



Recommendation 1354 (1998)¹

Future of the European Social Charter

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe has carefully examined the current situation and prospects regarding the European Social Charter, the protocols thereto and the revised Social Charter.

2. The Assembly welcomes the decision of the heads of state and government, reflected in the Final Declaration of the Council of Europe's second summit (Strasbourg, 10-11 October 1997) "to promote and make full use of the instruments which are a reference and a means of action for states and for the social partners, in particular the European Social Charter". Like the European Convention on Human Rights, the European Social Charter should be the social benchmark for all of the Council of Europe's activities. With reference to the ministerial conference on human rights which met in Rome in 1990 and to the declaration by the Committee of Ministers on the thirtieth anniversary of the Charter, in 1991 in Turin, it is important to stress the inseparable nature of human, civil, political, social, economic and cultural rights.

3. In this light, the Assembly fully supports Chapter II in the Action Plan (Social cohesion), which was drawn up at the second summit, and in particular paragraph 1 on the promotion of social rights and paragraph 2 on a new strategy for social cohesion.

4. The Assembly is convinced that the European Social Charter, as a fundamental document enshrining social and civic rights, has an important role to play, especially in the light of new economic and social challenges:

4.1. the globalisation of commercial and financial markets and the increasing importance of world trade as a determining factor are having an impact on the internal economic development of individual countries; inequality still exists in society: in many cases rapid, globally-oriented economic modernisation contrasts with slower changes in social structures as a result of national customs and traditions;

4.2. the change in the significance of work is altering the outlook for social and individual development: unemployment is growing in many European countries and, with periods of employment now alternating with periods of unemployment, the prospects for obtaining a stable, lifetime job no longer exist; instead, the principle of lifelong learning is gaining in importance;

4.3. it is possible to observe radical shifts in social relationships, such as a change in the importance of the family and an increase in the number of single-parent families. The problem of social cohesion, characterised by growing poverty and unemployment and a rise in the number of old people in need of care, is looming even larger. The European Social Charter and its protocols must become a reference for the whole of Europe in order to serve as a basis for drafting new legislative and contractual instruments, both national and European, to facilitate the political and social management of the changes under way.

1. Assembly debate on 26 and 28 January 1998 (1st and 5th Sittings) (see [Doc. 7980](#), report of the Social, Health and Family Affairs Committee, rapporteur: Mr Haack). Text adopted by the Assembly on 28 January 1998 (5th Sitting)



5. The European Social Charter pursues the political aim of guaranteeing collective and individual working conditions and meeting the basic social needs of a human being – such as work, a home, health, and freedom from economic need and social marginalisation – by means of a legal framework. The Parliamentary Assembly supports this aim as an indispensable basis for a humane society. However, if this objective is to be achieved, further efforts are necessary at three levels :

- 5.1. intensified promotion of the ratification of the Social Charter;
- 5.2. creation of greater transparency and accessibility in respect of procedures;
- 5.3. improvements in enforceability and supervisability.

6. The Council of Europe has, after the radical political changes of the last few years, grown to forty members. Its member states agree on and are jointly pursuing the aims of establishing and consolidating democracy, human rights, economic stability, internal and external security and social welfare. The European Social Charter is very important for the success of these efforts.

7. In the last few years, the European Social Charter has been amended several times by the addition of protocols, and in May 1996 a new version, the Revised Social Charter, was adopted. With regard to the 1961 Charter, but especially the protocols and the revised version, the Parliamentary Assembly notes a regrettably low number of signatures and ratifications. This concerns not only the new member states but also many signatories of the 1961 Charter.

8. In response to this unsatisfactory state of affairs, the Parliamentary Assembly has begun to conduct seminars in the new member states with the participation of parliamentarians, government representatives, non-governmental organisations and the public at large. This campaign must be continued in the next few years if we are to be able to point to a large number of ratifications of the Social Charter by the time of the Council of Europe's fiftieth anniversary. The Parliamentary Assembly in particular welcomes the important initiatives by non-governmental organisations supporting the ratification campaign.

9. The Assembly is convinced that the effect and coverage of the Social Charter can be increased by encouraging contracting states to sign and ratify all its core articles. Up to now, only five out of seven articles of the 1961 Charter, or six out of nine of the revised Social Charter, had to be ratified.

10. The Parliamentary Assembly considers the European Social Charter to be a document of a universal nature. It therefore demands that the Charter be applied as a long-term goal to all persons resident in the signatory states, irrespective of whether they originate from another signatory state or from a state that is not a member of the Council of Europe.

11. The procedure established by the 1961 Social Charter for supervisory machinery has proved cumbersome, in spite of the great efforts made by the Secretariat and the relevant committees. In consequence, a more efficient procedure was introduced by the Turin Protocol of 21 October 1991. Although not all the contracting parties to the Charter have yet ratified this protocol, a fact that the Parliamentary Assembly regrets, some important elements of the new procedure have already been put into effect. In view of the complexity of the procedure, the Assembly considers additional steps necessary in order:

- 11.1. to speed up the procedure;
- 11.2. to strengthen the democratic supervision of the procedure;
- 11.3. to improve scope for public discussion and for the implementation of the resulting conclusions.

12. The Parliamentary Assembly supports the idea of carrying out at shorter intervals the regular checks that are required on the application of the European Social Charter. In this connection, it proposes the introduction of a basic timetable for the presentation of regular reports, with fixed dates for the drafting of correspondents' reports, for the discussion of these reports by the committee of experts and for the holding of deliberations in the Parliamentary Assembly and the Committee of Ministers. The period to which a report relates should not exceed one year, so that relevant observations may be made and rapid conclusions drawn.

13. It is essential to give national and European impetus (content, procedures, application) to the Charter, together with the appropriate resources:

- 13.1. suitable structures should be set up in each member state of the Charter where governments, representatives of economic and trade union organisations and the competent non-governmental organisations could participate on a regular basis in the activities of the Charter (drafting of reports, follow-up to conclusions, etc.) and in the application of the rights enshrined in the Charter in national social policies;

13.2. regular reviews should be carried out by national parliaments of their country's undertakings in relation to the Charter. Countries' undertakings should be well-documented and utilised in judicial and educational institutions;

13.3. the Secretariat of the Charter should be given greater financial and human resources. National correspondents could usefully assist in performing increasingly complex tasks;

13.4. similarly, there is an urgent need to increase the membership of the Committee of Independent Experts. An effort should also be made to set up two or more chambers to share the workload.

14. The Assembly is in favour of a close link being established between the conclusions of the Committee of Independent Experts and the Council of Europe's Intergovernmental Activity Programme so that, by means of direct discussions and co-operation, the coverage and effectiveness of the Social Charter's requirements may be increased.

15. In order to strengthen the effect of the supervision machinery, it is also necessary to examine what consequences may arise from breaches of the Social Charter's requirements. The question of what measures should be taken if governments do not properly implement their commitments under the Social Charter should be examined.

16. The Additional Protocol of 9 November 1995 incorporated the right of collective complaint into the Social Charter procedure. The Parliamentary Assembly warmly welcomes this and urges all member states to sign and ratify the protocol. Furthermore, the Assembly is of the opinion that the introduction of further complaint mechanisms should be investigated. The Assembly supports the requests of non-governmental organisations that contracting states declare that they recognise the right of representative national non-governmental organisations within their jurisdiction to lodge complaints according to Article 2 of the 1995 Additional Protocol.

17. Moreover, consideration should be given to whether the right of governments to lodge a complaint under the European Convention on Human Rights may be transposed to the area of social rights. It should at least be possible to make the core articles of the Charter the subject of such a complaint.

18. The European Court of Human Rights is a central authority for the protection of human and civil rights and human dignity. The Parliamentary Assembly considers the establishment of a parallel European court of social rights to be an effective way of guaranteeing the observance of obligations under the Social Charter. It is also worth examining the possibility of transferring individual rights from the Social Charter to the European Convention on Human Rights, in order to create the basis for stricter legal observance. This question is, however, very wide and complex and the Assembly therefore intends to make it the subject of a separate report.

19. The Assembly considers it urgently necessary to appoint the members of the Committee of Independent Experts through a vote in the Assembly, in accordance with the provisions of the Turin Protocol. Moreover, the Parliamentary Assembly should also be given the right to propose candidates.

20. The European Social Charter is an important component of the European system of values, which – in spite of the various differences between national traditions and attitudes – has contributed to the strengthening and spread of the European social model. Given the basic economic and social standards set in both European and global terms, the Parliamentary Assembly is convinced that debates on social policy should also be conducted on a multilateral basis, that is, in close co-operation with other European and international organisations. Representatives of non-governmental organisations, including trade unions and employers' organisations, should be included in this discussion on a permanent basis.

21. Consequently, and in accordance with the Action Plan drawn up at the second summit, the Parliamentary Assembly calls upon the Committee of Ministers to come out more strongly than hitherto in favour of the early signing and ratification of the European Social Charter, its protocols and the Revised Social Charter and to ensure that:

21.1. concrete aims and arrangements for a ratification campaign are drawn up and put forward;

21.2. the provisions of the Turin Protocol and the protocol providing for a system of collective complaints can already be fully implemented.

22. The Parliamentary Assembly also recommends that the Committee of Ministers create, as urgent measures, the preconditions for streamlining the supervision and control machinery relating to the Social Charter's requirements by:

22.1. increasing the provision for material and human resources in the Council of Europe's budget with respect to the Secretariat and the Committee of Independent Experts in connection with their task of supervising the application of the Social Charter;

22.2. developing a network of independent correspondents in member states;

22.3. increasing the membership of the Committee of Independent Experts to at least fifteen members, which can be divided into three chambers;

22.4. ensuring a linkage between the Intergovernmental Activity Programmes and the conclusions drawn with respect to the Social Charter ;

22.5. implementing the Turin Protocol which stipulates that members of the Committee of Independent Experts should be elected by the Parliamentary Assembly and also recognising the latter's right to propose candidates.

23. The Parliamentary Assembly also requests the Committee of Ministers to pronounce, in a medium-term programme, on the proposals in this recommendation for a transparent and more effective procedure, that is, on:

23.1. the necessity of setting up a European court of social rights;

23.2. the possible introduction of a procedure for the lodging of a complaint by either an individual and/or a government by further studying whether this could be best achieved in this new framework or by integrating some fundamental social rights into the system of the European Convention on Human Rights;

23.3. the inclusion of the observance of the Social Charter, and of social rights in general, in the monitoring procedure of the Council of Europe, in consultation with the Parliamentary Assembly.

23.4. the amendment of the final clauses of the Social Charter to make all the core articles obligatory for signatory states.

24. The Committee of Ministers is invited to create the organisational framework for an ongoing debate on the European Social Charter and the aims of European social policy with the International Labour Organisation, the OECD and the European Union, whilst leaving the door open for the participation of other organisations.