



Opinion 101 (1980)¹

Revision of the questionnaire intended for Contracting Parties as part of the machinery for supervising the application of the European Social Charter

Parliamentary Assembly

The Assembly,

1. Noting the letters of 11 September 1979 and 3 April 1980 of the Committee of Ministers, containing the two draft questionnaires prepared respectively by the Governmental Committee and the Independent Experts for the revision of the questionnaire currently used in supervising the application of the European Social Charter, submitted to it for an opinion ;
2. Aware of the key part played by the questionnaire in the procedures for supervising implementation of the Charter by the Contracting Parties in providing a basis for national reports ;
3. Observing that, despite the effort made to simplify and clarify the text, the draft prepared by the Governmental Committee generally offers a restrictive interpretation of the provisions of the Charter ;
4. Noting, on the other hand, that the text of the draft prepared by the Independent Experts takes greater account of the interests of those persons whom the Charter is designed to protect, thus complying with the concerns expressed by the Assembly in [Recommendation 839](#) on the revision of the European Social Charter ;
5. Considering that a draft revised questionnaire cannot reflect true social conditions and the progress accomplished in the countries concerned if it is based merely on existing legal texts, but disregards numerical data and real situations ;
6. Being aware of the need of striking a balance between asking "too much" and "too little" of the Contracting Parties ;
7. Having regard to the detailed report prepared by its Committee on Social and Health Questions ([Doc. 4565](#)),
8. Requests that the Committee of Ministers take into account the following proposals when examining the new draft questionnaire which the Governmental Committee has submitted to it for adoption :

Reports on ILO conventions

As the provisions of the conventions drawn up by ILO are seldom identical in every respect with the equivalent provisions in the Charter, it is important to replace the text of all footnotes mentioning those conventions by a text requesting that copies of the reports on the relevant ILO conventions be appended to the two-yearly reports on the Charter, and not sent in lieu of the answer to the questions in the questionnaire.

Article I, paragraph 4

1. See [Doc. 4565](#), report of the Committee on Social and Health Questions. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 3 July 1980.



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Add at the end :

"Please indicate what efforts have been made in your country to encourage the vocational rehabilitation of workers in accordance with trends in the labour market and the economic situation, especially measures on behalf of women, unskilled workers and released prisoners."

Article 2, paragraph 3

Add after question B :

"Please indicate any repercussions which sick leave may have on annual leave."

Article 3, paragraph 3

Add at the end :

"Please indicate the frequency of such consultations."

Article 4, paragraph 1

Add a new question :

"Please indicate whether the level of wages varies in accordance with :

1. a national or regional cost-of-living index,
2. the national income,
3. other factors.

Please supply figures showing the variations in the cost-of-living index during the period under review."

Article 4, paragraph 3

Add after question A :

"What are the methods used and criteria applied to compare the different types of work performed by men and women, and to guarantee equal pay for work of the same value ?"

Article 6, paragraph 1

Amend the question as follows :

"Please indicate the legislative or other steps taken to encourage joint consultation between workers and employers in your country. In what way do the public authorities encourage such consultation ? Please give particulars on the organs promoting such consultation and the procedures entailed, together with the fields to which they apply."

Article 6, paragraph 2

Replace the questions by those proposed below :

"Please indicate whether and how the law encourages or obliges employers or their organisations to recognise workers' organisations and to bargain with them collectively, and whether and how it encourages or obliges workers' organisations to bargain with employers or their organisations.

Please give a description of the existing collective bargaining machinery, and supply recent statistics of collective agreements, including the numbers and types of undertakings or plants and of workers covered, and the numbers and types of contracting organisations on both sides.

Please indicate how the problem of union recognition is dealt with in general, and in particular if and to what extent the representative capacity of a union is a condition to participation in collective negotiation. Please indicate how inter-union disputes regarding recognition or representative capacity are governed."

Article 6, paragraph 3

Replace these questions by the ones proposed below :

"Please describe such machinery as exists by virtue either of law, collective agreements or industrial practice for the settlement of disputes by :

- a. conciliation,
- b. arbitration or court procedure,
- c. investigation or inquiry.

In so far as certain machinery may be compulsory, describe the sanctions imposed by law or by collective agreements used for its enforcement and their significance in practice.

Please describe the procedures provided, whether by law, staff regulations or custom, for settling disputes between public servants and the administration, and show whether existing procedures are open to public servants.

Please send copies of texts of any existing statutes or regulations."

Article 7, paragraph 1

Add a new question :

"Please supply statistical data on the number of children under 15 years of age to whom these derogation measures apply."

Article 7, paragraph 7

Replace the words "an estimate of the proportion of ..." in item C by "statistical data concerning ...".

Article 7, paragraph 8

Amend item E as follows :

"...Please indicate the number and proportion of young people under the age of 18 employed in night work, compared with the total number of young people under 18 in employment, and give details of the categories concerned."

Article 7, paragraph 10

Add the following questions :

"Please indicate the measures taken in order to ensure the physical and moral protection of young persons between the age from which education becomes compulsory and the age of majority, outside any work in which they might be employed.

Please indicate if your country's legislation provides special institutions or jurisdiction (such as juvenile courts or special procedures) dealing with juvenile delinquents."

Article 8, paragraph 1

Add :

"Please indicate any sanctions that may be imposed on an employer failing to observe this provision, and state whether the employed woman has the option of voluntarily giving up all or part of her maternity leave."

Article 11, paragraph 1

Amend item F as follows :

"Please also give details making it possible to assess the respective share of expenditure borne by public and private funds, the financing machinery and the sharing of the cost of medical treatment."

Article 12, paragraph 4

Add the following question :

"Please indicate whether, apart from any bilateral or multilateral agreement, nationals of other Contracting Parties on your territory enjoy the right to the various social security payments on an equal footing with home nationals."

Article 17

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In item F, after "Please describe the measures in force in your country with regard to adoption", add a new sentence worded as follows : "Do these measures advocate severing the links between the child and its natural family ?".

Article 18, paragraph 1

Add two new questions :

"Please indicate the number of permits granted compared with the number of applications made."

"Please state whether your country applies restrictions to the right to engage in a gainful occupation by nationals of other states, and, if so, please justify the grounds."

Article 18, paragraph 3

Add :

"Please describe the situation of the holder of a work permit if he loses or gives up his job while the permit is still valid."

Article 19, paragraph 4

Add :

"Please indicate what means are actually applied in order to ensure that there is no discrimination between foreigners and nationals with regard to the various conditions governing employment, particularly pay and in-service training."

Article 19, paragraph 8

Add :

"Please specify what possibilities of appeal are available against such expulsion orders."