



**Opinion 57 (1971)<sup>1</sup>**

## Application of the European Social Charter

Parliamentary Assembly

The Assembly,

1. Having regard to Part IV of the European Social Charter, and particularly to Articles 28 and 29 ;
2. After examining the report of the independent experts, and having regard, in addition, to the first report of the Governmental Committee on the European Social Charter transmitted to the Assembly for information by the Committee of Ministers ;
3. Considering that, in playing its part in the supervision of the application of the European Social Charter, the Assembly is free to express its own opinion on the reports of the independent or government experts forwarded to it ;
4. Noting that none of the national organisations of employers and trade unions referred to in Articles 23 and 24 of the Charter have made any comments on the governmental reports, requests the Committee of Ministers to invite governments to promote the effective application of those articles ;
5. Considering that the independent experts must be praised for the remarkable legal work they have accomplished and for the way in which they fulfilled their obligations, and that approval should be given of the procedure and the method adopted by them and of the way in which they have approached the task assigned to them of making an independent and objective appraisal of the conformity of the national legislation, regulations and practices of the States concerned with the provisions of the Charter which those States solemnly undertook to observe at the time of ratification ;
6. Considering that the independent experts, in the terms laid down for them under Part IV of the Charter, are particularly well qualified to appraise, from the purely legal point of view, the compatibility of national regulations and practices with the provisions of the Charter, and that it lies within their province to propose that observations and recommendations should be sent to the States concerned ;
7. Emphasises that the comments and the proposals for recommendations made by the Committee of Independent Experts are fully justified in terms of the objective findings set out in their report, and that they should, in principle, be communicated to the governments concerned with a reminder that the undertakings entered into must be fully observed, as is the case with any treaty, if the way is not to be opened up to the gradual deterioration of the instrument of international law which the Charter represents ;
8. Recognising that in the early stages of the application of the Charter the governments concerned may have interpreted some of its provisions in a way which was not fully in accord with the obligations they entail ;
9. Convinced, nevertheless, that the procedure for the supervision of the application of the Charter will ensure the uniform interpretation of the undertakings embodied in it ;
10. Persuaded that the provisions of the Charter should not, save where specifically stated in the Charter itself, and in conformity with the general principles of public international law, be regarded as a mere reiteration of undertakings contained in other legal instruments of a treaty nature which are not only applied in a different context and subscribed to by a group of States other than those of the Council of Europe, as for

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1. Assembly debate on 14 May 1971 (7th Sitting) (see [Doc. 2943](#), report of the Committee on Social and Health Questions). Text adopted by the Assembly on 14 May 1971 (7th Sitting).



example International Labour Convention No. 100 concerning equal remunerations for men and women workers for work of equal value, but which also occur in political contexts other than that constituted by the States contracting to the Charter ;

11. Considering that the role of the independent experts is to make a legal examination of the States' reports in order to ascertain whether or not national regulations conform to the accepted provisions, without regard for any considerations of interpretation bound up with the interests of political expediency ;

12. Recalling its [Recommendation 454 \(1966\)](#) on the uniform interpretation of treaties, and emphasising that, there being no obligation to ratify, the rules ratified must be formally observed, and that, in the absence of any provision to the contrary in the Charter itself, its provisions must be interpreted in the same way by all the States concerned, since otherwise there would cease to be any internationally agreed commitment,

13. Requests the Committee of Ministers to transmit this opinion and the accompanying explanatory memorandum to all member States, and not only to those directly concerned ;

14. Proposes that, in the special circumstances governing this initial stage of the supervision of the application of the Charter, the Committee of Ministers should forward the independent experts' conclusions to the States concerned in toto, commending the comments contained therein as well as the proposals for recommendations to their attention, and calling upon them to take full note of them, so that when examining subsequent biennial reports the independent experts may be able to see that national rules and practices conform to the terms of the Charter ;

15. Urges that also in future the conclusions of the independent experts, as well as the report of the Governmental Committee, be transmitted to it, as soon as each of these documents is available, so that it may examine them in detail with a view to accomplishing the task entrusted to it under the terms of Articles 28 and 29 of the Charter ;

16. Considers that Article 22 of the Charter should be implemented immediately so that the various bodies may have at their disposal all the information they need in order to appraise the progressive application of the Charter, in pursuance of Part I and of Article 20 (3).