

THE SOCIAL CHARTER, COMMON SOCIAL VALUES FOR THE COUNTRIES OF THE EUROPEAN UNION

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Abstract: The author presents the Social Charter of the European Union, underlying the common social values of the countries member. They are mentioned the human rights presented in the Social Charter and the modalities by which the European Union monitorise the implementation of them in all the European countries.

Key words: Social Charter, common social values, European Union, monitoring procedures, human rights

In what the Social Charter is concerned, the first step is that of analyzing how can, an international treaty, be applied at a national state's level, in the context in which the signatories of the treaty are characterised by different social systems.

Richer states from the West like England, Germany, Denmark and France feared that their own social systems would suffer as a result of the ratification of the Social Charter, because it assumed that every state that ratified the treaty had a certain social assistance standard. The reserve of these states mainly focused around the fear that in a united Europe, but extremely divided from the point of view of its social assistance- the standards will be established by the poorer states' financial means. In addition, there was a rising concern of the population and of the political entities from the western countries that because of the lower tax- level and the workforce this countries

will become more eligible for the big companies and that there would be a migration of the big companies towards these states.

The main purpose of the Social Charter is to guarantee some fundamental rights, like the right to have an adequate social insurance and to have access to adequate labor conditions. To sum up, the Social Charter represents not only a fundamental document, ratified by the majority of the European states, but also a frame for the common European social values. These values are shared by all the signatory states, regardless of their economical development. Viewed from this perspective, we need to ask ourselves, whether the ratification of this treaty proved efficient and at what level was it put into practice. The year 2011 marks the anniversary of fifty years from the ratification of the Social Charter by the European Council, having reached, at least from a formal point of view, certain standards in what the economical and social rights of the signatory states are concerned. The Social Charter is even more important as, from a social and economical point of view, can be regarded as a legal supplement to the European Convention of the Human Rights.

The Social Charter guarantees nineteen fundamental rights, among others the labor right, the right to associate and negotiate collectively, the family's right to appropriate social, economical and legal protection, children's and teenagers' right to social, economical and legal protection, special protection for women workers in case of maternity, the right to a place to live, free access for children to education, the prohibition of forced labor.¹ The European Social Charter went through a series of important revisions throughout the decades : ,(...) that allowed the extension of its application to new fields of social and economical rights, by the modification of certain amendments and the addition of a series of new provisions like the following:

- The consolidation of equality between women and men;

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- The rights of the persons with disabilities to individual and social integration, to personal autonomy and participation in community life;
- The consolidation of the children's and teenagers' right to social, legal and economical protection;
- The right to protection in case of job dismissal;
- The workers' right to dignity;
- The right of workers with family responsibilities to equal opportunities and treatment;
- The right to protection against poverty and social exclusion;
- The right to a decent home;
- The extension of the prohibition of discrimination.”²

The Compliance by the countries that have signed the Social Charter is provided by the European Committee for Social Rights. The Committee consists of fifteen members who are elected by the Committee of Ministers of the European Council for a term of six years, with the possibility to be re-elected for one term only.³ The existence of a committee which has powers of inspection requires concrete analysis of the control instruments. Another question is to what extent can the committee impose a point of view and, in particular, to what extent can sanction if it concludes that a state party violated the Social Charter. The decisions of the Committee shall be issued in two ways:

- 1.) Through the monitoring procedure based on national reports and
- 2.) the collective complaints procedure.⁴

¹<http://www.bpb.de/politik/hintergrund-aktuell/68687/europaeische-sozialcharta-18-10-2011>, 15.01.2013

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²http://www.mmuncii.ro/pub/imagemanager/images/file/Domenii/Relatii%20bilaterale-organizatii/prezentare_carta.pdf, 16.01.2013

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³<http://www.coe.int/t/dGHI/monitoring/Socialcharter/Presentation/CharterGlance/Romanian.pdf>, 17.01.2013

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⁴Ibidem

The monitoring procedure based on national reports

The information on how the Charter is applied in practice in the signatory states is achieved through national reports. To analyze whether the signatory states violated the Social Charter, the Committee examines the national reports, in terms of respecting the principles of the Social Charter. The analysis leads to the making of certain decisions. The decisions made by the Committee are called conclusions and published every year, and those that have not complied with the social values of the Social Charter, are notified to take action. In the event that the State concerned fails to take action, the Committee addresses the state, asking it to change the law or put the Charter into practice.⁵

The collective complaints procedure

In the case of the collective complaint procedures, trade unions and national employers organizations, and also some European trade unions and employers organizations, but also some NGOs have the right to file complaints to the Committee that detects violations of the provisions stipulated in the Charter: "the file of complaint must contain information that would provide documents relating to the fact that the organization filling the complaint, meets the requirements of the Protocol and has to indicate the state against which the complaint is made, the provision (-s) of the Charter that were violated according to the complaint, and the complaint subject together with relevant arguments accompanied by relevant documents to illustrate it."⁶

The fields marked in red correspond to the signature or ratification of the Charter adopted in 1961, the other dates correspond to the Revised Charter from 1996.

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⁵Ibidem

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⁶Ibidem

The European Council's member states and the European Social Charter⁷
 The situation at 04/04/2012

Member States	Signatures	Ratifications	Acceptance of collective complaint procedure
Albania	21/09/1998	14/11/2002	
Andorra	04/11/2000	12/11/2004	
Armenia	18/10/2001	21/01/2004	
Austria	07/05/1999	20/05/2011	
Azerbaijan	18/10/2001	02/09/2004	
Belgium	03/05/1996	02/03/2004	23/06/2003
Bosnia and Herzegovina	11/05/2004	07/10/2008	
Bulgaria	21/09/1998	07/06/2000	07/06/2000
Croatia	06/11/2009	26/02/2003	26/02/2003
Cyprus	03/05/1996	27/09/2000	06/08/1996
Czech Republic	04/11/2000	03/11/1999	04/04/2012
Denmark	* 03/05/1996	03/03/1965	
Estonia	04/05/1998	11/09/2000	
Finland	03/05/1996	21/06/2002	17/07/1998 X
France	03/05/1996	07/05/1999	07/05/1999
Georgia	30/06/2000	22/08/2005	
Germany	* 29/06/2007	27/01/1965	

⁷ Sursa datelor din tabel:
http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/Overview_en.asp,
 17.01.2013

Greece	03/05/1996	06/06/1984	18/06/1998
Hungary	07/10/2004	20/04/2009	
Iceland	04/11/1998	15/01/1976	
Ireland	04/11/2000	04/11/2000	04/11/2000
Italy	03/05/1996	05/07/1999	03/11/1997
Latvia	29/05/2007	31/01/2002	
Liechtenstein	09/10/1991		
Lithuania	08/09/1997	29/06/2001	
Luxembourg	* 11/02/1998	10/10/1991	
Malta	27/07/2005	27/07/2005	
Republic of Moldova	03/11/1998	08/11/2001	
Monaco	05/10/2004		
Montenegro	22/03/2005	03/03/2010	
Netherlands	23/01/2004	03/05/2006	03/05/2006
Norway	07/05/2001	07/05/2001	20/03/1997
Poland	25/10/2005	25/06/1997	
Portugal	03/05/1996	30/05/2002	20/03/1998
Romania	14/05/1997	07/05/1999	
Russian Federation	14/09/2000	16/10/2009	
San Marino	18/10/2001		
Serbia	22/03/2005	14/09/2009	
Slovak Republic	18/11/1999	23/04/2009	
Slovenia	11/10/1997	07/05/1999	07/05/1999
Spain	23/10/2000	06/05/1980	
Sweden	03/05/1996	29/05/1998	29/05/1998
Switzerland	06/05/1976		

«the former Yugoslav Republic of Macedonia»		27/05/2009	06/01/2012	
Turkey		06/10/2004	27/6/2007	
Ukraine		07/05/1999	21/12/2006	
United Kingdom	*	07/11/1997	11/07/62	
Number of States	47	2 + 45 = 47	11 + 32 = 43	15

- The States that must ratify the Additional Protocol of 1991 for the latter to officially become valid. In practice, by the decision of the Committee of Ministers, this Protocol is already applied.
- (X) State that admitted the right of national NGOs to submit collective complaints against it.

Although the committee has the option to draw attention at the violation of the Charter and to submit collective complaints, practice shows that the stipulations laid down in the Charter are generally poorly implemented. This is due to the fact that non-compliance or insufficient implementation of the provisions of the Charter cannot be sanctioned by the committee.⁸ As such, the mere reminder of the Committee regarding non-compliance with the provisions of the Charter is not a powerful enough tool to enforce or implement its provisions. From this point of view, it can be concluded that the European Social Charter failed to achieve its goals. This example shows that a mere formal provision whose violation can not be sanctioned by any court, can not achieve its goals. The lack of enforcement possibilities is most likely due also to the lack of the political will of the signatory states.

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The conclusion is that the Social Charter, not only failed, but is far from achieving its social goals. Also, the Social Charter is unknown to the population of the signatory States and is still in the shadow of the European Convention on Human Rights.

At a congress organized to commemorate the Jubilee of the Social Charter, the general secretary of the Council of Europe, Thorbjørn Jagland, criticized the fact that because of the economic crisis, in Europe has developed a higher degree of poverty, hatred and discrimination against foreigners thus, the fundamental European values being questioned.

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¹⁰<http://www.bpb.de/politik/hintergrund-aktuell/68687/europaeische-sozialcharta-18-10-2011>, 21.01.2013