Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 111 (1982)[1]

Some provisions of the European Social Charter which have not been accepted

Parliamentary Assembly

The Assembly,

1. Noting that in recent years some of the signatories to the Social Charter have declared themselves bound by provisions of the charter which they did not accept when ratifying it ;

2. Noting, however, that a large number of provisions have still not been accepted (780 acceptances of a total of 72 provisions by 13 Contracting Parties, as against 156 non-acceptances, including non-acceptances of important provisions) (see appendix) ;

3. Welcoming the Committee of Ministers' decision to implement for the first time the procedure provided for in Article 22 of the Social Charter and consequently ask the Contracting Parties to report on certain non-accepted provisions ;

4. Considering that this procedure is designed, on the one hand, to complement the procedure relating to accepted provisions for the purpose of assessing the state of the Contracting Parties' legislation and practice with regard to the charter as a whole and, on the other hand, to promote acceptance of further provisions of the charter ;

5. Having examined the national reports and the reports of the Committee of Independent Experts and the governmental committee on the same subject, and noted that the committees' views converge in various respects ;

6. Noting that the initial implementation of Article 22 relates to Article 4, paragraph 3 (right of men and women workers to equal pay for work of equal value), Article 7, paragraph 1 (prohibition of child labour ; fixing of a minimum age for admission to employment), Article 8, paragraph 1 (maternity leave) and Article 8, paragraph 2 (prohibition of dismissal during maternity leave) ;

7. Noting that the legislation of some of the Contracting Parties very nearly fulfils the conditions governing acceptance of the aforementioned provisions, whereas the situation elsewhere still seems incompatible with the charter's requirements ;

8. Being of the opinion that the Assembly should also take this opportunity of urging states which have not yet signed or ratified the charter to speed up necessary amendments to their legislation with a view to joining the group of thirteen Contracting Parties as soon as possible. As Articles 21 and 22 require reviews of the situation of accepting states, fairness demands that similar pressure be brought to bear on the eight states not yet bound by the charter. Although, as the preamble states, practice in countries with systems of customary law may prove difficult to reconcile with practice in countries with systems of statute law, the fact remains that the future of the European Social Charter depends on the participation of all states,

1. See Doc. 4917, report of the Committee on Social and Health Questions. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 2 July 1982.

9. Recommends that the Committee of Ministers :

9.1. ask the governments of states whose de jure or de facto situation is relatively close to meeting the requirements of the charter to adopt measures enabling them to accept the provisions referred to in paragraph 6 above ;

9.2. ask the governments of states whose legislation or practice are still far short of the level of social protection required by the charter to consider gradually approximating their standards to the requirements for acceptance of the relevant provisions ;

9.3. ask the governments of Belgium, Greece, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey, which have not yet ratified the Social Charter, to note this opinion and do everything possible to upgrade their legislation as necessary with a view to ratifying the charter ;

10. Asks the Committee of Ministers to continue to implement Article 22 regularly, while henceforth consulting the Assembly in the selection of the provisions on which national reports are to be submitted ;

11. Hereby confirms its commitment to the principles of the Social Charter, which effectively safeguard fundamental rights and freedoms.

X accepted

not accepted

Appendix Table showing details of acceptance of the various provisions of the Social Charter

Disposition of the Charter	Austria	Cyprus	Denmark	F. R. Germany	France	Ireland	Iceland	Italy	Netherlands[2]	Norway	Spain	Sweden	United Kingdom
Article 1 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 1 (2)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 1 (3)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 1 (4)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 2 (1)				X	X	X	X	X	X	X	X		
Article 2 (2)	X		X	X	X	X		X	X	X	X		X
Article 2 (3)	X		X	X	X	X	X	X	X	X	X	X	X
Article 2 (4)	X			X		X		X	X	X	X		X
Article 2(5)	X		X	X	X	X	X	X	X	X	X	X	X
Article 3 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 3 (2)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 3 (3)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 4 (1)	X		X	X	X	X	X	X	X	X	X	X	X
Article 4 (2)	X		X	X	X	X	X	X	X	X	X		X
Article 4 (3)	X		X	X	X		X	X	X	X	X	X	
Article 4 (4)					X	X	X	X	X	X	X	X	X
Article 4 (5)	X			X	X	X	X	X	X	X	X		X
Article 4 (5)	X			X	X	X	X	X	X	X	X		X
Article 5	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 6 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 6 (2)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 6 (3)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 6 (4)		X	X	X	X	X	X	X	X[3]	X	X	X	X
Article 7 (1)					X			X	X		X	X	

2. As regard the Netherlands Antilles, the Netherlands consider themselves bound by Articles 1 and 5, Article 6 (except for civil servants) and Article 16.
3. This provision is accepted, except for civil servants.

Article 7 (2)	X			X	X	X		X	X	X	X	X	X
Article 7 (3)	X			X	X	X		X	X	X	X	X	X
Article 7 (4)	X			X	X	X		X	X		X	X	
Article 7 (5)	X			X	X	X		X	X	X	X		X
Article 7 (6)				X	X	X		X	X	X	X		X
Article 7 (7)	X			X	X			X	X	X	X	X	
Article 7 (8)	X			X	X	X		X	X	X	X	X	X
Article 7 (9)	X			X	X				X		X	X	X
Article 7 (10)	X			X	X	X		X	X	X	X	X	X
Article 8 (1)	X		X	X	X	X		X	X		X	X	X
Article 8 (2)	X				X			X	X		X		
Article 8 (3)	X			X	X			X	X		X	X	
Article 8 (3)	X			X	X			X	X		X	X	
Article 8 (4)	X				X	X		X	X		X		X
Article 9	X	X	X	X	X	X		X	X	X	X	X	X
Article 10 (1)	X		X	X	X	X		X	X	X	X	X	X
Article 10 (2)	X		X	X	X	X		X	X	X	X	X	X
Article 10 (3)	X		X	X	X	X		X	X	X	X	X	X
Article 10 (4)	X		X		X	X		X	X	X	X	X	X
Article 11 (1)	X	X	X	X	X		X	X	X	X	X	X	X
Article 11 (2)	X	X	X	X	X		X	X	X	X	X	X	X
Article 11 (3)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 12 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 12 (2)	X	X	X	X	X		X	X	X	X	X	X	
Article 12 (3)	X	X	X	X	X	X	X	X	X	X	X	X	
Article 12 (4)	X	X	X	X	X	X	X	X	X	X	X		
Article 13 (1)	X		X	X	X	X	X	X	X	X	X	X	X
Article 13 (2)	X		X	X		X	X	X	X	X	X	X	X
Article 13 (3)	X		X	X	X	X	X	X	X	X	X	X	X

Article 13 (4)	X		X	X	X	X	X	X	X	X	X	X	X
Article 14 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 14 (2)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 15 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 15 (2)	X	X	X	X	X	X	X	X	X	X	X	X	X
Article 16	X		X	X	X	X	X	X	X	X	X	X	X
Article 17	X		X	X	X	X	X	X	X	X	X	X	X
Article 18 (1)	X		X	X	X	X	X	X	X		X	X	X
Article 18 (2)	X		X	X	X	X	X	X	X		X	X	X
Article 18 (3)			X	X	X	X	X	X	X		X	X	X
Article 18 (4)	X		X	X	X	X	X	X	X		X	X	X
Article 19 (1)	X	X		X	X	X		X	X	X	X	X	X
Article 19 (2)	X	X		X	X	X		X	X	X	X	X	X
Article 19 (3)	X	X		X	X	X		X	X	X	X	X	X
Article 19 (4)		X		X	X	X		X	X	X	X	X	X
Article 19 (5)													
Article 19 (6)	X	X		X	X	X		X	X	X	X	X	X
Article 19 (7)		X		X	X	X		X	X	X	X	X	X
Article 19 (8)		X		X	X	X		X			X	X	X
Article 19 (9)	X	X		X	X	X		X	X	X	X	X	X
Article 19 (10)		X		X	X	X		X		X	X	X	X