

Opinion 167 (1993)¹

Draft second additional protocol to the Social Charter to the Council of Europe providing for a system of collective complaints

Parliamentary Assembly

1. The Assembly welcomes unreservedly the strengthening of the supervisory system of the Social Charter by means of a collective complaints procedure.
2. It is right that this procedure should be open not only to international organisations of employers and trade unions but to national organisations of employers and to national trade unions, which are recognised as "representative" but may not be members of any international organisation.
3. It is also right in principle that international non-governmental organisations should be able to have recourse to this procedure, since the scope of the Council of Europe's Charter goes beyond the world of work and reflects the obligations of states to all persons within their jurisdiction.
4. Because of their "collective" nature, complaints must bear on the non-compliance of a state's law or practice with one or more provisions of the Charter which that state claims to accept. They will be the subject of legal appraisals by the Charter's Committee of Independent Experts which will not accordingly be called upon to judge individual situations.
5. It remains, however, unclear how the Committee of Ministers can bind itself in advance to issue recommendations by pre-ordained majorities, addressed to Contracting Parties whose laws or practices are considered in non-compliance, if several or many governments challenge the reasoning or the factual basis set forth in the reports of the Committee of Independent Experts.
6. In its [Recommendation 1168 \(1991\)](#), in the form of a proposal for a new Article 25 bis of the Charter, the Assembly sought to address this difficulty by providing for a Contracting Party to refer any dispute on interpretation of the Charter to an independent authority possibly functioning under the aegis of the European Court of Human Rights.
7. It is an open question whether the Committee of Independent Experts can achieve the status and authority to enable the system to work well without such possibility of further reference. It will also depend on the goodwill of governments and national administrations and on resources available to the committee.
8. Since the draft protocol goes entirely in the direction of (though not quite so far as) proposals in [Recommendation 1168](#), the Assembly gives its unqualified support.

1. See [Doc. 6755](#), report of the Social, Health and Family Affairs Committee, Rapporteurs: Mr Rathbone and Mr Beix. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 26 March 1993.

