



Opinion 137 (1988)¹

Second stage of the ninth supervision cycle of the application of the European Social Charter

Parliamentary Assembly

The Assembly,

1. Having regard to Part IV of the European Social Charter, in particular to Articles 28 and 29, which require the Assembly to be consulted on the application of the charter ;
2. Having examined the conclusions of the Committee of Independent Experts on supervision of the application of the charter during the period 1982-84 (ninth supervision cycle) in seven of the contracting states (Austria, Cyprus, the Federal Republic of Germany, France, Ireland, Italy and Spain), and having also taken into consideration the 9th report of the Governmental Committee of the European Social Charter ;
3. Welcoming the convergence in several instances between the conclusions of the Committee of Independent Experts and those of the Governmental Committee as a very positive development, but deploring, on the other hand, the many instances in which the Governmental Committee did not join the Independent Experts in their conclusions, but rather deferred the adoption of its own conclusions and, in relation to Article 7, paragraph 5, decided to hold an interpretation session which implies the risk of diverging interpretations ;
4. Noting with satisfaction that, as during the previous supervision cycles, further progress has been made on several points in the various countries towards the achievement of the European Social Charter's objectives through the adoption of statutes, regulations and practices ensuring a better application of the charter ;
5. Noting once again, however, that, whereas well-advised measures have been taken in several countries with a view to counteracting the effects of the economic crisis, such as the adoption of arrangements to improve the vocational training of young people, there has been no such improvement in other cases, as evidenced, for example, by certain measures to reduce the earnings of young people and by the delay in measures to protect children and juveniles against work and working hours which jeopardise their education and vocational training ;
6. Noting that, in other fields too, not all the contracting states whose reports have been examined, are complying fully with their undertakings ;
7. Considering that the time has come to draw the attention of governments to the special importance which should be attached to the observance of undertakings given under the European Social Charter, in particular as regards the protection of young people (Article 7) and the abolition of all discrimination between men and women at work (Article 1, paragraph 2, and Article 4, paragraph 3), and to call on them to remove all deficiencies noted in the application of these provisions ;

1. See [Doc. 5816](#), report of the Social and Health Affairs Committee. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 March 1988.



8. Considering also that the states bound by the charter which have not yet fully accepted its provisions relating to the above-mentioned problems, namely Article 7 on the protection of children and young persons, and Article 4, paragraph 3, on equal pay for men and women for work of equal value, should be called on to implement the necessary procedures for the acceptance of those provisions ;

9. Regretting that, vis-à-vis the member states which have not yet ratified the European Social Charter, the Committee of Ministers has taken no specific action to secure such ratification ;

10. Considering that it is necessary, for the purpose of ensuring the full observance and an effective supervision of the charter, that the Committee of Ministers specifically draw the attention of the governments of the contracting states in question, pursuant to Article 29 of the charter, to certain provisions of the charter which have not been fully complied with ;

11. Expressing therefore its great disappointment that, until now, the Committee of Ministers has never acted upon the Assembly's recommendation to make specific recommendations to certain contracting states in accordance with Article 29 of the charter, not even in cases where the Assembly's recommendation was based upon the convergent conclusions of the Committee of Independent Experts and the Governmental Committee ;

12. Noting with regret that none of the national employers' organisations and trade unions referred to in Articles 23 and 24 of the charter has made any comments on the governments' reports ;

13. Reiterating its intention to seek means of supplementing the supervision of the European Social Charter by a more thorough political examination of current social policies ;

14. Welcoming the adoption of the additional protocol to the charter by the Committee of Ministers during their 81st Session as a first step towards a further extension of the rights guaranteed by the charter, and the progress made in the discussions within the Committee of Ministers on the possibilities of further improving the supervision system, and expressing the hope that these efforts will be continued and that the Assembly will be consulted in time on any proposal on these matters,

15. Accordingly recommends that the Committee of Ministers :

15.1. ask those member states which have not yet ratified the European Social Charter (Belgium, Liechtenstein, Luxembourg, Malta, Portugal, Switzerland and Turkey) to submit a report to the Committee of Ministers before the end of 1988 stating the difficulties which prevent or delay ratification ;

15.2. apply Article 22 positively and dynamically by asking the Contracting Parties to submit reports on the reasons why they are unable to accept additional provisions, so that ratification may result in the acceptance of all provisions within a reasonable time ;

15.3. draw, more specifically, the attention of the governments of the following member states to the desirability of implementing the necessary procedures for the acceptance of Article 4, paragraph 3, and Article 7, to the extent that they have not yet accepted these provisions :

- a. Austria, as regards Article 7, paragraphs 1 and 6 ;
- b. Cyprus, as regards Article 4, paragraph 3, and Article 7, paragraphs 1 to 10 ;
- c. the Federal Republic of Germany, as regards Article 7, paragraph 1 ;
- d. Ireland, as regards Article 4, paragraph 3, and Article 7, paragraphs 1, 7 and 9 ;

15.4. make specific recommendations to the following member states in accordance with Article 29 of the European Social Charter :

- a. France, as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 1 and 3 ;
- b. Ireland as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 3, 4 and 5 ;
- c. Italy, as regards the application of Article 1, paragraph 2, and Article 7, paragraphs 1, 3 and 4 ;

15.5. draw the attention of all contracting states to the fact that, for an effective supervision of the application of the charter, it is necessary that the biennial reports are submitted in time, and that they contain all relevant information, including the additional information requested during the previous supervision cycle ;

15.6. invite governments to promote the effective application of Articles 23 and 24 as an intermediate stage to full participation of national employers' organisations and trade unions in the supervision cycle at the level of the Governmental Committee.