



## Recommendation 104 (1956)<sup>1</sup>

# European Convention on Social and Economic Rights

Parliamentary Assembly

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, as also in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its [Opinion No. 5 \(1953\)](#) in which it expressed its support for the proposal to conclude a European Social Charter which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

After study by its competent committees,

Keeps under consideration as a matter of importance the draft European Convention on Social and Economic Rights prepared by those committees; and

Recommends that the Committee of Ministers:

1. establish a European Convention on Social and Economic Rights, taking into consideration the present draft and the observations and suggestions made during the debates in public session in this matter; and,
2. in order to advance this aim, appoint without delay a Special Representative who shall work in close co-operation with the I.L.O. and other competent intergovernmental organisations, international employers<sup>2</sup> and trade union organisations and all other competent organisations enjoying consultative status.

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1. This Recommendation was adopted by the Assembly at its 28th Sitting, on 26th October 1956 (see [Doc. 536](#), draft Recommendation presented, on behalf of the Committee on General Affairs, by M. Toncic)

2. Article 11, paragraph 2, is worded as follows:

*"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Articles shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State".*



## **Appendix – Draft European Convention on Social and Economic Rights**

The Governments signatory hereto, being members of the Council of Europe,

Considering that.....,

Have agreed as follows:

### **PREAMBLE**

#### *Principles and objectives of Social Policy*

The object of this Convention, or Social Charter, is to promote a progressive improvement in the well-being of the nationals of the High Contracting Parties by a continuous raising of living standards and by the equitable sharing of resources and burdens, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. The High Contracting Parties regard economic policy not as an end in itself but as a means of attaining social objectives, which in turn reflect the moral and spiritual values inherent in the common heritage of the European peoples.
3. In carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity and the integrity of the family. The supreme aim of their social policy will be to develop the human personality and to allow the individual the opportunity of exercising his natural gifts to the full.
4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They consider one of their aims and responsibilities to be to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.
5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected whether the mother is legally; married or not.
6. The first essential is to ensure the exercise of the right to work. The maintenance of full employment in all European countries must be the constant preoccupation of the High Contracting Parties.
7. Nevertheless, work is not an end in itself. The High Contracting Parties recognise it as one of the conditions for the development of the human personality that workers should have a share in the fruits of their labours, particularly by participation in the management and the profits of the undertaking by which they are employed.
8. The High Contracting Parties regard it as a duty deriving from the most elementary principles of human solidarity that they should organise assistance for the less favoured sections of their populations.
9. The High Contracting Parties are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, nationality, national or social origin, or political or other opinions.
10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Convention are extended to all groups and sectors of the population.
11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan underdeveloped areas, and bound to develop them by all means within their power.

12. They will not derive profit from exploitation of the living conditions of the peoples politically or economically dependent on them. They recognise that they are responsible for the economic and social development of territories under their jurisdiction, in collaboration with the local populations and, where appropriate, with qualified international organisations.

13. The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate institutions should be created to enable employers', workers' and consumers' organisations to participate in the formulation of economic policy at all stages and in all sectors.

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties towards other-individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured at a European as well as at the national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Convention applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

## **PART I – Economic and Social Rights**

### *Article 1*

The High Contracting Parties recognise the following rights and undertake to take action, both jointly and severally, to ensure progressively the full exercise of these rights, in particular by adopting or promoting the measures defined in connection with each of these rights:

#### *A. The right to work*

1. With a view to ensuring the exercise of this right, the High Contracting Parties
  - a. *recognise* that everyone should have an opportunity to earn his living in a freely accepted occupation;
  - b. *accept* as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work, such as, for example, the fixing of national employment targets, the preparation of national manpower budgets, and the establishment of long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation;
  - c. undertake to:
    - i. establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;
    - ii. protect effectively the right of the wage-earner freely to choose any available occupation;
    - iii. establish or maintain both general and specialised free employment services;
    - iv. promote vocational guidance, training, and rehabilitation.

*B. The right to fair and stable conditions of work*

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to secure for every worker, insofar as these measures are not put into effect by means of collective agreements or in any other way:
  - a. safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
  - b. protection against arbitrary dismissal, as also prohibition of dismissal on account of maternity, military service, and similar circumstances;
  - c. reasonable notice of dismissal;
  - d. the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
  - e. equal pay for equal work,
  - f. a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;
  - g. a minimum of two weeks annual holiday with pay and guaranteed weekly rest periods;
  - h. the possibility of retirement at the age of 65, at the latest, with a pension ensuring a reasonable standard of living.
2. The High Contracting Parties *undertake* to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates and tribunals.

*C. The right of children, adolescents and women to special measures of protection in their employment*

1. With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to take all necessary steps, insofar as these measures are not put into effect by means of collective agreements or in any other way, so that
  - a. the employment of child labour of under 14 years of age, and the employment of adolescents and women in work which is physically or morally injurious shall be punishable by law;
  - b. persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;
  - c. the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;
  - d. adolescents shall be entitled to not less than three weeks' annual holiday with pay;
  - e. expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.
2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates.

*D. The right of workers to be consulted on the management of the enterprise by which they are employed*

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to establish or maintain organs of joint management and/ or to take other measures enabling workers to share in the life and general management of the enterprise by which they are employed, insofar as these measures are not put into effect by means of collective agreements or in any other way.

*E. The right to strike*

The High Contracting Parties recognise the right to strike.

They *undertake* to encourage the use of agreed machinery for the settlement of labour disputes.

*F. The right to form and join trade unions*

With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to grant workers every opportunity to form local, national or international trade unions and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (2).

*G. The right to a proper standard of living*

With a view to ensuring or promoting the exercise of this right, the High Contracting Parties *undertake* to:

- a. promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;
- b. promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.
- c. *protect small savings.*

*H. The right to Social Security*

With a view to ensuring the exercise of this right, the High Contracting Parties:

1. *undertake* to raise their social security to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and disease resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.
2. *recognise* the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance;
3. will take steps for the adjustment of social security benefits to meet any currency depreciation.

*I. The right to a high standard of health*

With a view to ensuring the exercise of this right, the High Contracting Parties *will take all appropriate measures*, directly or in co-operation with local authorities and competent private organisations

- a. to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;
- b. to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;
- c. to prevent epidemic, endemic and other diseases;
- d. to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

*J. The right of the family to social and economic protection*

With a view to ensuring the exercise of this (these) right(s) the High Contracting Parties *undertake*, directly or in co-operation with local authorities and competent private organisations, to

- a. foster and protect the family as a fundamental unit of society;
- b. make available or encourage the provision of the following facilities and advantages:
  - i. the grant of allowances based on the number of children;
  - ii. cheap loans for the founding of homes;
  - iii. preferential allocation of housing to families and persons wishing to marry, and rent reductions for low-income families with many children;
  - iv. allowances to families whose breadwinners are subject to military service;
  - v. tax reductions related to the size of the family;

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- vi. organisation of home help services.

*K. The right of mothers and children to social and economic protection*

With a view to ensuring the exercise of this right, the High Contracting Parties *undertake*, directly or in co-operation with local authorities and competent private organisations

- a. for the protection of mothers:
  - i. to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;
  - ii. to provide directly or in collaboration with appropriate voluntary organisations a sufficient number of maternal and infant welfare centres;
  - iii. to extend particular protection to widows supporting children.
- b. for the protection of children:
  - i. to establish or maintain specialised organs with powers to prevent the neglect of children;
  - ii. to ensure that every minor is provided with a guardian and that guardianship is regulated by law;
  - iii. to provide special services for homeless children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

*L. The right to social and cultural aid and guidance*

With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to:

- a. promote or maintain, directly or in collaboration with local authorities and appropriate voluntary organisations, social welfare services for aid and guidance to the individual in industrialised society;
- b. secure the provision of free legal advice and assistance to those who need it.

*M. The right to education*

With a view to ensuring the exercise of this right, the High Contracting Parties

- 1. *undertake* to make primary education compulsory and free;
- 2. will introduce measures
  - a. to make facilities for secondary education in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;
  - b. to ensure a basic education for those persons who have not received or have not completed their primary education;
  - c. to make university and other higher education accessible to all.
- 3. will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

**PART II – A European Commissioner and Chamber**

*Article 2*

A European Commissioner for Social Affairs shall be appointed and a European Social Chamber set up within the framework of the Council of Europe.

*Article 3*

- a. The Commissioner shall be responsible for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the European Convention on Social and Economic Rights.

- b. The Commissioner shall be nominated by the Consultative Assembly and appointed by the Committee of Ministers.
- c. The Commissioner shall be appointed for a period of three years.

*Article 4*

- a. The Commissioner may deal with any question falling within his competence.
- b. The Commissioner shall receive from the High Contracting Parties any necessary assistance relating to questions falling within his competence.

*Article 5*

- a. The Commissioner may submit to the Consultative Assembly draft recommendations.
- b. He shall be entitled to address the Consultative Assembly at his own request.
- c. He shall give the Consultative Assembly an account of his activities whenever the Assembly so desires.

*Article 6*

- a. The Chamber shall be responsible, acting in a consultative capacity, for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the present Convention on Social and Economic Rights.
- b. It shall consist of 60 members, one third representing the employers, one-third the workers and one third the other sectors of the community.
- c. It shall be convened by the Consultative Assembly at least once a year and may also meet whenever convened by its President.

*Article 7*

The Chamber shall be a deliberative body at the disposal of the Consultative Assembly.

*Article 8*

- a. The Consultative Assembly may request the opinion of the Chamber on any question within the competence of the Chamber, in particular concerning draft recommendations submitted to the Assembly by the Commissioner.
- b. The Chamber shall reply to these requests by opinions adopted by simple majority.

*Article 9*

- a. The Chamber may on its own initiative adopt resolutions to the Consultative Assembly drawing attention to the political, social, economic and cultural implications of questions within its competence.
- b. Acting by absolute majority, it may also submit for adoption by the Consultative Assembly draft recommendations to the Committee of Ministers.

*Article 10*

The 20 seats allotted to each category shall be allocated according to nationality as follows:

- Iceland, Luxembourg, the Saar<sup>3</sup>, Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey: 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom: 2 seats

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3. This provision is based on the present state of affairs as regards the Saar within the framework of the Council of Europe.

*Article 11*

- a. The representatives of the employers and workers respectively shall be appointed by their respective Governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organisations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed.
- b. The representatives of the other sectors of the community shall be appointed by their respective Governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities.
- c. The members of the Chamber shall be appointed every three years.
- d. The members of the Chamber shall not be bound by any mandate or instruction.

*Article 12*

- a. The Commissioner shall be assisted by the Secretariat-General of the Council of Europe.
- b. The Chamber shall be assisted by the Office of the Clerk of the Consultative Assembly.
- c. Expenditure relating to the Commissioner and to the Chamber shall be borne by the Council of Europe.

**PART III – Implementation of the Convention**

*Article 13*

- a. The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Convention by stages.
- b. This programme shall be drawn up by the European Commissioner for Social Affairs and decided on by the Committee of Ministers of the Council of Europe after the opinion of the Consultative Assembly has been obtained.

*Article 14*

The High Contracting Parties undertake to submit to the Commissioner and the Consultative Assembly annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall also indicate any difficulties or other factors which may have prevented the States concerned from carrying out their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

*Article 15*

Bearing in mind the reports referred to in Article 14, the Commissioner may make recommendations to the Committee of Ministers and, if necessary, intended for a Government directly concerned, in order to secure from that Government the fulfilment of its obligations under the Convention.

*Article 16*

The Commissioner shall periodically submit to the Consultative Assembly a full report on the progress made in implementing this Convention.

*Article 17*

- a. The Commissioner may deal with any question connected with the observance of the rights and the fulfilment of the obligations recognised in the Convention, except
  - i. where this question is the subject of a complaint before the International Labour Office, when the procedure provided for in Articles 24 and 26 of the Constitution of the International Labour Organisation is applicable.
  - ii. in cases governed by the provisions put into force by the I.L.O. concerning the freedom of trade unions.
- b. The Commissioner may invite the Government or Governments directly concerned to submit such comments as may be thought necessary.

*Article 18*

Agreements shall be concluded by the Council of Europe with Europe and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to ensure close co-operation with these organisations in the implementation of the present Convention.

**PART IV – Final Provisions**

*Article 19*

Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

*Article 20*

- a. In the event of war or of public danger threatening the life of the nation, each of the High Contracting Parties may take measures involving derogation from the obligations that it has assumed under this Convention, but only to the extent required by the situation and on condition that the measures taken are compatible with its other obligations arising under international law.
- b. Any High Contracting Party exercising the above right of derogation shall keep the Secretary-General of the Council of Europe informed of the measures taken, and the reasons therefor, and shall likewise inform him as soon as such measures cease to have effect. The Secretary-General shall in turn inform the High Contracting Parties.

*Article 21*

Any High Contracting Party may propose amendments to this Convention in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Committee of Ministers and submitted to the Consultative Assembly. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

*Article 22*

- a. A High Contracting Party may denounce the present Convention as far as it is concerned only after the expiry of five years from the date on which it became a Party to it and after six months' notice, contained in a notification addressed to the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.
- b. A High Contracting Party which shall have ratified the present Convention and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Convention as far as it is concerned on the expiry of each successive five years period.

*Article 23*

- a. This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.
- b. The present Convention shall enter into force after the deposit of eight instruments of ratification.
- c. As regards any signatory ratifying subsequently, the Convention shall come into force on the date of the deposit of its instrument of ratification.
- d. Any country not a member of the Council of Europe may accede to this Convention under conditions laid down by the Committee of Ministers and approved by the Consultative Assembly.
- e. The Secretary-General of the Council of Europe shall notify all the Members of the Council of the entry into force of the Convention, the names of the High Contracting Parties which have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

*Article 24*

- a. Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.
- b. The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.
- c. The provisions of this Convention shall be applied in such territories, with due regard, however, to local requirements.

*Article 25*

The French and English texts of this Convention shall be equally authoritative.