



Additional Protocol to the European Social Charter

Strasbourg, 5.V.1988

Appendix – 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 workplaces, 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.