



January 2017

European Social Charter

European Committee of Social Rights

Conclusions XXI-1 (2016)

General Introduction

This text may be subject to editorial revision.

GENERAL INTRODUCTION

1. The European Committee of Social Rights, established by Article 25 of the European Social Charter, composed of:

Mr Giuseppe PALMISANO (Italian)
President

Professor of International Law and EU Law
Director of the Institute for International Legal Studies
National Research Council of Italy, Rome (Italy)

Ms Monika SCHLACHTER (German)
Vice-President

Professor of Civil, Labour and International Law
Director of Legal Studies Institute for Labour Law and Industrial Relations in the European Community
University of Trier (Germany)

Mr Petros STANGOS (Greek)

Vice-President Professor of European Union law,
Holder of the Jean Monnet Chair "European human rights law"
School of Law, Department of International studies
Aristotle University, Thessaloniki (Greece)

Mr Lauri LEPPIK (Estonian)

General Rapporteur
Senior Researcher
School of Governance, Law and Society
Tallinn University (Estonia)

Mr Colm O'CINNEIDE (Irish)

Reader in Law
Faculty of Laws University College, London (United Kingdom)

Ms Birgitta NYSTRÖM (Swedish)

Professor of Private Law, especially Labour Law
University of Lund (Sweden)

Ms Elena MACHULSKAYA (Russian)

Professor
Department of Labour and Social Law
Lomonosov State University, Moscow (Russian Federation)

Ms Karin LUKAS (Austrian)

Senior Legal Researcher and Head of Team
Ludwig Boltzmann Institute of Human Rights, Vienna (Austria)

Ms Eliane CHEMLA (French)

Conseillère d'Etat
Conseil d'Etat, Paris (France)

Mr József HAJDÚ (Hungarian)

Dean for International Affairs and Science
University of Szeged (Hungary)

Mr Marcin WUJCZYK (Polish)

Lecturer in Labour Law and Social Policy
Jagiellonian University, Cracow (Poland)

Ms Krassimira SREDKOVA (Bulgarian)
Professor of Labour Law and Social Security
University of Sofia (Bulgaria)

Mr Raul CANOSA USERA (Spanish)
Professor of Constitutional Law
University Complutense, Madrid (Spain)

Ms Marit FROGNER (Norwegian)
Judge
Labour Court of Norway, Oslo (Norway)

Mr François VANDAMME (Belgian)
Former Director International Affairs, Federal Public Service Employment, Labour and Social Dialogue, Brussels (Belgium)
Former visiting professor, College of Europe (Bruges, 1998-2012, "Enjeux sociaux et gouvernance de l'Europe")
Former invited "Maître de conférences" (2008-2014) in Labour Law, Catholique University of Louvain, Louvain-la-Neuve, (Belgium)

assisted by Mr Régis BRILLAT, Executive Secretary,

between January 2016 and December 2016 examined the reports of the States Parties on the application of the 1961 European Social Charter.

2. The role of the European Committee of Social Rights is to rule on the conformity of the situations in States with the European Social Charter (revised), the 1988 Additional Protocol and the 1961 European Social Charter.

3. Following the changes to the reporting system adopted by the Committee of Ministers at the 1996th meeting of the Ministers' Deputies on 2-3 April 2014 the system henceforth comprises three types of reports. Firstly, the ordinary reports on a thematic group of Charter provisions, secondly simplified reports every two years on follow-up to collective complaints for States bound by the collective complaints procedure and, thirdly, reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year.

4. Thus, the conclusions adopted by the Committee in December 2016 concern firstly the accepted provisions of the following articles of the 1961 European Social Charter ("the Charter") belonging to the thematic group "Employment, training and equal opportunities" on which the States Parties had been invited to report by 31 October 2015:

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- the right to equal opportunities between women and men (Article 1 of the 1988 Additional Protocol).

5. The following States Parties submitted a report: Denmark, Germany, Greece, Iceland, Poland, Spain and the United Kingdom.

6. Croatia did not submit a report. Luxembourg submitted the report very late. The Committee was therefore unable to reach any conclusions on conformity with the relevant provisions in these States for this cycle. The Committee notes the failure of the States concerned to respect their obligation, under the Charter, to report on the implementation of this treaty. Under the circumstances the Committee considers that there is nothing to demonstrate that the situation in these States as regards the provisions concerned is in conformity with the 1961 Charter.

As this is the third successive year that Croatia does not submit a report, the Committee invites the Committee of Ministers to take any appropriate measures to ensure that Croatia fulfills its reporting obligation.

7. As noted above, States which have accepted the collective complaints procedure shall henceforth submit a simplified report every two years. In order to avoid excessive fluctuations in the workload of the Committee from year to year, the 15 States which have accepted the complaints procedure were divided into two groups as follows:

- Group A, made up of eight States: France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland, Finland¹;
- Group B, made up of seven States: the Netherlands, Sweden, Croatia, Norway, Slovenia, Cyprus, the Czech Republic².

On this basis, the States belonging to Group B were invited to submit reports on follow-up to collective complaints by 31 October 2015. The conclusions adopted by the Committee in this respect thus concern only the following State bound by the 1961 Charter: Czech Republic.

8. Finally, certain States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions XX-3 (2014). The conclusions in this respect may concern both States reporting on the thematic group of provisions and those reporting on follow-up to complaints. The only State concerned in Conclusions XXI-1 (2016) is the United Kingdom.

9. In addition to the state reports, the Committee had at its disposal comments on the reports submitted by different trade unions and non-governmental organisations (see introduction to the individual country chapters). The Committee wishes to acknowledge the importance of these various comments, which were often crucial in gaining a proper understanding of the national situations concerned.

10. The Committee's conclusions as outlined above are published in chapters by State. They are available on the website of the European Social Charter and in the case law database that is also available on this site. A summary table of the Committee's Conclusions XXI-1 (2016) as well as the state of signature and ratification of the Charter and the 1961 Charter appear below. In addition, each country chapter highlights selected positive developments concerning the implementation of the Charter at national level identified by the Committee in its conclusions.

Statement on information in national reports and information provided to the Governmental Committee

11. The Committee draws the attention of the States Parties to the obligation to systematically include replies to information requests by the Committee in the national reports. Moreover, the Committee invites the States Parties to always include in the report any relevant information previously provided to the Governmental Committee, whether in writing or orally, or at least to refer to such information, and of course to indicate any developments or changes that may have intervened in the period since the information was provided to the Governmental Committee.

Next reports

12. The next reports on the accepted provisions, which were due before 31 October 2016, concern the following Articles belonging to the thematic group "Health, social security and social protection": 3, 11, 12, 13, 14 and Article 4 of the 1988 Additional protocol. States

¹ France, Portugal, Italy, Belgium, Bulgaria, Ireland and Finland are Parties to the Charter.

² The Netherlands, Sweden, Norway, Slovenia and Cyprus are Parties to the Charter.

having accepted the collective complaints procedure and belonging to Group B³ were due to submit a simplified report on follow-up to complaints also before 31 October 2016. Finally, by the same date States concerned⁴ are to report on any conclusions of non-conformity for lack of information adopted in Conclusions XX-4 (2015).

Election of members to the Committee

The composition of the Committee is governed by Article 25 pursuant to which its 15 members are appointed by the Committee of Ministers for mandates of six years, renewable once.

It is recalled that pursuant to Article 3 of the Turin Protocol members shall be elected by the Parliamentary Assembly. However, this provision alone is still not being applied in practice (pending the formal entry into force of the Protocol).

Members shall be “independent experts of the highest integrity and of recognised competence in international social questions”. Election takes place every second year with a third of the seats (5) being up for election.

At the 1272th meeting of the Ministers’ Deputies on 30 November 2016, the Committee of Ministers held the election to fill the five seats falling vacant on 31 December 2016. Ms Karin LUKAS (Austrian) and Mr Giuseppe PALMISANO (Italian) were elected for a second term, and Ms Aoife NOLAN (Irish), Ms Kristine DUPATE (Latvian) and Ms Barbara KRESAL (Slovenian) were elected as members for a first term in office. The term of office of these members begins on 1 January 2017 and ends on 31 December 2022.

The Committee wishes to express its appreciation and gratitude to the three outgoing members, Ms Elena MACHULSKAYA (Russian), Mr Colm O’CINNEIDE (Irish) and Mr Lauri LEPPIK (Estonian) for their contribution to the Committee’s work and for their tireless efforts to promote social rights.

On 8 December 2016 a workshop in honour of the three outgoing members was organized in Strasbourg on the topic of “The European Social Charter and the European Pillar of Social Rights”.

Declaration on protecting the independent status of the members of the European Committee of Social Rights

The European Committee of Social Rights was set up under the European Social Charter as a body of independent experts whose main task – similar to that of the European Court of Human Rights in relation to the Convention for the Protection of Human Rights and Fundamental Freedoms – is to interpret the international legal commitments entered into by the States Parties.

This arrangement is highlighted by the Committee of Ministers when it elects the members of the committee, who must meet the required conditions of competence, independence, impartiality and availability and make solemn declarations to that effect upon taking up their duties.

While the consolidation of the reporting system and the development of the collective complaints procedure have enhanced the Committee’s judicial method of operation, at the

³ Croatia.

⁴ States Parties where information is required on conclusions of non-conformity for lack of information in Conclusions XX-4 (2015): Luxembourg, Spain, the United Kingdom.

same time and paradoxically, the vital characteristic of independence is sometimes undermined because of more or less explicit attempts by certain political, institutional or administrative players both inside and outside the Council of Europe to interfere with or exert undue pressure on the Committee and its secretariat.

In this context, given that the European Committee of Social Rights plays a vital part in ensuring compliance with the Charter through its authoritative interpretations, any interference with or undue pressure exerted on the Committee or the Secretariat also undermines the realisation of human rights, democracy and the rule of law, which are the pillars of the Council of Europe.

For these reasons, the Committee reasserts the independent status of its members and of its secretariat when assisting the Committee in accordance with Rule 13 of the Committee's Rules and asks all institutions and bodies, both inside and outside the Council of Europe, to make sure that this independence is preserved. Accordingly, whenever that independence is interfered with, the Committee will issue this declaration to the parties concerned.

CONCLUSIONS XXI-1 (2016)

Article	DENMARK	GERMANY	GREECE	ICELAND	SPAIN	POLAND	UNITED KINGDOM
Article 1.1	+	+	-	+	-	+	+
Article 1.2	+	+	-	-	-	0	+
Article 1.3	0	+	0	+	-	0	+
Article 1.4	-	0	0	-	0	+	0
Article 2.4					0		-
Article 4.5							-
Article 9	+	0	+		+	+	+
Article 10.1	+	+	0		-	+	+
Article 10.2	+	+	0		+	+	+
Article 10.3	+	+	0		0		0
Article 10.4	-		0		+		0
Article 15.1	-	+	+	-	+	+	0
Article 15.2	+	+	-	-	+	+	+
Article 18.1	+	-	+	+	-		+
Article 18.2	+	+	+	-	+		-
Article 18.3	+	-	+	-	+		0
Article 18.4	+	+	+	+	+	+	+
P Article 1	+		+		+		

+ conformity	- non-conformity	0 deferral	□ non-accepted provision
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**MEMBER STATES OF THE COUNCIL OF EUROPE
AND THE EUROPEAN SOCIAL CHARTER**

Situation on 31 December 2016

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98	14/11/02	
Andorra	04/11/00	12/11/04	
Armenia	18/10/01	21/01/04	
Austria	07/05/99	20/05/11	
Azerbaijan	18/10/01	02/09/04	
Belgium	03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina	11/05/04	07/10/08	
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	06/11/09	26/02/03	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	03/11/99	04/04/12
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	22/08/05	
Germany	*	29/06/07	27/01/65
Greece	03/05/96	18/03/16	18/06/98
Hungary	07/10/04	20/04/09	
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	29/05/07	26/03/13	
Liechtenstein		09/10/91	
Lithuania	08/09/97	29/06/01	
Luxembourg	*	11/02/98	10/10/91
Malta	27/07/05	27/07/05	
Moldova	03/11/98	08/11/01	
Monaco	05/10/04		
Montenegro	22/03/05	03/03/10	
Netherlands	23/01/04	03/05/06	03/05/06
Norway	07/05/01	07/05/01	20/03/97
Poland	25/10/05	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	16/10/09	
San Marino	18/10/01		
Serbia	22/03/05	14/09/09	
Slovak Republic	18/11/99	23/04/09	
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»	27/05/09	06/01/12	
Turkey	06/10/04	27/06/07	
Ukraine	07/05/99	21/12/06	
United Kingdom	*	07/11/97	11/07/62
Number of States	47	2+ 45 = 47	10 + 33 = 43

The **dates in bold** on a grey background 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.