



## Opinion 64 (1973)<sup>1</sup>

# Application of the European Social Charter

Parliamentary Assembly

The Assembly,

1. Having regard to Part IV of the Social Charter, particularly to Articles 28 and 29 ;
2. After examining the conclusions of the Committee of Independent Experts on the supervision of the application of the Charter for 1968-69, and having regard to the second report of the Governmental Committee on the European Social Charter, transmitted to the Assembly in pursuance of the Committee of Ministers' decision of 12 November 1971 ;
3. Recalling its [Opinion No. 57 \(1971\)](#), on the application of the European Social Charter for the period 1965-67 ;
4. Emphasising the importance of the European Social Charter for the achievement of the aims laid down for the Council of Europe in its Statute ;
5. Considering that the Committee of Independent Experts, set up under Articles 24 and 25 of the Charter, has a major part to play, in accordance with these articles, in supervising the application of the Charter by States that have adhered thereto ;
6. Considering that the Committee of Independent Experts is to be congratulated yet again on the excellent fashion in which it has fulfilled its functions ;
7. Considering that one of the tasks of this committee of experts, which is responsible under the Charter for examining reports sent to the Secretary General of the Council of Europe by the Contracting Parties and submitting its conclusions thereon, is to consider how the various provisions of the Charter should be interpreted, and that it may make proposals for recommendations which, after being examined by the Governmental Committee on the European Social Charter and by the Assembly, are submitted to the Committee of Ministers, with which it lies to take the necessary decisions in pursuance of Article 29 of the Charter ;
8. Considering that, while the final decision rests with the Committee of Ministers, the other bodies that have a part to play in the supervision procedure may make to the Committee of Ministers any proposals for the implementation of Article 29 ;
9. Considering that the experts' interpretations of the various provisions of the Charter are to be regarded as highly authoritative opinions, not to be disregarded without overriding reasons ;
10. Considering that the provisions of the Social Charter, which is an international treaty, are binding on all States that have accepted them and must be interpreted in a uniform fashion by all the States concerned ;
11. Considering that the experts' report shows that the government reports received at the end of the second 2-year period are distinctly better and more comprehensive than the first reports, and that a number of States have amended their legislation and administrative regulations in order to comply with their obligations under the Social Charter, or are preparing to do so ;

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1. Assembly debate on 26 September 1973 (10th Sitting) (see [Doc. 3276](#), report of the Committee on Social and Health Questions). Text adopted by the Assembly on 26 September 1973 (10th Sitting).



12. Expressing satisfaction at the progress achieved as a result of the supervision procedure since the Charter came into force ;
13. Noting that the experts' comments are thus a driving force in the improvement of social legislation in States that have ratified the Charter, and serve as a valuable aid to these States in their striving for social progress ;
14. Having taken note of the proposals for recommendations presented by the Committee of Independent Experts, and considering that Article 29 of the Charter should in principle be applied whenever a State has failed, in whole or in part, to comply with one of the provisions of the Charter accepted by it ;
15. Considering, however, that when the States in question are clearly endeavouring to make good any gaps in their laws or imperfections in their practice, or when these gaps are of minor importance, it does not seem expedient automatically to address formal recommendations to the States concerned, and considering that in such cases the Committee of Ministers might submit the experts' observations in the form of "suggestions", reserving the right to make recommendations at a later stage if the situation remains unchanged ;
16. Considering that the procedure has already been facilitated by the fact that the committee of experts has adopted the practice of instructing the Secretariat to seek further information from governments whenever it is unable to ascertain for certain whether or not a State has satisfied the undertakings entered into, but that such a practice is unnecessary in cases where the committee already possesses perfectly clear information showing a failure to comply with one of the provisions accepted ;
17. Recalling that, as previously suggested by the governmental committee and the Assembly, the Committee of Ministers decided by Resolution (71) 30 not to make any recommendations to Contracting Parties at a stage when the procedure covered for the first time the entire system established for the examination of reports, but considering that the situation is different now that the second period of supervision has been completed ;
18. Considering, therefore, that recommendations should now be made to various States on the application of certain provisions of the Charter ;
19. Considering that, as statistics are essential for effective supervision, governments should do everything possible to furnish the supervisory bodies with the statistical data they need to carry out their tasks, and that such statistics should not be regarded as confidential ;
20. Considering that the time has also come to implement Article 22 of the Charter, so that Contracting Parties may be asked to provide, on lines indicated by the Committee of Ministers, reports on certain of the provisions of the Charter not yet accepted by them.
21. Requests that the Committee of Ministers transmit this opinion and the accompanying explanatory memorandum to all member States ;
22. Proposes that the Committee of Ministers make recommendations to the States in question on the application of certain particularly important provisions of the Charter, namely Article 1 (2), Article 2 (1), (3), (4) and (5), Article 3 (2), Article 5 and Article 6 (4), on the lines indicated in the explanatory memorandum to this opinion ;
23. Proposes to the Committee of Ministers that the proposals for recommendations drawn up by the Committee of Independent Experts be transmitted to the States concerned in the form of suggestions, except where otherwise specified in the accompanying explanatory memorandum ;
24. Proposes that the Committee of Ministers implement the procedure set forth in Article 22 of the Charter, particularly as regards the application of Articles 4 (3), 7 (1) and 8 ;
25. Urges that the national organisations of employers and trade unions referred to in Article 23 of the Charter make use of the right conferred on them therein, and requests that the Committee of Ministers ask governments to approach such organisations to that end.