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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 5 (1953)[1]

Memorandum by the Secretariat-General concerning the activities which the Council of Europe could properly carry out in the social sphere

Parliamentary Assembly

1. The Assembly has most carefully studied the *Memorandum by the Secretariat-General on the activities which the Council of Europe could properly carry out in the social sphere* transmitted to it by the Committee of Ministers for an Opinion, Doc. 140.

It conveys to the Secretariat-General its appreciation of this valuable study, which conforms in its broad lines to Recommendation 14 on the adoption of a common policy in social matters, adopted by the Assembly on 7th December, 1951.

The Assembly is fully aware of the importance of social problems at the present juncture, and believes that in this matter the Member States of the Council of Europe could usefully co-operate.

2. The Assembly accepts in the first place the principle of the elaboration of a " European Social Charter ". Such a Charter should define the social aims of the Member States and serve as a guide for all future activities of the Council in the social field. In social policy it should form a pendant to the Convention on Human Rights and Fundamental Freedoms, and should be framed in agreement with the Assembly, whose function it should be to lay down the governing principles on which it should be based.

3. The Assembly has paid special attention to other chapters of the Memorandum, notably Chapter IV concerning the abolition of discrimination in the social field among nationals of Member States, Chapter II on the harmonisation of social legislation, and Chapter VI on the formation of the necessary organisations for the implementation of the social programme.

The Assembly attaches particular importance to the scope and content of these three chapters, which are referred to in detail hereafter.

While aware of the practical difficulties arising from disparity of social conditions in the member countries, the Assembly believes that harmonious relations in Europe call for a common effort towards co-ordination and harmonisation in the social sphere, a principle already recognised as indispensable by the Committee of Ministers when it stated in paragraph 60 of its Report of 12th May, 1952 : " The Committee of Ministers wishes to assure the Assembly of its recognition of the value of harmonising national activities in the social field ".

Such harmonisation should be carried out progressively, while allowing scope for great flexibility, within the framework of a long-term programme.

CHAPTER I

4. The primary aim of the Council of Europe in the social field should be the suppression of the social legislation of its Member States of discrimination on grounds of nationality. Nor should there be any discrimination on grounds of race or sex.

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1. This Opinion was adopted by the Assembly at its twenty-first Sitting, on 23rd September, 1953 (see Doc. 188, Report of the committee on Social Questions).

Even in its most restricted form European unification should pre-suppose the absence of discrimination against a national of one member country when resident in another. It would be a striking demonstration of European solidarity and constitute progress towards broader social justice if all European workers living in any member country enjoyed the same social advantages as those accorded to the nationals of that country.

This principle has already been advocated by the Assembly and by the Committee of Ministers, and should form one of the main lines of social policy along which the Council of Europe should proceed. Steps should be taken for the gradual achievement of this aim.

5. The following methods might be adopted :

(i) A beginning has already been made in the form of the two draft Agreements on Social Security and the draft Convention on Social and Medical Assistance, which lay down the principle of equal treatment in member countries for national citizens and for the citizens of other Member States. These draft Agreements have been approved by the Assembly and the Committee of Ministers, and should be signed and ratified as soon as possible,

(ii) The principle of equal treatment also requires that the families of migrant workers should be entitled to all social security benefits, even when residing in a different country from that in which the breadwinner is working. As the Assembly has already urged in Recommendation 3 adopted on 14th May, 1951, the application of this principle should not be limited for any reasons connected with the place of residence. The Assembly hopes that the Committee of Social Experts may find an adequate solution to this problem. The Assembly also considers it desirable for arrangements to be made for migrant workers to be accompanied by their families, or to enable the latter to join them without undue delay,

(iii) The two draft Agreements and, if adopted, the draft Convention mentioned above, should be revised and improved in the course of the next few years. The Assembly considers them to be satisfactory as interim measures, but recommends that they should be replaced as soon as possible by a general multilateral Convention on social security. The revision of these two Agreements in such a way as to give added protection to migrant workers was advocated by the I. L. O. in its Memorandum to the Assembly (Doc. 170, Chapter III, paragraph 4). Furthermore, the creation of the Common Market for Coal and Steel between six Member States of the Council will inevitably raise social problems, including, in particular, the question of equal treatment for the nationals of those countries. It is to be expected that the Community will draw up regulations more far-reaching than the Interim Agreements on Social Security of the Council of Europe. It will, therefore, be desirable to take steps to maintain the necessary cohesion of the Fifteen in the social field. The Council of Europe and the European Coal and Steel Community should, in future, co-operate with a view to establishing, in matters of common interest, rules which as far as possible are equally acceptable to the Community and to the other Member States of the Council of Europe. It was for this reason that the Assembly, in Resolution 31, containing its Opinion on the Report by the High Authority of the E. C. S. C, adopted on 23rd June, 1953, urged that joint meetings should be arranged between the various competent organs of the two organisations. Such meetings could not fail to be of benefit to both organisations.

(iv) A comparative table showing the present extent of discrimination in the social field as between nationals of the Member States of the Council of Europe should be drawn up as soon as possible in conjunction with the I. L. O. and O. E. E. C. The Council of Europe would then be in a position to consider to what extent such discrimination may be abolished or attenuated. At a later stage bilateral or multilateral agreements could be drawn up to this end.

6. The second aim of the Council of Europe should be the greatest possible harmonisation of the social legislation of its Members, with a view to unifying to some extent the various social systems. Europe must he built on solid foundations. Not only should discrimination between workers in member countries be abolished, but also efforts be made to bring social conditions in the various countries substantially into line. It is not so much a question of standardising social legislation as of harmonising the advantages deriving from it, which is obviously a long-term objective.

This second principle, already widely recognised by the Assembly and by the Committee of Ministers, can be considered as a pre-requisite for the economic organisation of Europe. Economic unification is inconceivable without corresponding unity in the social field.

7. Means of achieving this second objective :

(i) The European Code of Social Security, which aims ultimately at standardising to some extent the benefits of social security in Member States of the Council of Europe, should be drawn up as soon as possible. Its implementation would represent a major contribution to the work of harmonisation, and might be considered as the corner-stone of the social edifice which the Member States intend to construct.

(ii) There should be early ratification of those International Labour Conventions in respect of which there would not appear much difficulty, and of those which would contribute materially to the harmonisation of social legislation. The I. L, O. concurs in the view that the ratification of International Labour Conventions represents a suitable means for harmonising national practices in social matters (cf. the I. L. O. Memorandum referred to in paragraph 5 (III), above). The Member States might make a joint effort in this direction. Consultations on the lines followed by the signatory countries of the Brussels Treaty would undoubtedly lead to better results.

The question should be examined with the object of ascertaining whether a number of these Conventions might not be improved or given wider application on a European scale. The Committee of Experts on Social Security has recognised the possibility of such improvement in the case of Convention 102 on minimum standards of social security. The investigation should be carried out in close co-operation with I. L. O. It would, moreover, make it possible for the Member States to adopt a common attitude, should it be decided to revise the Conventions, and might eventually lead to the drafting of a special convention establishing higher standards of social security for the Member States of the Council of Europe.

(iii) There should also be an exchange of views within the Council of Europe on the " new developments " in the social sphere, namely innovations which the countries propose to introduce into their social legislation or their administrative practice. It is desirable that the Governments should keep the Council of Europe as fully informed as possible of social developments in their countries and of any proposed changes in their social legislation.

Joint examination of these developments would produce beneficial results, for not only is there a considerable likelihood that developments in one country may concern other Members but it may also he advantageous to recommend the adoption of similar measures by other countries, wherever they are in accordance with the aims of the Council of Europe.

Moreover, the co-ordination of " new " legislation would present fewer difficulties of a fundamental nature than the co-ordination of existing legislation, Such a policy aiming at " parallel legislation " is already current practice in the case of certain countries.

(iv) Statistics which are genuinely comparative should be placed at the disposal of the Council of Europe, for on this condition depends the success of any policy of co-ordination, as the European Coal and Steel Community has already recognised. When the Community was unable to find even relatively comparable wage statistics in the six countries concerned, it decided that this was harmful to its policy of unification and adopted measures to make good the deficiency.

The Council of Europe would therefore do well to examine this problem in relation to the Member States as a whole, drawing upon the research and experience of other organisations such as O. E. E. C., I. L. O. the United Nations, the Brussels Treaty Organisation and the Scandinavian Group, for such statistical information would facilitate progress along the lines suggested.

CHAPTER II

8. It follows from the foregoing that the implementation of the proposed plan depends on establishment of an " appropriate organ ". The appointment of the " Social Committee " of high-ranking officials, suggested in Recommendation 27 (1952) of the Assembly, is therefore most desirable. Social problems cover a sufficiently wide and important field to justify not only continuous activity within the framework of a general policy but also careful and detailed expert examination of each separate point.

9. Committees of Experts hitherto appointed have had an essentially temporary and specialised function, a situation which has certain disadvantages. The " Social Committee ", on the other hand, should be a semi-permanent body meeting two or three times a year, and the high-ranking officials of which it is composed should be free to appoint substitutes or call in other social experts to assist them. It should, moreover, work in close liaison with the I. L. O. and the O, E. E. C, and particularly with the Manpower Committee of the latter, in order to avoid duplication with the work of those organisations.

This " Social Committee " would be the instrument of liaison between the social administrative authorities of the various Member States and between those authorities and the Council of Europe, since such permanent contacts are essential if the social programme of the Council of Europe is to be successful.

When appropriate, before the opening of international conferences on social matters, members of the " Social Committee " could also meet in order, as far as possible, to reach agreement on a common policy. This would do much to strengthen the position of Europe in world affairs.

This collaboration and co-ordination in the " Social Committee " by means of direct and semi-permanent contacts would lead to a certain unity of outlook, which would doubtless be reflected in national legislation or practice, in the form of an increasing uniformity of legislation, thus paving the way to the conclusion of new conventions.

Furthermore, the " Social Committee " should examine whether national legislations conform with the social Agreements and Conventions worked out by the Council of Europe and should do everything within its power to ensure the implementation of these Agreements and Conventions,

10. The Assembly welcomes the suggestion to set up a Social Documents Centre. This should form part of the library of the Secretariat-General, where there is already a nucleus for such a centre. It would be of great value as a source of information for Members of the Assembly,

The Governments should make a regular practice of supplying this Centre with all useful information on the social situation and legislation in their countries (reports, bills, laws, decrees, etc.). This was, in fact, done during the elaboration of the two draft Agreements on Social Security and the draft Convention on Social and Medical Assistance. It should now be extended to other problems affecting the Council of Europe. Only in this way can a definite programme for the co-ordination of social legislation and the abolition of discrimination in social matters be worked out and put into effect on the basis of sound comparative standards.

It will be the duty of the " Social Documents Centre " to make a systematic compilation of all information and documentary material needed by the " Social Committee " and other organs of the Council of Europe concerned with social questions. It will, of course, refrain from repeating research already undertaken by the I. L, O. or other international organisations, and from requesting Governments to provide it with information which has already been communicated to these organisations. The necessary information and documentary material should first be sought from the latter, so as to avoid duplication.

11. The Opinion of the Assembly on the social memorandum has been deliberately limited to the consideration of certain specific questions. The Assembly has thought fit to place the emphasis on points which it regarded as fundamental to all social action and which should help to define the guiding principles in the social sphere.

It is the wish of the Assembly that these principles should be clearly defined and put into effect, since it is convinced that they would help to achieve a " closer union " between the Member States, in accordance with Article 1 of the Statute.

12. The Assembly itself proposes to continue to study the social memorandum and other relevant questions which may subsequently be included in the social programme of work of the Council of Europe.