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Preparation of a European social Charter

Report[1]
Social, Health and Family Affairs Committee
Rapporteur: Mr Henri C. J . HEYMAN, Belgium

1. 1954 - 6th Session - Second part

A. Draft Opinion

1. In its Opinion No. 5 (1953) the Assembly accepted the principle of the elaboration of a European Social Charter which should define the social aims of the Member States and serve as a guide for future activities of the Council in the social field. I t should form a pendant to the Convention on Human Eights and Fundamental Freedoms, and should bo framed in agreement with the Assembly, whose function it should be to lay down the governing principles on which it should be based, and to ascertain that the provisions of the Charter are drawn up in conformity with these principles.

2. The Assembly has noted with satisfaction that the Committee of Ministers has accepted this idea and has included the elaboration of such a Charter in the Social Programme of the Council of Europe, as contained in the Special Message which the Committee addressed to the Assembly at the First Part of its Sixth Session. The Assembly has noted with particular interest the possibility that the Charter may contain certain provisions binding upon the signatories. It considers that such provisions, whether included in the Charter itself or in an Annex to it, would greatly increase the value of the document and would inspire confidence in the Council of Europe as a stimulating and uniting factor in European social policy.

3. The Assembly has further noted that the Committee of Ministers has entrusted the Social Committee with the consideration of the form and contents of the Social Charter. Although the Special Message makes no reference to the role of the Assembly in this connection, the Assembly trusts that the Social Committee and the Committee of Ministers will act in close contact with it in this important matter. It desires therefore already at this stage to express a preliminary opinion on the nature of the European Social Charter. I t is aware of the complexi ty of the task and considers that such a task can only be satisfactorily solved in collaboration with other interested and competent organisations, governmental and non-governmental, as also by reference to appropriate experts. At this stage the Assembly will limit itself to certain general and basic ideas which may serve as a guide for the further work.

4. In doing so, the Assembly has considered the draft Covenant on Economic, Social and Cultural Rights adopted by the Human Rights Commission of the United Nations at its Tenth Session. The Council of Europe could not, of course, disregard this document, which must be one of the sources of the European Social Charter. The Assembly has also considered that, in many fields, internationally accepted standards of social policy are alreaiy in existence, such as a number of Conventions and Recommendations adopted by the International Labour Organisation. An examination should be made of the extent to which such standards might be consecrated and strengthened by the European Social Charter. Moreover, the Assembly has studied the ideas regarding the Charter contained in Chapter 1 of Document 140 of 11th May, 1953.

5. On this basis the Assembly would make the following proposals : In the first Part, the Charter should stress the principles which — above and beyond the varying political trends •— characterize and unite the Western democracies in the social field, such as :

The continuous improvement of the standard of living of all members of society, to j the greatest extent possible, in the light of | economic conditions, and the fair distribution of available resources as well as the just sharing of burdens in accordance with the ability to bear them.

The development of economic policy and taxation policy with this end in view.

The maintenance of full employment.

Respect for the dignity of man, and the maintenance of a social environment which is conducive to the fullest development of the individual and the family.

Development of industrial relations with a view to reconciling the interests of woi'kers and employers.

Protection of the economically weak and the establishment of social services in all fields where, owing to modern economic and social conditions, individual and familiy resources are not adequate.

Participation of the widest possible groups of society in the formulation of social and economic policy through the consultation of: appropriate private organisations.

Assurance that social rights will be granted without distinction based on race, sex, religion, political opinion, national or social origin, property or other criteria.

Progress towards an ever greater international unity through the pooling of experience and through common action.

Concern for facilitating the free movement of persons between member countries. In this connection the Charter might reinforce the main principles of the social programme of the Council.

Moral responsibility devolving on the Governments for the social development in dependent territories.

The Charter would thus be a guide, not only for social policy in general or for national social policy, but in particular for a common European social policy.

6. In a Second Part, which could be based on the United Nations draft Covenant on Economic, Social and Cultural Rights, the Charter sho\ild set out the social principles that correspond to individual rights, and lay down the aims of European social policy in these specific fields. Without entering into any detailed analysis of these questions, the Assembly might point out that the draft Covenant in question should be carefully studied. Changes or additions may have to be made in order to suit special European needs and conditions. Many provisions could be more precisely formulated, for example by reference to the internationally accepted standards referred to in paragraph 4 above. The aims of European social policy as expressed in this Part should be high and would probably go beyond what is actually carried out in most of the member countries.

7. In a Third Part, the Charter should contain provisions which would be binding upon the Signatories and which would guarantee certain minimum standards in vital social fields. One could thus envisage that to some provisions in the'Second Part of the Charter, setting out the aim of European social policy in certain fields, would correspond similar provisions in the Third Part, establishing guaranteed minimum standards in those same fields.

8. The Assembly wishes to stress the importance of including in the Charter the most effective procedure that can be devised for supervising its implementation.

9. Finally, the Assembly wishes to point out the importance of securing the broadest possible basis for the Social Charter. Attention should be paid to the possibility, at a suitable stage in its preparation, of submitting it to a regional tripartite conference, as provided for in the Agreement between the Council of Europe and the International Labour Organisation.

B.

1.

1. In an Order adopted on behalf of the Assembly on the 9th July, 1954, the Standing Committee instructed the Committee on Social Questions to begin " the preparation of a draft Social Charter for submission to the Committee of Ministers " and to present a preliminary report on this subject during the Second Part of the Sixth Session.

2. The Committee on Social Questions has considered this question on the basis of Opinion No. 5 (1953), where the Assembly already accepted the principle of a European Social Charter which should define the social aims of the Member States and serve as a guide for the future activities of the Council in the social field. It should thus form a pendant to the Convention on Human Rights.

3. The Committee of Ministers has accepted this idea and has included the question in the Social Programme of the Council of Europe. The Committee of Ministers has entrusted the task of considering the form and contents of the Charter to the Social Committee, which should also consider whether, in addition to general principles, the Charter should contain more definite provisions binding upon the signatories. The Committee on Social Questions considers that such provisions should be included.

4. Although the Committee of Ministers made no reference in the Special Message to the role of the Assembly in the preparation of the Social Charter, the Committee on Social Questions is of the opinion that the Assembly must certainly take great interest in this important work. The task is complex and should be solved in collaboration with other interested and competent organisations, as well as with appropriate experts. Indeed, the Committee on Social Questions desires already at this stage to submit to the Assembly a draft Opinion on the nature of the Charter, which must, however, be limited to certain general and basic ideas which may serve as a guide for the further work. There is no question for the moment of embarking upon the preparation of a complete draft.

5. The Committee has studied the draft Covenant on Economic, Social and Cultural Rights, recently adopted by the Human Rights Commission of the United Nations. It has also considered the suggestions regarding the contents of the Social Charter contained in the Memorandum of the Secretariat-General concerning the social activities which the Council of Europe could usefully carry out in the social field (Doc. 140 of 11th May, 1953).

6. On this basis the Committee on Social Questions has suggested that the Social Charter might be divided into three parts. The first part would contain the general principles of a common European social policy, stressing particularly the principles which characterize and unite Western democracies in the social sphere. The second part would set out the aims of European social policy in specific fields. It might be based on the Draft Covenant of the United Nations, with such changes and additions as may be necessary to strengthen this document so as to suit European needs. The Charter should define the aims to be reached in a clear and precise manner, but it should be left to each country to choose the adequate means of reaching them. In the third part the Charter might contain provisions which would be binding upon the Governments and would guarantee certain minimum standards in vital social fields.

7. The Committee further wishes to stress the importance of including in the Charter some procedure allowing for supervision over its implementation. It considers that the Assembly should be associated with this procedure. Finally, the Committee emphasizes that the Charter should have the broadest possible basis and that therefore one should consider the desirability of entrusting the final preparation to a regional tripartite conference, as provided for in the Agreement between the Council of Europe and the I.L.O. In conformity with the above considerations the Committee on Social Questions has the honour to submit to the Assembly for its consideration the attached draft Opinion.