

**SECRETARIAT GENERAL**

DIRECTORATE GENERAL I - HUMAN RIGHTS AND RULE OF LAW

DIRECTORATE OF HUMAN RIGHTS

*DEPARTMENT OF THE EUROPEAN SOCIAL CHARTER*

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**GOVERNMENTAL COMMITTEE  
OF THE EUROPEAN SOCIAL CHARTER  
AND THE EUROPEAN CODE OF SOCIAL SECURITY**

**Governmental Committee  
of the European Social Charter and the  
European Code of Social Security**

**Rules of procedure**

adopted by the Committee at its 134<sup>th</sup> meeting (2016)

## **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>1</sup> as well as other non-member states<sup>2</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to international organisations of employers and of trade unions shall be valid for four years; unless it is expressly withdrawn by the Committee at the end of this period, it shall be considered to have been tacitly renewed.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 Vice-Chairs shall

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<sup>1</sup> At 1 January 2017, these countries are: Canada, Holy See, Japan, Mexico and United States of America.

<sup>2</sup> Until 1 January 2012, Australia and New Zealand were invited to the former Committee of Experts on Social Security.

be an expert in the field of the European Code of Social Security and represent a State Party having ratified this Code.

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 to 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>3</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 conclusions of non-conformity**

##### *A Procedure*

a The Committee shall consider the conclusions of non-conformity as selected by the European Committee of Social Rights after consultation with the Bureau of the Committee.

b The Committee shall vote on each conclusion of non-conformity selected by the European Committee of Social Rights, unless it decides by consensus not to proceed to a vote. If a representative of the Committee requests a vote, the vote will be first on a recommendation and then on a warning.

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<sup>3</sup> 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<sup>3</sup> and of the Contracting Parties<sup>3</sup>, 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."*

When voting on a recommendation, the Committee shall 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. When the vote on a recommendation is not carried, the Committee shall vote on a warning to the Party concerned.

When voting on a warning, the Committee shall vote on the basis of a two-thirds majority of votes cast. A warning serves as an indication to the Party concerned that, unless it takes steps to comply with the obligations under the Charter, the Committee may propose a recommendation the next time this provision is examined.

*B – Selection criteria to be considered when deciding to vote on a situation of non-conformity*

The selection criteria may include:

- a Does the provision in question belong to the hard core provisions 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 Have the social partners expressed an opinion on the seriousness of this type of breach?
- f 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?
- g 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 or conclusions of non-conformity for lack of information**

*A – Procedure*

The system functions as follows:

In case of lack of information after examination of Group 1 “Employment, training and equal opportunities”, the State Party concerned has to submit the requested information when reporting on Group 3 “Labour” and vice versa. In case of lack of information after examination of Group 2 “Health, social security and social protection”, the State Party concerned has to submit the requested information when reporting on Group 4 “Children, families, migrants” and vice versa.

Consequently, the requested additional information is to be submitted within two years. If not, the situation will be discussed by the Committee.

A warning may be addressed in respect of a conclusion of non-conformity for repeated lack of information to encourage the Party concerned to submit all relevant information in its next report. A warning may also be addressed for not submitting a report within the time limit. In this case, the Party concerned shall be informed that if the requested information is not provided, a proposal for a recommendation may be discussed in the next cycle.

*B – Selection criteria to be considered when deciding to vote on a situation of non-conformity*

The selection criteria may include:

- 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 recommendation or a warning?
- 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 the cycle under examination. In the abridged

report it is proposed to ask the Committee of Ministers to adopt or renew recommendations. The abridged report shall also contain information on the main discussion held at the Committee level including positive developments noticed since the examination of the previous cycle by the European Committee of Social Rights.

## **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<sup>4</sup>.

## **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).

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<sup>4</sup> Sub-paragraph b of Article 1, paragraph 1 of the Code: the term "the Committee" means the Committee of Experts on Social Security of the Council of Europe or such other committee as the Committee of Ministers may designate to carry out the duties laid down in Article 2, paragraph 3; Article 74, paragraph 4, and Article 78, paragraph 3;

Article 2, paragraph 3 of the Code: A Signatory desiring to avail itself of the provisions of paragraph 2.b of this article shall make a request to this effect in the report to the Secretary General submitted in accordance with the provisions of Article 78. The Committee, basing itself on the principle of equivalence of cost, shall lay down rules co-ordinating and defining the conditions for taking into account the provisions of paragraph 2.b of this article. These provisions may only be taken into account in each case with the approval of the Committee, the decision to be taken by a two-thirds majority.

Article 74, paragraph 4 of the Code: The Secretary General shall send to the Director General of the International Labour Office the report and further information submitted in accordance with paragraphs 1 and 2 of this article respectively, and shall request the latter to consult the appropriate body of the International Labour Organisation with regard to the said report and further information and to transmit to the Secretary General the conclusions reached by such body.

Article 78, paragraph 3 of the Code: Such report and further information shall be examined by the Committee which shall take into account the provisions of Article 2, paragraph 3. The Committee shall submit to the Committee of Ministers a report containing its conclusions.

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 subparagraph 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.