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Europe's social dimension: full implementation of the revised European Social Charter and evaluation of new labour regulations and minimum wages

Report
Social, Health and Family Affairs Committee
Rapporteur: Mr Walter RIESTER, Germany, Socialist Group

Summary

Europe's policies on social protection and social inclusion today face major challenges. Global competition, the impact of new technologies and an ageing population shape the long-term policy context; weak growth, high unemployment and persistent inequalities need to be addressed in the short term.

Against this background, the Rapporteur insists on the need for reforms which create a better balance between flexibility and security on the labour market – the so-called flexicurity approach. If Europe really wants to meet these challenges effectively, it must adopt a global approach which combines an active labour market policy, flexible contractual arrangements and social security, emphasises the primary importance of training and qualifications in this context and seeks to prevent any further decline in employment security.

The Rapporteur underlines that in nearly all areas of reform, the revised European Social Charter contains provisions which most of the member states accept. Yet the public and the political decision-makers are both insufficiently aware of its content. The rights it enshrines must be publicised more widely and feed into the process of creating a social Europe.

The Rapporteur also considers that there is an urgent need to co-operate more intensively with other multilateral organisations, beyond the borders of the Council of Europe and the European Union, in order to seek solutions for a 'social globalization' and to set a reformed European social model in place as a means of counteracting the global trend towards a downward spiral in social standards.

A. Draft resolution

1. Fifty years after the signing of the Rome Treaties, we are still confronted with the task of uniting Europe in social terms. Its countries have successfully overcome many of the challenges they faced in the wake of the Second World War, but they still face numerous challenges today, particularly in the field of social security. Global competition, the impact of new technologies and ageing of the population are shaping the political agenda. Various basic problems, such as poor economic growth, high unemployment and growing inequalities, must be tackled without delay.

2. In all the Council of Europe's member states, reform processes aimed at developing and protecting employment, providing legal and social protection for individuals, developing education and health systems, and providing protection against discrimination, are under way. The Parliamentary Assembly is convinced that a comprehensive change of direction in social policy holds the only key to overcoming the growing inequalities in social security at European level. Economic and labour market reforms must contribute to social cohesion and, conversely, social policy must seek to promote growth and employment.

3. Reform efforts cannot focus on economic aspects alone but must also take account of social issues. The only way of making a success of European integration and of globalisation is to give economic and social aspects equal attention.

4. Against this background, the Parliamentary Assembly insists on the need for reforms which create a better balance between flexibility and security on the labour market – the so-called flexicurity approach. It welcomes the efforts to achieve a consensus between policy-makers, employers and employees on striking a balance between market requirements and social protection for workers. If Europe really wants to meet these challenges effectively, it must adopt a global approach which combines an active labour market policy, flexible contractual arrangements and social security, emphasises the primary importance of training and qualifications in this context, and seeks to prevent any further decline in employment security.

5. The Assembly points out that, in nearly all areas of reform, the revised European Social Charter contains provisions which most of the member states accept. Yet the public and the political decision-makers are both insufficiently aware of its content. The rights it enshrines must be publicised more widely and feed into the process of creating a social Europe.

6. State social provision has developed very differently in the various countries of Europe, which is why their social security standards are also very different. Reforms are normally seen from a national standpoint only, and discussed without reference to the European dimension. Yet the revised European Social Charter offers readymade solutions to many of the problems faced by the reformers. The Assembly accordingly calls on member states to ensure that the Charter's relevant key elements are incorporated in future national reforms, with a view to giving them a European character.

7. It proposes that regular social policy debates be held in support of the member states' efforts to give the Charter a bigger role when social policy instruments are being prepared in an enlarged Europe. These debates can provide a platform for discussing deficits, and also highlighting best practices. In this way, national reform processes will be co-ordinated and brought coherently together with a view to creating a joint European social dimension.

8. There are also, however, a few simple needs which the Charter itself cannot satisfy. In particular, we need new regulations to deal with increasing liberalisation of the labour market, services and locations. This liberalisation is generally seen as a good thing but divergent social standards are becoming a cause of public concern. That anxiety and the fact that the political authorities have so far been unable to allay them, show that European countries are still insufficiently prepared for these crucial problems. Hence the vital need to extend the European Social Charter to cover them and define aims and limits which are important in shaping these processes.

9. With a view to developing the European Social Charter, the Assembly proposes that the Sub-Committee on the Charter and the European Committee of Social Rights work together on guidelines to supplement the text, embodying minimum standards to govern opening of the labour, service and location markets.

10. The Assembly is convinced that only a “social reality” which permanently makes life better for Europeans will persuade them of the need for, and benefits of, European unification and the European Social Charter. The Council of Europe’s member states must turn social rights into political processes.

11. The Assembly also believes that Europe must take more account of global developments, and look beyond its own frontiers. It calls on the member states to globalise the European debate and try harder to find ways of improving and promoting social standards in other countries too, thus helping to give globalisation itself a social dimension.

12. Against this background, the Assembly believes that it is urgently necessary for the Council of Europe and the European Union to look beyond each other and work more intensively with other multilateral organisations on giving globalisation a social dimension and setting a European social model against the global “race to the bottom” trend in social standards. In view of its expertise in the social security field – and particularly its Decent Work Agenda of 1999 – the International Labour Organisation would be an ideal partner here.

B. Explanatory memorandum by Mr Walter Riester, Rapporteur

I. Introduction: "Citizens' scepticism towards Europe is increasing"

1. Europe's policies on social protection and social inclusion today face major challenges. Global competition, the impact of new technologies and an ageing population shape the long-term policy context; weak growth, high unemployment and persistent inequalities need to be addressed in the short term.

2. After years of economic growth and the end of systems competition, in the face of increasing globalization and the economic dependencies and more intensive competition with which it is associated, more and more people in Europe are voicing scepticism about the European integration process.

3. A temporary peak was reached in 2005 with the referenda in France and the Netherlands – which culminated in the rejection of the draft Constitution for Europe – and the vigorous protests against the EU Services Directive. The French and Dutch "no" votes were first and foremost the expression of people's deep-seated economic, cultural and social fears.

4. Unless Europe is able to respond to these concerns with answers that are satisfactory to citizens, the European integration process risks suffering permanent setbacks.

5. The first steps to establish social welfare frameworks, as a means of countering the unfettered development of an increasingly integrated market and competitive undercutting of prices and standards, were taken with the debate about a European social state. This debate also makes reference to key Council of Europe treaties: the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and the (revised) European Social Charter (1961/1996).

6. However, merely invoking the European Social Charter, which was signed by all the Council of Europe's Member States, is certainly not enough. Indeed, even the ratification of the European Social Charter by all the Member States' parliaments and the partial ratification of the revised European Social Charter, while sending out a further important signal, would not be sufficient, for practices in the Member States are still unsatisfactory – also in terms of the European Convention on Human Rights and the pursuit of justice through the European Court of Human Rights. For example, there is evidence that in Europe too, grave violations of workers' basic rights are still occurring, such as breaches of the ban on forced labour which is universally recognised by society and formally enshrined in law.

7. Moreover, the content of the European Social Charter is largely or even completely unfamiliar to the majority of the population. Regrettably, the situation is little better among political decision-makers.

II. The framework conditions

8. In all the countries of Europe, reform processes are currently under way to develop and safeguard employment, legal and social protection for citizens, health and education systems, and protection from discrimination. For example, some European countries are reappraising and revising their legislation pertaining to health, pensions and nursing care insurance. These national reforms of labour and social law are urgently needed in most other Council of Europe Member States as well. Only a comprehensive reorientation of social systems will help to correct the existing imbalances in social security provision across Europe. Economic and labour market reforms must contribute to strengthening social cohesion and social policies must support economic and employment growth.

9. In almost all of these areas of reform, the European Social Charter already contains norms which are recognised by the Member States. However, these rights enshrined in the Social Charter must be drawn to the attention of a wider public and opened up to political and social debate. The outcomes must flow into the national reform and legislative processes and thus help bring about positive and sustainable changes to people's lives, as befits a Social Europe.

10. Developments and discussions of intra-EU solutions such as free movement of workers and services, the debate about minimum wages, working time regulations and minimum labour and health protection standards, as well as the portability of pension rights, also necessitate the clarification and further development of the provisions of the European Social Charter in line with people's current needs – for without appropriate regulations, the EU's trend towards liberalization, with the associated risk of competitive undercutting, will conflict with citizens' social security needs and thus be rejected across Europe.

C. Systemic linkage and potential solutions

I. From the European social model towards a European social order

11. In Europe, the debate about social standards to some extent takes a variety of forms, for there is no common consensus on what they entail. This situation has arisen, firstly, as a result of the different, historically determined starting conditions in the various countries and, secondly, the varying levels of intensity of these countries' integration into the globalization process.

12. The end of the division of Europe and the disappearance of what was termed as the "systems competition" – the rivalry between capitalism and communism – is rightly regarded as a watershed in history. The fall of the authoritarian party-states based on centralized planned economies and the shift to constitutional parliamentary democracies and privatized market economies, brought about new freedom, civil and political rights for the half of Europe, however at the same time they also brought about the removal of social and economic security as a "trade off" for freedom, the discredit of social protection and protective institutions, such as the trade unions, broad range of social provisions, strong liberalization and re-contractualization of labour employment, removing job security and deteriorating working conditions, economic and social polarization in the society.

13. It is true, however, that the European integration process has had clearly a mitigating impact on the process and results of extreme liberalization by transposition of the social *acquis communautaire* and restoring discredited social values in candidate countries and by the ratification of the European Social Charter by the Central-East European and former Soviet Union countries (9 states having ratified the Revised Charter, and 7 the 1961 Charter).

14. The countries which formerly embraced state socialism are now being subjected to global rules and are integrating into a new network of transnational competition. On the other hand, quite naturally, the "capitalist states" too have emerged from different social policy traditions different social policy with divergent levels of economic prosperity and social welfare. They all face now continuing challenges of exclusion and inequality and of a need to modernise social protection systems.

15. Moreover, all the countries now have one thing in common: they are increasingly integrating into the globalization process, for the social and economic arena is no longer confined to the nation-state or bounded by its traditional obligations. Instead, the dissolution of boundaries is gathering pace.

16. The reform efforts being undertaken by the individual countries, described above, must be expanded into a Europe-wide movement aimed at reforming social security systems (health, labour market and pensions provision).

17. In this context, the provisions of the European Social Charter – as the source of specific social security commitments which have been agreed by all the European countries – must be maintained as minimum criteria at both national and European level.

18. Any differences of opinion on the general outlines of a common European social policy based on the European Social Charter are likely to be insignificant, given that the Charter is recognised by all the European countries.

19. Starting with the social rights already enshrined in the European Social Charter and the revised European Social Charter on the development of Europe's social dimension, the task is ultimately to shape and manage the social globalization process and create instruments which are aligned to the current situation in Europe. More ownership and the practical implementation and application of the European Social Charter at national level are essential prerequisites in order to come closer to achieving this goal.

20. To encourage this reform process, the Council of Europe can take on a coordinating role. If the Member States inform the Council of Europe of the basic concepts underlying their social reforms, the Social, Health and Family Affairs Committee or the Sub-Committee on the European Social Charter and Employment, for instance, can then make recommendations on which aspects of the Social Charter require special attention in the forthcoming reform.

21. In this way, the national social reform processes can be coordinated and orchestrated coherently with a view to establishing a common European social dimension.

22. In addition, as a means of gathering information about the stage reached in the national reform processes, the submission of a report every two years to the Secretary General on social development in the Member States is a desirable aim. Shortcomings could then be discussed and addressed with support from the Council of Europe, and best practice instruments shared with the other Member States. The Social Charter offers a good basis for this process but would need to be expanded in the terms set out above.

II. A new challenge: more free movement of workers and services, more freedom of establishment

23. The globalization process is not new. In the past, however, it was more akin to an "internationalization" process which lacked the all-pervasive economic, social and cultural character which we are witnessing today.

24. The national arena is steadily losing significance, and distances are playing less and less of a role. Besides giving rise to policy frameworks which are explicitly intended to promote integration, this development is also having negative effects, and the public's fears are growing.

25. However, globalization is also creating new opportunities for people in Europe. Labour markets are opening up, the free movement of services is increasing, and freedom of establishment is creating new mobility and migration, also across the borders of the 27 members of the European Union. In essence, these are desirable developments which have been enshrined as European law through the Treaties.

26. However, problems are arising as well. Major differences in social standards are arousing great fears among citizens. Social achievements appear to be under threat. This inevitably triggers opposition from the general public and, as was apparent from the reactions to the European Commission's draft Services Directive. Members of the European Parliament also voiced criticism and it has led to a considerable revision of the directive.

27. The public's sense of insecurity and unease, as well as the inadequate political response to date, show that Europe's core countries are still not prepared for the new intensity of globalization and the associated threat to social security. That is why the Rapporteur calls for "*social globalization*" which is indeed similar to which the World Commission on the Social Dimension of Globalization refers to as "*fair globalization*" in their report delivered to the ILO Governing Body in 2004. The report's main message was indeed that the current course of globalization was unsustainable but that it could be altered by policy decisions and dialogue. One of its basic ideas were that "globalization begins at home" which means that national policies and actions are still important, because international rule making in the economic sphere has not made national institutions and policies irrelevant. Good economic and social governance at the country level is indeed a prerequisite for fair globalization.

28. In this context, it appears that in Europe a consensus could be obtained among politicians and social partners in favour of flexibility that respected the balance between demands of the market and those of social protection for workers (which is the essence of the so-called *flexicurity* debate).

29. Flexicurity means being ready for change, managing change and establishing a balance between flexibility and security on the labour market. Equipped with the right skills, "old Europe" can succeed in global competition. Well-functioning labour markets and quality in working life are key to the kind of innovative Europe we want to emerge.

30. We cannot improve our adaptability without increasing flexibility. But creating new employment security, based on partnership and lifelong learning, must be part of this approach. In other words, the flexicurity approach requires comprehensive national strategies with the right mix of economic and social measures to foster job creation and help people to maximise their chances on the labour market.

31. We must favour an approach that combines strong social systems with active measures to assist workers during periods of transition, as is the case in Scandinavian countries. The Rapporteur believes that flexicurity limited to compelling employees to abandon their fundamental rights and agree to more precarious jobs is unacceptable insofar as it would be a source of insecurity and therefore counter-productive. Flexicurity should create a win-win situation for workers as well as for companies.

32. In this respect, the Rapporteur wishes to underline the essential role of social partners. They are ideally placed to identify new ways of working. Many of the solutions linked to improving flexibility and security in the workplace lie at business or branch level and depend largely on good cooperation between the two sides of industry. The discussions will not be easy, but the full backing of the social partners is vital. A joint contribution from them on the issue of flexicurity would be a very important step forward in Europe's quest for more and better jobs.

33. The issue of the validity of labour protection provisions, working time regulations and wages also arises. Which regulations should apply: those in force at the place where the work is performed, or those applicable in the worker's place of origin? Which minimum wage practice should be applied in those countries which do not prescribe a minimum wage by law and which also lack nationwide collective wage agreements? And finally, which social functions should be protected from competition and privatization?

34. The European Social Charter only provides answers to some of these new questions. Moreover, the world is constantly changing, and new challenges are emerging to which the Charter currently provides no answers.

35. The European Social Charter must therefore be modified in order to address current issues concerning Europe's social dimension, especially in light of the increased freedom of movement of workers and services and freedom of establishment.

36. Had the Charter already contained guidelines on the above questions concerning Europe's social dimension during the recent developments in Europe, appropriate reference could have been made to them during the EU's enlargement.

37. The Council of Europe in particular, as the recognised European institution for the protection of human rights, pluralist democracy and the rule of law and as a community of values which extends beyond core Europe, is the key institution in this context and is called upon to intensify this process and put people's desire for social security at the heart of its efforts.

38. It may be appropriate, for the future, to establish a working group in the Council of Europe under the auspices of the Social, Health and Family Affairs Committee or, alternatively, the Sub-Committee on the European Social Charter and Employment. Its task would be to draw up guidelines defining the minimum standards to be taken into account in Europe's future social development with a view to satisfying citizens' social security needs, thereby enhancing the Charter and the relevant protocols.

39. In the quest for more social justice, too, it is important not only to consider the role of the Parliamentary Assembly, but also to reflect on the possible contribution of the Committee of Ministers, the Commissioner for Human Rights and the European Committee of Social Rights. In this context, the Rapporteur expects important new insights from the conclusions of the Council of Europe's High Level Task Force on the future of the European social model.

III. Europe's social dimension is embedded in the global context

40. Europe's development is inseparably linked with the worldwide process of globalization. Here too, the fact is that it will only be possible to provide answers to people's justified concerns if the economic process of globalization is shaped in political and social terms.

41. The impacts and implications of the levelling down of social standards are not only being felt across Europe. Various problems emanate from the European system and impact upon it. The spatial dimension is losing significance. The various regions of the world are integrated into the globalization process to varying extents and their social systems display varying degrees of sophistication.

42. The North American social welfare model has existed comfortably alongside the European model for a considerable length of time, whereas the Latin American model has undergone a transformation due to various political changes, such as the self-confident detachment from the USA. However, it is still not clear at this stage where Latin America's social policy development is heading. Here, the impact on Europe still appears to be minimal.

43. Africa on the other hand, due to its very difficult general political and economic conditions, has not yet been able to develop a social policy dimension. The steady streams of refugees (especially into Southern Europe) demonstrate the extent to which Europe is directly affected by the situation on its neighbour continent.

44. With China and India (40% of the world's population) having now become global economic actors, Asia is embarking on a radically new process of economic and social development within the framework of globalization. This too will have impacts far beyond the continent, and will also affect European development. In China in particular, the economic process is almost entirely market-driven, and social standards play virtually no role. The conflicts which have recently ensued as a result of this situation are now leading to closer cooperation with the EU, notably via the EU-China project to reform and develop China's social security systems. Here, Europe can play a helpful role which benefits Chinese citizens and is also in its own interests. In the interests of Europe's social development, it is important to ensure that a purely market-driven globalization process which clashes with the European model does not come to predominate in regions such as China and India which are highly significant in global political terms.

45. Every region of the world influences global social development in various forms and with varying degrees of intensity. Nowadays, it is no longer enough to focus solely on our own social development in Europe.

46. That is why there is an urgent need to work with other multilateral organizations, beyond the borders of the Council of Europe and the EU, to seek solutions for social globalization and to set a (reformed) European social model in place as a means of counteracting the global trend towards a downward spiral in social standards. Given its wealth of expertise in the field of social standards, the International Labour Organization would be the ideal partner for Europe, as would the United Nations.

D. Concluding remarks

47. As recommended and initiated by the Rapporteur, a hearing was held in Budapest on 9 November 2006 on the social dimension of Europe: full implementation of the revised European Social Charter and evaluation of new labour standards and minimum wages with the participation of Ms Petra Ulshofer, Director of Budapest office, International Labour Organisation–ILO, Mrs Plamenka Markova,

ILO correspondent in Bulgaria, Mrs Csilla Kollonay-Lehoczky, Professor, European Committee of Social Rights – ECSR, Mrs Maria Josefina Leitao, expert, former member of ECSR (the record of the exchanges is contained in AS/Soc (2007) 5).

48. A new exchange on this subject took place in Berlin on 22 March 2007 with the participation of Mr Hoffmann, Deputy Secretary General of the ETUC, and Mr Heller, Director of the International Labour Organisation, Berlin – having a specific significance as Germany currently holds the European Union Council Presidency. The Rapporteur is convinced that the Berlin hearing has taken the debate on these crucial issues further in the overall European context as well as in relation to the intra-EU debate.

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Members of the Committee: **Mrs Lajla Pernaska** (Chairperson), **Mrs Christine McCafferty** (1st Vice-Chair), Mr Cezar Florin Preda (2nd Vice Chair), **Mr Michael Hancock** (3rd Vice-Chair), Mr Farkhad Akhmedov (Alternate: **Mrs Tatiana Popova**), **Mr Vıcenç Alay Ferrer**, Mrs Sirpa Asko-Seljavaara, **Mr Jorodd Asphjell**, Mr Miguel Barceló Pérez (Alternate: **Mr Ramon Jauregui Atondo**), Mr Andris Berzinš (Alternate: **Mrs Ingrida Circene**), Mr Jaime Blanco, Mrs Raisa Bohatyryova (Alternate: **Mr Oleksandr Stoyan**), Mrs Monika Brüning, Mrs Sanja Čeković, **Mr Igor Chernyshenko**, Mr Dessislav Chukolov, **Mrs Minodora Cliveti**, **Mr Imre Czinege**, Mrs Helen D'Amato, Mr Dirk Dees, Mr Stepan Demirchayan, Mr Karl Donabauer, Mr Ioannis Dragassakis, Mr Claude Evin, Mrs Daniela Filipiová, **Mr Paul Flynn**, Mrs Margrét Frimannsdóttir, **Mrs Doris Frommelt**, **Mr Renato Galeazzi**, Mr Jean-Marie Geveaux, **Mr Stepan Glăvan**, **Mr Marcel Glesener**, Mrs Claude Greff, Mr Tony Gregory, **Mr Ali Rıza Gülçiçek**, Mr Jean-Marie Happart, Mrs Olha Herasym'yuk, Mr Ali Huseynov, Mr Fazail Ibrahimli, **Mr Mustafa İlicali**, Mrs Halide Incekara, Mr Denis Jacquat, Mrs Corien W.A. Jonker, **Mrs Krinio Kanellopoulou**, **Mr Marek Kawa**, Mr András Kelemen, **Baroness Knight of Collingtree**, Mr Slaven Letica (Alternate: **Mrs Ruza Lelic**), **Mr Jan Filip Libicki**, **Mr Ewald Lindinger**, Mr Gadzhy Makhachev, **Mr Bernard Marquet**, Mr Ruzhdi Matoshi, Mr Philippe Morfils, Mr Donato Mosella, Mrs Maia Nadiradzé, Mrs Carina Ohlsson, Mrs Vera Oskina (Alternate: **Mr Victor Kolesnikov**), Mr Algirdas Paleckis, **Mrs Marietta de Pourbaix-Lundin**, Mrs Adoración Quesada (Alternate: **Mrs Blanca Fernandez-Capel**), **Mr Walter Riestler**, **Mr Andrea Rigoni**, Mr Ricardo Rodrigues, **Mrs Maria de Belém Roseira**, Mr Alessandro Rossi, Mrs Marlene Rupprecht, (Alternante: **Dr Wolfgang Wodarg**) **Mr Fidas Sarikas**, Mr Walter Schmied, Mr Gianpaolo Silvestri, Mr Hans Kristian Skibby, Mrs Michaela Šojdrová, **Mrs Darinka Stantcheva**, Mrs Ewa Tomaszewka, Mr Oleg Tulea, Mr Alexander Ulrich, Mr Milan Urbáni (Alternate: **Mr Julius Brocka**), **Mrs Ruth-Gaby Vermot-Mangold**, Mr Aleksandar Vučić, , Mr Victor Yanukovych (Alternate: **Mr Ivan Popescu**), Mrs Barbara Žgajner-Tavš (Alternate: Mrs Mojca Kucler-Dolinar).

N.B.: The names of the members who took part in the meeting are printed in **bold**

Head of the Secretariat: Mr Géza Mezei

Secretaries of the Committee: Mrs Agnès Nollinger, Mrs Christine Meunier