Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1022 (1986)[1]

European Social Charter : a political appraisal

Parliamentary Assembly

The Assembly,

1. Recalling that 1985 marked the 20th anniversary of entry into force of the Social Charter, and regretting that this instrument, at present ratified by fourteen member states, is still little known to the public :

2. Believing that, over and beyond the juridico-administrative documents regularly produced during the successive periods of supervision, it is important on this occasion to make a political appraisal of the Charter and reassess its place in the creation of a European social area :

3. Considering that the Social Charter is designed in the first instance as an expression of political commitment to a social programme and as a means of stimulating progress, while embodying a catalogue of individual rights in the same way as the European Convention on Human Rights, to which it is a counterpart :

4. Observing that four factors have, however, conspired to diminish the charter's role in the process of social development, namely :

4.1. the obsolescence or irrelevance of the standard-setting substance of some of its provisions due to the emergence of a new set of socio-cultural attitudes resulting, for example, in the concept of protection of women at work becoming subordinated to the concept of equality :

4.2. the crisis resulting from the enormous increase in oil prices, the economic recession and the increase in unemployment, which has led some governments to revise certain undertakings such as the desirability of full employment, the extension of social protection and non-discrimination against migrant workers :

4.3. the radical structural changes which production systems have undergone as a result of scientific and technological development, and which have opened a new and historically decisive era as regards the economic and social well-being of nations :

4.4. the weakness of the system for supervising the application of the charter, which has been diverted from its original purpose and in the course of time become a slow procedure involving a confrontation of legal arguments and interpretative theories with which the public cannot acquaint itself :

5. Observing also that the Committee of Ministers has not applied either Article 36, which provides for revision of the text of the charter, or Article 29, which empowers it to make recommendations to individual Contracting Parties in the event of non-compliance with the charter, even though it exercises such powers in connection with other Council of Europe instruments :

6. Noting that the application of Article 22 — whose aim is to encourage Contracting Parties to accept additional provisions — has taken the form of an academic exercise confined to a mere exchange of information :

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1. Assembly debate on 3 October 1985 and 27 January 1986 (20th and 21st Sittings) (see Doc. 5453, report of the Social and Health Affairs Committee). Text adopted by the Assembly on 27 January 1986 (21 st Sitting).

7. Convinced that, despite these negative aspects, the charter is still valuable as a common denominator of the European social heritage and as a brake preventing dangerous retrogressions, and noting with satisfaction that this role has been recognised both in the European Parliament's draft treaty on the European Union and in the final report of the "Colombo Commission" :

8. Welcoming the Secretary General's intention to give priority to the Social Charter in the effort to concentrate and intensify the Council of Europe's activities in the next Medium-Term Plan :

9. Emphasising that, even though since 1978, the year in which the Assembly adopted its Recommendation 839 on the revision of the Social Charter, some limited measures have been taken to accelerate the periods of supervision — without, however, any fundamental change being made to the system — and a draft protocol is being drawn up with a view to including four new rights in the charter, these steps are far from meeting all the proposals of the Assembly :

10. Convinced, therefore, that the time has come to restore to the Charter its political value and overhaul its system of supervision with a view to enhancing its positive and dynamic aspects, whilst also being aware of the fact that the support of all the parties involved in the supervisory procedure (the governments, the Parliamentary Assembly, the independent experts, labour and management) is essential,

11. Recommends that the Committee of Ministers :

a. hold an exchange of views at ministerial level in order to encourage member states which have not yet ratified the Social Charter to speed up their progress towards ratification, while particularly drawing their attention to the charter's principal objective, which is to map out a European social area, and which is not exclusively to propose actions against this or that Contracting State, and inform the Assembly as soon as possible of the result of this exchange of views :

b. apply Article 22 positively and dynamically by asking Contracting Parties why they are unable to accept additional provisions, so that ratifications may maintain a steady tempo and result in all the provisions being accepted within a reasonable time :

c. continue without delay its examination of the draft protocol, and consult the Assembly before adopting the final text :

d. enhance the role of the Governmental Committee as a supervisory body, by reminding it that it should not confine its efforts to neutralising or censuring the work of the Independent Experts, but should above all formulate political observations, and by ensuring that international and national organisations of employers and employees make a more effective contribution to the Governmental Committee's work :

e. consider whether the results of the supervision periods could be presented in the form of a "social balance-sheet" after a general debate on European social policy within the Parliamentary Assembly. This balance-sheet could be addressed either to the Committee of Ministers sitting in a composition comprising the Ministers of Labour and /or Social Affairs, who might adopt recommendations in pursuance of Article 29, or alternatively to a conference of specialised ministers whose conclusions could be of a political nature :

f. study the possibility of introducing an arrangement whereby the contracting states could, if they so wished, refer matters to the Committee of Independent Experts for a preliminary ruling, which could provide them with a valuable preliminary opinion for the purpose of planning their social policies, and enable them to bring national laws and policies closer to the standards laid down in the charter :

g. take an initiative with a view to examining with the European Community the political and legal means of promoting the accession of the Community to the Social Charter :

h. organise a special meeting of the Joint Committee for the purpose of holding an exchange of views on the new direction that should be given to the charter in order to improve its internal procedure and keep its provisions in step with the rapidly evolving conditions of present-day society and also deciding on arrangements for an appropriate celebration in 1986 on the occasion of the 25th anniversary of the signing of the European Social Charter.