

**SECRETARIAT GENERAL**

DIRECTORATE GENERAL I - HUMAN RIGHTS AND RULE OF LAW

DIRECTORATE OF HUMAN RIGHTS

*DEPARTMENT OF SOCIAL RIGHTS*

Strasbourg, 25 May 2023

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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**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 146<sup>th</sup> meeting (2023)

## **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to international organisations of employers and of trade unions shall be valid for four years; unless it is expressly withdrawn by the Committee at the end of this period, it shall be considered to have been tacitly renewed.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 two other members. They shall be eligible for re-election. The Chair or one of the Vice-Chairs

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<sup>1</sup> At 1 January 2023, 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.

shall 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 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**

1 With a view to pursue and strengthen the effectiveness of the Charter, the Committee shall propose draft recommendations to the Committee of Ministers in order to ensure the implementation of social rights across the State Parties.

2 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**

#### **Follow up to the reporting procedures: instruments**

1 Draft recommendations are the basic instrument of the Committee used to accompany the State Parties in their efforts to implement the Charter and shall be drawn up in consultation with the State Party concerned<sup>4</sup>.

2 Draft recommendations may refer to appropriate follow-up actions identified by the Committee, such as, assistance in establishing an action plan, technical support based on

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<sup>3</sup> This follows 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. Article 4 of the Amending Protocol (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."*

<sup>4</sup> In accordance with the decisions of the Committee of Ministers adopted on 27 September 2022.

comparative methods, enhanced dialogue with actors involved.

3 Draft recommendations are in principle addressed to individual State Parties. They may be grouped if there is an underlying common issue affecting several State Parties.

#### **ARTICLE 17**

##### **Follow up to the conclusions of the ECSR**

1 The Bureau of the Committee shall select conclusions of non-conformity following a discussion with the European Committee of Social Rights on the basis of the following selection criteria, inter alia:

- a. whether the provision in question belong to the hard-core provisions of the Charter or the revised Charter;
- b. whether the conclusion of non-conformity has been repeated by the ECSR in previous cycles on the same grounds;
- c. whether there are a significant number of persons unprotected and what are the consequences of noncompliance for those involved;
- d. whether the social partners expressed an opinion on the seriousness of this type of breach;
- e. whether the issue was already discussed by the GC and whether a former recommendation was adopted by the Committee of Ministers;
- f. in cases of a failure to submit a report to the European Committee of Social Rights in a given monitoring cycle or in case of conclusions of non-conformity resulted from repeated failures to submit sufficient information to the European Committee of Social Rights.

2 The list of selected conclusions shall be sent to GC representatives and social partners for their observations.

3 The Bureau shall prepare proposals for draft recommendations for consideration by the Committee. The Committee shall vote on a possible draft recommendation concerning each of the selected cases by a two-thirds majority of the votes cast, unless it decides to adopt it by consensus without a vote.

4 The Committee may decide that a recommendation is not necessary when it considers that the situation has been redressed.

#### **ARTICLE 18**

##### **Follow up to the ad hoc reports**

The Committee, drawing from its working methods, shall ensure the follow up of the European Committee of Social Rights' ad hoc reports.

#### **ARTICLE 19**

##### **Follow up of recommendations**

The State Parties shall report on the measures taken to comply with the recommendations made by the Committee of Ministers when they submit their reports.

**ARTICLE 20**  
**Report to the Committee of Ministers**

1 The report shall describe developments since the previous supervision cycle or as specified in an ad hoc report, 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 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 follow-up given to the conclusions of the European Committee of Social Rights and to the ad hoc reports. The abridged report shall contain proposals for the Committee of Ministers to adopt or renew recommendations. The abridged report shall also contain information on the main discussions held by the Committee, including on positive developments noticed since the examination of the previous conclusions on the same provisions by the European Committee of Social Rights.

**ARTICLE 21**  
**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 22**  
**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>5</sup>.

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<sup>5</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 23**  
**Participation of**  
**International governmental organisations**

- 1 The International Labour Office (ILO) is invited to appoint a representative to the part of the meetings of the Committee that concerns the exercise of its tasks under the Code, for whom the travelling and subsistence expenses will be at the charge of the Council of Europe budget.
- 2 The European Commission is invited to appoint a representative to attend the meetings of the Committee dealing with the Code as an observer (without voting rights or defrayal of expenses).
- 3 The Organisation for Economic Co-operation and Development (OECD) and the International Social Security Association (ISSA) are invited to appoint a representative to attend the meetings of the Committee dealing with the Code as an observer, (without voting rights or defrayal of expenses).

**ARTICLE 24**  
**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.

**ARTICLE 25**  
**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

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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.

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 26**

### **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 27**

### **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 28**

### **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 29**

### **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 30  
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.