committee takes note of the French position and decides to defer its decision to its next session (9-13 September 2002), when it will have examined the conclusions under article 12§4 with regard to the other Contracting Parties.

120. With regard to the grounds for non-conformity concerning the conditions under which family benefits were awarded, the Committee referred to the decision it had adopted at its 101st meeting (see para. 119).

121. With regard to the accumulation of periods of insurance or employment for nationals of Contracting Parties which were not covered by Community regulations and which had not concluded a bilateral agreement with France, it took note of the information provided and decided to await the next assessment of the European Committee of Social Rights.

ITALY

122. With regard to the grounds for non-conformity concerning the conditions under which family benefits were awarded, the Committee referred to the decision it had adopted at its 101st meeting.

ROMANIA

123. With regard to the grounds for non-conformity concerning the conditions under which family benefits were awarded, the Committee referred to the decision it had adopted at its 101st meeting.

SLOVENIA

124. Due to the identical conclusions reached by the ECSR under Articles 12§4 and 16 concerning family benefits, the Committee agreed to examine Articles 12§4 and 16 together.

125. The Slovenian delegate supplied the following information.

126. With regard to the eight-year period necessary to obtain a permanent residence permit offering entitlement to full social cover, the Slovenian delegate informed the Committee that the amending law to the Social Assistance Act was adopted in 2001, introducing a new provision. The new provision lays down that foreigners may claim the right to financial social assistance also on a basis of international agreement ratified by Slovenia irrespective of their residence status. In this respect the Slovenian delegate emphasised the Government's intention to reduce the eight-year period through bilateral and multilateral international agreements.

127. The Slovenian delegate explained that the medical insurance in Slovenia is compulsory for all workers and their family members, irrespective of their nationality, as well as for foreign students if they are not insured under another heading. Slovenian delegate pointed out that the categories of foreigners, which may be required to pay their own medical expenses, are those not covered by the Slovenian health insurance system, bilateral agreements on medical insurance, or commercial health insurance. In line with that, the potential categories of those who may be required to pay their own medical expenses are tourists and persons in transit through Slovenia. In addition, the Slovenian delegate also informed the Committee that according to the legislation in force, if a foreigner is not able to pay this medical expense, the expense of urgent health care is paid from the budget.

128. Turning to family benefits, the Slovenian delegate informed the Committee that the old legislation was replaced by a new Parental Care and Family Benefits Act, which entered into force on 01/01/2001. Under this new legislation, the condition of nationality was abolished for the entitlement to layette (newborn infant accessory assistance). The Slovenian delegate informed the Committee on new positive developments with regard to the entitlement of child benefits. According to the new law, child benefits will be also given to a non-Slovene parent who is working in Slovenia, independently from the children's place of residence, subject to the condition of the existence of a international agreement. Following the official interpretation of this amendment, the European Social Charter is recognised as a relevant multilateral international agreement. This means that nationals of the Parties to the European Social Charter are covered. The Slovenian delegate added that such a solution does not yet apply to the parental allowance, but that steps will be taken to insure this.

129. With respect to the financial social assistance, the ETUC representative and the Cypriot delegate recalled that the eight-year residence requirement should be waived for nationals of other Parties to the Charter and asked when the amendment mentioned above will be applied in practice.

130. The Slovene delegate answered that it will be applied in the coming years.

131. The Committee took note of the information supplied by the Slovenian delegate and decided to await the next examination of the ECSR. On the matter of existing eight-year requirement the Committee expressed its deep concern and requested for the situation to be brought in conformity with the Charter.

Art. 13§1

FRANCE

132. The French delegate explained that the new system of social assistance introduced in 1999, the Couverture Maladie Universelle (CMU), does not restrict the individual right to social assistance, but, on the contrary, it extends it to all individuals residing on the French territory. This is due to the fact that the CMU has lowered the ceiling under which needy people are taken in charge by the State as far as their compulsory and facultative contributions to the social system are concerned. Therefore, there are no longer marginal groups without social assistance, as was the case under the previous system.

133. The French delegate added that the appeal system is over burdened, but this is not surprising. Likewise, the fact that there are budget limits for social assistance expenditure is a rule found everywhere in Europe.

134. As to the conditions applying for the grant of the RMI, the French delegate clarified that they require a three years period of residence, and the applicant to be under 25 years of age.

135. By imposing a residence requirement of 3 years, which is the normal length of the residence permit in France, the legislator aimed to ensure that the person benefiting from the RMI is living in France on a long-term basis. The French delegate added that the reasoning underlying the residence requirement is to avoid as foreseen, for example, in the European Union law a person without resources coming and settling in France for the purpose of enjoying social assistance benefits. No change in the legislation will occur in particular because of the costs it will bring about.

136. As far as the age requirement is concerned, the French delegated explained that the policy behind the requirement was to avoid young people becoming dependent on social assistance, and the focus was to help them integrate into the labour market. To this purpose a recent measure has been taken to make it easier for young people to be hired by enterprises.

137. The Committee took note of the information provided by the French delegate and decided to await the next examination by the ECSR.

ITALY

138. On the first issue of non-conformity, the Italian delegate informed the Committee that Act no. 328/2000 provides that the Regions should establish an integrated system for social services, and it provides an individual right to social assistance with a right of appeal to a court or an independent authority. This right is granted to Italian citizens, EU nationals and all the other foreigners who, according to Article 41 of the law on immigration, lawfully reside in Italy.

139. In reply to question from the ETUC representative and the Cypriot delegate, the Secretariat indicated that the Act, being a framework law, has not yet been implemented so as to bring the situation in conformity with the Charter.

140. On a proposal from the Cypriot delegate, supported by the German delegate and the ETUC representative, the Committee decided to recognise the positive development and wait for the practical implementation of the Act by the national authorities in order for Italy to comply with the Charter. It asked Italy to report on the measures taken by each region in order to implement the Act in question and decided that it could eventually revert to a recommendation if Italy does not implement the Act.

141. On the second issue of non-conformity, the Italian delegate made clear that the RMI experiment was over and that, now, it is up to the Parliament to follow-up the experiment through general legislation: therefore the three years residence for foreigners is no longer in place. In addition, foreigners, if lawfully residing, are nowadays treated akin to nationals with respect to social benefits through Article 41 of the new law on Immigration.

142. The Committee took note of the development following the RMI experiment and look forward to the adoption of new legislation on the issue and the assessment of the ECSR.

143. On the third issue of non-conformity, the Italian delegate clarified that the social benefit in question was re-evaluated by 1.8% in 1998, but the augmentation was insufficient to take full account of inflation. She also provided figures about increases carried out in 1999 and 2000.

144. On proposal of the Cypriot delegate, the Committee decided to await the next examination of the ECSR.

ROMANIA

145. The Romanian delegate informed the Committee that legislation has been adopted on a national system of social assistance (Act no. 705/2001) and on a guaranteed minimum income for persons in need (Act no. 416/2001). According to the new legislation, all Romanian citizens and lawfully resident foreigners are entitled to social benefits. Act no. 416/2001 has increased the amount of social aid. Moreover, Act no. 116/2002 on the prevention and fight against social exclusion has been adopted.

146. The Romanian delegate affirmed that this new measure, combined with the existing ones, such as the national Solidarity Fund (Act no. 118/1999), social canteens (Act no.208/1997), etc., ensure that social assistance benefits and services are granted to all categories of disadvantaged people.

147. A right of appeal exists against decisions from administrative authorities. A new body, the social mediation commission, has been set up by Act no. 705/2001 and provides a new intermediary way of challenging the decision.

148. The Committee decided to await the assessment by the European Committee of Social Rights of the new legislation.

Art. 16**ROMANIA**

149. The Romanian delegate explained the existing measures for the social, economic and legal protection of the family. She up-dated the situation with regard to child allowances, social aid, allowances for new baby born, etc.

150. The President recalled that the issue at stake was not the existence of such measures, but rather their inadequacy and asked if Romania envisaged increasing social benefits in order to take into account the inflation level.

151. The ETUC representative was concerned by the high level of inflation during the reference period (45%) and affirmed that measures taken by the government should take into account the level of the current inflation.

152. The Cypriot delegate expressed her agreement with the President and the ETUC delegate.

153. The Romanian delegate answered that the government takes into account the inflation level (for example, 25% in 2002) when increasing the amount of social benefits.

154. The Committee asks Romania to provide further explanation in the next report about how inflation is taken into account to ensure a decent level of social benefits and decides to await for the next assessment by the ECSR.

SLOVENIA

155. The Committee deferred to its decisions under Article 12§4.

Art. 19§4**SLOVENIA**

156. The Slovenian delegate informed the Committee about the current situation in Slovenia concerning the low rent housing and explained that due to the country's current economic and financial situation, and also considering a high number of applicants already existing among Slovenian nationals, only the latter may be awarded with the welfare housing at the moment. The Slovenian delegate also emphasised the Government's commitment to change the situation once the country's economic and financial conditions improve.

157. The delegates of Cyprus, the Netherlands and Portugal thought that non-discrimination in housing was a principle that should not be infringed on account of a country's economic and financial conditions. They proposed that the Committee call for a rapid change in the relevant legislation.

158. The ETUC representative stressed the importance of non-discrimination in the context of Article 19 and asked the Committee to address a warning.

159. The IOE representative disputed the need for a warning for a first non-conformity decision. She also thought that, once a political commitment to change had been clearly expressed, the Committee should take account of adverse economic and financial conditions.

160. Following discussion, the Committee insists that Slovenia brings the situation into conformity with the revised Charter by abolishing any discrimination based on nationality in access to low rent housing.

Art. 19§6**SLOVENIA**

161. In reply to a question from the ECSR, the Slovenian delegate explained that under the concept of "adequate funds" it should be understood the guaranteed personal income. The guaranteed personal income is regulated by the Guaranteed Personal Income Act and is set annually by the Government in co-operation with the social partners. In the respect of determining this income, the factors such as living expenses, national average wage and average productivity of economy, are taken into account. In 2001, this income corresponded approximately to a half of the minimum wage.

162. On the matter of accommodation requirement, the Slovenian delegate announced that a draft piece of legislation amending the Aliens Act has been submitted to the Parliament. A new element of this draft law is the abolishment of accommodation requirement.

163. The Committee took note of these changes and decided to await the next examination of the ECSR.

Art. 19§7

SWEDEN

164. The Swedish delegate wondered whether the ECSR had failed to understand the situation in Sweden properly. All foreign nationals resident in Sweden were entitled to legal assistance on the same basis as Swedish nationals. Moreover, under certain international conventions, this facility could be extended to non-residents. This went beyond the requirements of Article 19§7.

165. The Committee took note of the information supplied by the Swedish delegate and decided to await the next assessment of the ECSR.

Art. 19§8

SLOVENIA

166. The Slovenian delegate confirmed that migrant workers could be expelled for lack of sufficient financial resources. However, this option was rarely used in practice. Moreover, the law also obliges the competent administrative body that prior to the expulsion some other aspects, such as the length of residency in Slovenia, worker's personal, family and economic situation as well as what could be the consequences of expulsion, must be taken into consideration. More detailed statistical information will be included in the next report.

167. With regard to the expulsion of family members, the Slovenian delegate explained that the expulsion of foreign nationals usually entailed the expulsion of members of their families, unless the members of their families obtain their own residence permits.

168. Finally, in reply to a question from the ECSR in its conclusion, the Slovenian delegate explained that under the Slovenian criminal law a concept of "threat to national security" and "threats to public order and peace" are two separate concepts and as such represent two distinct grounds for expulsion.

169. The Committee took note of this information and decided to await the next examination by the ECSR.

SWEDEN

170. The Swedish delegate said that draft legislation before Parliament would establish an appeals procedure before an independent body for foreign nationals against whom an expulsion decision had been issued because they posed a threat to national security. However, the final decision would remain with the Government.

171. The Committee took note of the information supplied by the Swedish delegate and decided to await the next assessment of the ECSR.

Art. 19§10**SLOVENIA**

172. The Committee referred to its decisions under paragraphs 4, 6 and 8.

SWEDEN

173. The Committee referred to its decisions under paragraphs 7 and 8.

Art. 20**SWEDEN**

174. The Swedish delegate explained in detail on what basis unemployment benefits were awarded. She acknowledged that more women than men were excluded from unemployment benefits, as more women worked part-time, but only a very small number of people were affected and a vast majority of salaried workers were entitled to unemployment benefits. No measures were envisaged to remedy the violation.

175. Certain delegates (France and Portugal) pointed out that requiring a minimum number of hours for entitlement to unemployment benefits could open the door to discrimination, but considered that a very careful approach was needed to avoid encouraging precarious employment and undeclared work.

176. Others (the Netherlands, the United Kingdom, Iceland, Ireland) were not convinced of the existence of discrimination in this case and wished to discuss the matter further.

177. The Danish delegate supported this position and pointed out that Article 20 was a new provision of the revised Charter (for the record, Article 20 of the revised Charter corresponds to Article 1 of the additional Protocol, which Sweden accepted in 1992).

178. The Committee decided to await the CEDS' next evaluation.

B. Deferred cases for repeated lack of information

None.

APPENDIX I – CHART OF SIGNATURES AND RATIFICATIONS

Situation at 30 October 2002

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98		
Andorra	04/11/00		
Armenia	18/10/01		
Austria	07/05/99	29/10/69	
Azerbaijan	18/10/01		
Belgium	03/05/96	16/10/90	
Bosnia and Herzegovina			
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	08/03/99		
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	03/11/99	
Denmark	*	03/05/96	03/03/65
Estonia	04/05/98	11/09/00	
Finland	03/05/96	21/06/02	17/07/98 X
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00		
Germany	*	18/10/61	27/01/65
Greece	03/05/96	06/06/84	18/06/98
Hungary	*	13/12/91	08/07/99
Iceland	04/11/98	15/01/76	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	*	29/05/97	31/01/02
Liechtenstein		09/10/91	
Lithuania	08/09/97	29/06/01	
Luxembourg	*	11/02/98	10/10/91
Malta		26/05/88	04/10/88
Moldova	03/11/98	08/11/01	
Netherlands		18/10/61	22/04/80
Norway	07/05/01	07/05/01	20/03/97
Poland		26/11/91	25/06/97
Portugal	03/05/96	30/05/02	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00		
San Marino	18/10/01		
Slovak Republic	18/11/99	22/06/98	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	06/05/80	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland		06/05/76	
«the former Yugoslav Republic of Macedonia»		05/05/98	
Turkey	*	18/10/61	24/11/89
Ukraine		07/05/99	
United Kingdom	*	07/11/97	11/07/62
Number of States	44	11 + 32 = 43	17 + 14 = 31
			11

The **dates in bold** correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

APPENDIX II**LIST OF CASES OF NON-COMPLIANCE**

- France**
- Article 1§2
 - Article 5
 - Article 6§4
 - Article 7§1 and Article 7§3
 - Article 7§2
 - Article 12§4
 - Article 13§1
- Italy**
- Article 1§1
 - Article 1§2
 - Article 7§1
 - Article 7§2
 - Article 7§3
 - Article 7§5
 - Article 12§4
 - Article 13§1
- Romania**
- Article 1§2
 - Article 5
 - Article 6§4
 - Article 12§4
 - Article 13§1
 - Article 16
- Slovenia**
- Article 6§3
 - Article 12§4
 - Article 16
 - Article 19§4
 - Article 19§6
 - Article 19§8
 - Article 19§10
- Sweden**
- Article 5
 - Article 6§4
 - Article 7§3
 - Article 7§9
 - Article 19§7
 - Article 19§8
 - Article 19§10
 - Article 20

APPENDIX III**LIST OF DEFERRED CONCLUSIONS BECAUSE OF A QUESTION ASKED FOR THE FIRST TIME OR ADDITIONAL QUESTIONS**

France

- Article 13§4
- Article 19§6
- Article 19§10
- Article 19§11
- Article 19§12

Italy

- Article 1§3
- Article 6§4
- Article 7§4
- Article 13§3

Sweden

- Article 7§2
- Article 13§1

APPENDIX IV

WARNINGS

Warnings³

Article 7 para. 1 – Italy

Work of children in practice.

Article 7 para. 3 – Italy

See Article 7 para. 1.

Article 7 para. 5 – Italy

Repeated lack of information

³ If a warning follows a notification of non-conformity (“negative conclusion”), it serves as an indication to the state that, unless it takes measures to comply with its obligations under the Charter, a recommendation will be proposed in the next part of a cycle where this provision is under examination.