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VARIA 29 (E)

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PROTECTION OF RIGHTS AND IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL CHARTER (ESC)

(EXPERTISE COMPILED FOR THE EUROPEAN OMBUDSMAN INSTITUTE FOR THE WORKING CONFERENCE OF 14.1.1999 IN INNSBRUCK)

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Contents

The European Social Charter and Protection of Rights

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I. Introduction

When one speaks about the European Social Charter (ESC), one first has to make clear what exactly is meant by this term. Initially, it should be borne in mind that there is also a Common Charter for Social Rights in the European Union . This is a political declaration of intention, drawn up in Strasbourg in 1989. It has nothing to do with our subject. The Social Charter at the centre of our discussion is an international contract within the framework of the Council of Europe. It was drawn up in 1961 and came into force in 1965. Out of the 40 states (Contracting Parties) belonging to the Council of Europe, 22 states have so far ratified the ESC.

The 1961 Charter has been supplemented by three Additional Protocols. An Additional Protocol drawn up in 1988 included several new rights. Only a few States which ratified the 1961 Charter have also ratified this Additional Protocol.

An Additional Protocol drawn up in 1991 amended and improved the supervisory system.

A further Protocol drawn up in 1995 deals with a collective complaints procedure. It has been ratified by the necessary five states and thus recently came into force.

Last but not least, there is a Revised European Social Charter which was drawn up in 1996. This has not yet come into force because it has not been ratified by the required number of states. When, in the following text, the Social Charter is referred to, then the 1961 version of the Charter is meant.

II. Social Charter and European Human Rights Convention

Within the Council of Europe, the 1950 European Convention for the Protection of Human Rights (ECHR) is the most well known legal instrument. It deals with the protection of traditional human rights. When violations of the Convention occur, the European Court of Human Rights is responsible. This can (also) rule on complaints made by individuals against violations of the Convention. If such a violation due to a measure of the state is established, and only partial reparation is possible according to national law, the Court can award the petitioner appropriate monetary compensation (Art. 50 ECHR).

So, to guarantee compliance with this Convention, court proceedings in the form of individual complaints are provided for. Of course it must be mentioned that the effectiveness of the ECHR also depends on what status this Convention assumes in national law and whether it is self-executing. This is not the same in every state.

The Social Charter was created as a supplement to the ECHR civil laws. It is ultimately based on the idea that human dignity cannot be sufficiently realised by negative laws directed towards the limitation of state power alone. In order to promote this goal, fundamental social rights are also necessary. This connection with the ECHR is also clear from the preamble of the Social Charter: "Considering that the aim of the Council of Europe is ... realising the ideas and principles which are common heritage and facilitating the economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms ...".[1] Of course this does not mean that the ECHR has absolutely no affinity for social rights. It undertakes to respect family life (Art. 8), includes prohibition of forced labour (Art. 4), and guarantees freedom of organisations, in particular the protection of unions (Art. 11). Even the protection of property rights (first Additional Protocol) can have a certain social

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1 Cp. D. Harris, Law and Practice of the European Convention of Human Rights and the European Social Charter (1996) 377.

dimension: for example the protection of social services financed by contributions was founded on this.[2] Of course those are just minor points of the ECHR, although they are also significant. The ECHR does not include the extensive or far-reaching protection of social rights. That is not its purpose. The Social Charter is intended to accomplish this task.

The difficulties of achieving effective protection of social rights are obvious considering that the Social Charter was not completed and ready for signature until ten years after the ECHR came into force. Furthermore, it should be noted that the Social Charter is intended exclusively to establish an international obligation of the member States, whereas the ECHR concedes individual rights. Every article in the Social Charter begins with the wording: "The Contracting Parties undertake to provide, to recognise, etc. ...". It is only the correct implementation of the Charter in national law that requires in many cases that rights are to be conceded to individuals. Then, however, from the point of view of the individual, national law is involved.

Ultimately and above all ,the mechanism for the legal implementation of the Social Charter differs considerably from the procedure intended for compliance with the ECHR. By and large, it can be said that in the field of social rights, states are hardly willing to waive their sovereignty to any significant extent. For this reason, the political influence of the Contracting Parties on the supervisory mechanism is far greater than in the case of the ECHR. This can be shown in individual cases. First, however, a short summary of the contents of the European Social Charter will be useful.

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2 EGMR 16.9.1996, ÖJZ 1996, 955f and VfGH 11.3.1998, JBl 1998, 438 with comment by Öhlinger.

III. Contents of the ESC

1. Rights regarding working conditions

- Article 1: The right to work

  The right to work does not mean that the Contracting Parties undertake to grant the individual a subjective right to an (appropriate) job. Rather, Para. 1 of this Article is concerned exclusively with the fact that the Contracting Parties accept full employment as one of their main political goals.

  Para. 2 of this Article, on the other hand, has more the character of a law. The Contracting Parties undertake "to protect effectively the right of the worker to earn his living in an occupation freely entered upon". This means prohibition of forced labour and furthermore, according to the prevailing interpretation of the Social Charter, prohibition of discrimination in working relationships.

  Para. 3 of Article 1 obliges the Contracting Parties to establish or maintain free employment services for all workers. This can be organised on a state or private basis.

- Article 2: The right to just conditions of work

  Among other things, this also involves the obligation to limit daily and weekly working hours to a reasonable level.

  It also deals with the obligation to provide for public holidays with pay.

  Furthermore, a minimum of two weeks annual holiday with pay is laid down in Article 2 and finally

  within the framework of national law a weekly rest period is prescribed which should, as far as possible, fall on a Sunday

(or coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest).

- Article 3: The right to safe and healthy working conditions

  The Contracting Parties must have safety and health regulations to protect all employees from danger in the pursuit of their work. In addition, there must be suitable supervisory measures to enforce such regulations and finally, adequate sanctions should be foreseen in case of violation of these regulations.

- Article 4: The right to a fair remuneration

  The most complicated rule of the Charter is the right to a wage which ensures an appropriate and decent standard of living. This rule poses considerable problems, as can easily be seen. How should the appropriateness be measured (percentage of the average wage; should the average wage be taken in the entire economy? Should tax relief and state services be considered in the calculation? etc.).

  Included under fair working conditions is also the requirement of equal pay for work of equal value for men and women, and the right to a reasonable period of notice for termination of employment.

- Article 5: The right to organise

  Employers and employees shall have the right, for the protection of their interests, to form and join organisations. This also means that no substantial administrative impairments to the establishment of unions may exist (e.g. high registration fees; large number of members). Contrary to Art. 11 ECHR, there is no general exception here for public service. Special stipulations with regard to the right to representation of interests only exist for members of the armed forces and the police force.

- Article 6: The right to bargain collectively

  Among other things, Art. 6 of the Social Charter obliges the Contracting Parties to promote voluntary negotiations and arbitration procedures for the settlement of labour disputes. Para. 4 of Art. 6 is of particular significance: it recognises the right to collective action, including the right to strike. This right is also violated when a state, in the case of a labour dispute, resorts to forced settlement or permits strike only for unions or only for the conclusion of collective agreements. Of course the right to strike can be limited for certain particularly important groups of employees (e.g. police, judges, top officials, or employees in important supply services).

- Article 7: The right of children and young persons to protection

  This also includes the obligation to establish a minimum age of 15 years for the employment of young persons. A higher minimum age is required with respect to dangerous or unhealthy occupations. The limitation of working hours for young persons still in compulsory education, the prohibition of night work for young persons under 18 years of age, and finally, general protection for children and young persons against physical and moral dangers are also included in this Article.

- Article 8: The right of employed women to protection

  This article includes a right to maternity leave of at least 12 weeks to be financed either by the employer or by state benefits; a certain protection against unlawful dismissal during maternity leave; the regulation (limitation) of night work for women.

- Article 9: The right to vocational guidance

  Vocational guidance can be organised on a state or private basis; it must, however, be available to all persons requiring such a service.

- Article 10: The right to vocational training

- Article 18: The right to engage in a gainful occupation in the territory of other Contracting Parties

  This Article does not create any right to free movement of labour and does not demand that entry permits and work permits be abolished.

2. <u>Social rights for groups in need of particular protection</u>

- Article 15: The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

  The Contracting Parties undertake to take adequate measures themselves to help disabled persons or to support private institutions in this regard.

- Article 16: The right of the family to social, legal and economic protection

  The Contracting Parties must furnish proof of whether and to what extent, for example, nursery school facilities are available, what financial support benefits are available to families, etc.

- Article 17: The right of mothers and children to social and economic protection

  The definition of this Article is especially broad and unclear. Essentially, everything is included which can serve to support

a mother and her children: e.g. also maintenance claims for children and provisionary measures where maintenance payments are not made; protection of orphans and homeless children, etc.

- Article 19: The right of migrant workers and their families to protection and assistance

  This includes, in particular, the obligation not to discriminate against migrant workers from territories of other Contracting Parties, who are lawfully within their territories, with regard to remuneration and other working conditions; the same applies to their membership of trade unions.

3. Rights for the whole population

- Article 11: The right to protection of health

  The Contracting Parties undertake to remove as far as possible the causes of ill health. This involves, for example, taking measures to limit drug abuse, to reduce infant mortality, to promote vaccination programmes, etc.

- Article 12: The right to social security

  This Article refers largely to retirement and unemployment benefits.

- Article 13: The right to social and medical assistance

  Of particular significance here is that all persons who are themselves unable to secure adequate living resources must have an individual (actionable) entitlement to social aid and medical assistance.

IV. Peculiarities of Social Rights and Consequences

- This short summary of the rights included in the Charter shows a very wide area to be protected by these rights: from the traditional starting point of improving working conditions, via protection through social security facilities, to protection of health and families. If one also considers the new Social Charter which has not yet come into force, protection is widened to include the right to housing (Art. 31) and generally the right to protection against poverty and social exclusion (Art. 30).

- In part, the rights in the Social Charter are worded in a very broad and vague manner. It is left to the Contracting Parties, for example using "suitable measures", "as far as possible" to bring about the desired situation according to the Charter. In other cases the Contracting Party merely has an obligation to promote. In numerous cases, however, the obligations are very concrete (e.g. to ensure suitable terms of notice, to guarantee freedom of trade unions and the right to strike, or to provide a right to social assistance).

- The realisation of a large number of social rights necessitates state services and thus ultimately implementation policies as a result of legislation. In how far this is possible depends not just on the political intention of the Contracting Parties, but also on their economic situation. This can only be guided by the state to a limited extent. In any case, state legislative acts are often required to guarantee the necessary protection. This can, in turn, easily lead to a conflict with liberal fundamental rights, such as for example, with property rights. All these difficulties in the implementation of social rights - in contrast to the negative civil human rights - have already been sufficiently discussed in literature. Often enough, the lack of justiciability by the courts has been pointed out and, as an example, the right to work has been

emphasised.[3] Of course there are also other voices.[4] Be that as it may: it would certainly not be right to take the view that all social rights, according to their nature, can evade court procedures. Rather there is a whole series of such rights where legal protection procedures similar to the ECHR would be absolutely suitable. The Social Charter is certainly no different in this regard, but all rights are subject to the same supervisory procedure.

3 Cp. e.g. Tomandl, Der Einbau sozialer Grundrechte in das positive Recht (1967); I. Loebenstein, Soziale Grundrechte und die Frage ihrer Justiziabilität, FS Floretta (1983) 209 ff.

4 E.g. Öhlinger, Soziale Grundrechte, FS Floretta (1983) 271 ff.

V. Reporting System

1. General comments

The conventional supervisory procedure is a reporting system. All Contracting Parties must submit, at regular intervals, a written report on the status of their legislation and practice, with the aid of which it shall be judged whether the Contracting Party is in harmony with the Social Charter. The reporting system is also the usual supervisory system in other international contracts on social rights and human rights. This is the case for the Human Rights Commission of the UN, and also for most of the contracts within the ILO. Individual complaints within the framework of the ECHR are, in this respect, an exception.

2. Reports from Contracting Parties

According to Art. 21 of the Charter, the Contracting Parties undertake to send a report to the Council of Europe at two-yearly intervals concerning the application of such provisions of Part II of the Charter as they have accepted. In the compilation of the report, the Contracting Parties have to adhere to a questionnaire which was resolved by the Committee of Ministers of the Council of Europe. In some points this questionnaire is in need of reform. Endeavours are being made to bring it up to date. The Contracting Parties, of course, also undertake to reply to additional questions posed by the Committee of Independent Experts. Furthermore, these reports shall also be submitted to national organisations of employers and to national trade unions (Art. 23 of the Charter). These bodies then have the opportunity, also part of the supervisory procedure, to express their opinion or criticism of the report. However, this opportunity is rarely made use of. It is mostly the German and Dutch trade unions which avail themselves of this possibility.

3. Committee of Independent Experts

- The reports are first submitted to the Committee of Independent Experts. This supervisory organ has the task of assessing, from a legal point of view, whether the legal and practical situation in the Contracting Party's state is in harmony with the Charter. The Committee currently consists of nine members. Since they have to be independent of their government, it is practically only professors and judges who are considered for this duty. It should be mentioned that not every Contracting Party can dispatch an expert. Each Contracting Party can make proposals, but the decision on the selection is made by the Committee of Ministers, or in future the Parliamentary Assembly of the Council of Europe.[5] The members are elected for a period of six years. Re-election for one further term is admissible.

- The Committee is similar to a court with regard to the independence of its members from the member states of the Charter. However, it differs from a court in two essential points: firstly, the foundation of its rulings are mainly the reports from the Contracting Parties and not the complaints of an individual about concrete circumstances or facts; secondly, the decisions of the Committee do not have the same effect as court rulings usually have.

  The Committee, as already mentioned, considers, on the basis of the reports and supplementary information, whether the situation in a Contracting Party's state is in harmony with the Charter. Since 1991 it has also been possible, and does indeed occur, for a meeting of representatives from the Contracting Parties to be held to clarify open questions. Such meetings can either be called by the Committee itself or a Contracting Party.

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5 Art. 25 of the Additional Protocol 1991.

- The Committee submits its interpretation of the law in the form of so-called "conclusions". These are either positive, negative or consist of a postponement of the decision when the facts or legal position regarding a judgement are not sufficiently clear. In any case, however, the legal opinion is to be substantiated. These conclusions are published by the Council of Europe. To a certain degree they represent the interpretation of the Charter by the Independent Experts.

- It goes without saying that the Experts require an assisting body. This is the secretariat for the European Social Charter. It is, in organisational terms, part of the Directorate for Human Rights within the Council of Europe. If the Experts had to assess the reports and additional information themselves, it would be a full-time job. For this reason it is particularly important that the conclusions are well prepared by the secretariat: what questions does a report not answer at all and in which points could problems arise regarding the compatibility of a national situation with an Article in the Charter? With the large number of Contracting Parties and the scope of their reports, it is practically impossible for the members of the Committee to examine all reports in detail on every Article in the Charter. Thus it is usual that each member of the Committee is assigned certain Articles for which he or she is particularly responsible and to which he or she should pay special attention.

- The increasing number of Contracting Parties and, therefore, also reports has also led to the Committee of Independent Experts being divided up into two working groups. This not only speeds up the process, but also saves costs. One group has English as its working language, the other has French. This reduces the costs for interpreters/translators. Certain particularly important or complex Articles, however, are always dealt with by the whole Committee (e.g. Art. 5 and Art. 6 of the Social Charter). The whole Committee is also concerned when one group desires to deviate from established decision-making practice in a particular case, or

when a member of one group requests that the question be discussed by the whole Committee. Usually the Committee meets for one week in Strasbourg approximately seven times a year.

4. Governmental Committee

- The conclusions of the Independent Experts are subsequently submitted to a Governmental Committee (Art. 27 of the Additional Protocol 1991). This consists of one governmental representative from each state which has ratified the Charter. As consultant members, representatives from international employers' associations and the European Federation of Trade Unions also belong to the Committee.

- The task of the Governmental Committee is to prepare the decisions of the Committee of Ministers, in particular in the light of the reports of the Committee of Independent Experts and the Contracting Parties. The Governmental Committee shall make proposals to the Committee of Ministers on the basis of social, economic and other policy considerations, regarding the situations which should be the subject of recommendations on account of a violation of the Charter (Art. 27, Para. 3 of the Additional Protocol 1991). It is clear, and also intended by the Charter, that political considerations play a major role in these deliberations. Probably because of the endeavours to revitalise the Charter over the last few years, the attitude of the Governmental Committee has changed recently, that is to say improved. While it used to be that the Governmental Committee hardly ever recommended negative decisions, a positive trend can be detected over recent years.[6] Now in comparison there are far more proposals for recommendation by the Committee of Ministers than was previously the case. In addition, the Governmental Committee has developed the practice of so-called "warnings". These are resolutions which indicate to a

6 Cp. in previous situations the criticism of Öhlinger, Die Europäische Sozialcharta, in Matscher (Hg), Die Durchsetzung wirtschaftlicher und sozialer Rechte (1991) 344 ff.

state that it can shortly expect a negative decision from the Committee of Ministers if the state does not take into account negative conclusions by the Independent Experts, or continues not to reply to additional questions posed by this Committee. Of course it must be said that the Governmental Committee in no way assumes all or even most of the negative conclusions of the Independent Experts. This may be partly to do with the fact that the Independent Experts often go into a great deal of detail, and also criticise less important points, or that they sometimes tend to interpret provisions of the Charter too liberally.

5. Committee of Ministers

- The last level in the supervisory procedure is the Committee of Ministers of the Council of Europe. This consists - as a rule - not of the ministers of the individual states, but of the permanent representatives (ambassadors) of these states at the Council of Europe. The resolutions and recommendations of the Governmental Committee are submitted to the Committee of Ministers. It is then up to the Committee of Ministers to decide whether a recommendation is to be made to a state to rectify a certain criticised situation in legislation or in practice.

- Previously all member states of the Council of Europe were involved in such decisions. However, since 1991 - sensibly - only those states which have ratified the Charter have a right to vote. The Committee of Ministers may pass a resolution with a majority of two thirds.

- In the last few years there have been increasingly more recommendations addressed to individual states. For example, a recommendation to the United Kingdom to change the inadequate amount of maternity benefits, or to Austria because of insufficient legal protection against dismissal of employees due to trade union activities.

- A recommendation has no direct legal consequences. The Committee of Ministers calls upon a Contracting Party to give details in its next report of what measures were undertaken to remedy the criticised situation. Essentially, therefore, it is a political lever. Its effectiveness heavily depends on what degree of publicity the recommendations involve. At least in Austria the publicity is not particularly great. The Parliamentary Assembly of the Council of Europe and the Directorate for Human Rights have been trying to improve this situation for some time. It is also up to national groups, in particular trade unions and other NGOs, to draw more public attention to such cases.

6. Weaknesses of the reporting system

In spite of the latest positive developments (no obstructive policies of the Governmental Committee, considerably more individual recommendations by the Committee of Ministers), numerous weaknesses in this supervisory procedure remain. The most important are:

- The reports from the Contracting Parties are of very varying quality. Some states limit themselves to superficial details and make it difficult to assess their situation. Many states react very late, and occasionally even then inadequately, to queries from the Committee of Independent Experts. This leads to unequal treatment of the Contracting Parties: the more detailed a report is, the easier it is for it to be examined and criticised. Those states which submit incomplete or unclear reports only risk a postponement of their assessment.

- The interval between reports is too long (two years). Especially in the field of social politics, national legislation changes very rapidly. If one also considers the lengthy assessment process, sometimes the situation occurs that the criticised legislation has - for other reasons - already been repealed.

- The legal and effective situation is, in principle, assessed on the basis of the reports of the Contracting Parties alone. So the correctness of the contents simply has to be assumed. In addition, the legal systems in the individual states differ considerably. Two examples to illustrate this point: if there is a question of whether a state has, at least legally, abolished discrimination between the sexes, the state shows that an appropriate provision is already included in its constitution. This argument, however, obviously does not mean a great deal, because among other things it depends on what effect such constitutional demands have on private relationships. To find this out is, understandably, extremely difficult within the framework of a reporting system. If a meeting is held with government representatives on this question, there is no guarantee that the matter can be settled. It may be, for example, that this point in itself is highly controversial in that state.

  A second example: if there is a question of whether there is an individual right to medical treatment in a particular state (Art. 13 Social Charter), this question must seem difficult to comprehend for those states which already have a national health service and which see no necessity for any individual, and in court legally implementable, law in this respect. A whole series of other examples could be cited, including the English legislation with regard to the right to strike, or the effect of collective agreements in many Scandinavian states. All this means: it would indeed be desirable if every member country were represented in the Committee of Independent Experts. In this way many misunderstandings could be clarified or avoided.

VI. Collective Complaints

1. General comments

The Council of Europe has been aware of the difficulties and inadequacies of the reporting system for some time. There have been a number of attempts to improve the situation. Such an attempt is the Additional Protocol 1995 which provides for a system of collective complaints. This Additional Protocol has since been ratified by the minimum number of five states and has thus come into force. Austria is not yet among them; there is, however, a justified hope that it, too, will shortly sign and ratify this Protocol.

The right to submit collective complaints brings the supervisory procedure one step closer to court proceedings. Contrary to the reporting system, here there is a procedure where two parties stand in confrontation. Of course, there are still considerable differences to an individual complaint according to Art. 25 ECHR. Namely, with an individual complaint it is a requirement that the complainant is violated in his own interests. The collective complaint does not make this a condition. It is - theoretically - not even necessary for the petitioning organisation to act as a body representing interests according to its statutes or purely factually in the field of its complaint.

2. Possible petitioners

The right to submit collective complaints concerning unsatisfactory application of the Charter or certain stipulations therein by the state is dealt with in Art. 1 and Art. 2 of the Additional Protocol. Four different groups of organisations are listed.

2.1. *International organisations of employers and trade unions (Art. 1 a)*

This defines only those organisations which have consultative status with the Council of Europe. Currently representing the employers are the Union of the Confederations of Industry and Employers and the International Organisation of Employers. The European Trade Union Confederation represents the trade unions. These organisations are, according to Art. 1 b of the Protocol, legitimate, independent of whether the subject of their complaint refers to working conditions or whether the violation of other Articles of the Social Charter is alleged.

2.2. *International NGOs (Art 1 b)*

Other international NGOs are entitled to submit complaints if they have consultative status with the Council of Europe. Furthermore, it is a requirement here that the organisations in question are included in a list. This list is compiled by the Governmental Committee according to criteria issued by the Committee of Ministers.[7] At the present time on this list are, for example, the International Commission of Jurists, the International Council of Welfare, and the European Antipoverty Network.[8] The list is valid for a period of four years. Of course this does not include subsequent applications by international NGOs. The international NGOs, however, may only submit complaints in respect of those matters of the Charter regarding which they have been recognised as having particular competence (Art. 3).

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7 Expandory Report to the Additional Protocol, European Social Charter - Collected Texts, p 195.

8 Cp. Social Rights = Human Rights No. 7, May 1998.

2.3. *National organisations of employers and trade unions (Art. 1 c)*

Considering that in many countries there are numerous small trade unions, this Article provides that these organisations must be "representative". In concrete cases the Committee of Independent Experts shall decide on this pre-condition.

2.4. *Other national NGOs (Art. 2)*

National NGOs - other than trade unions and employer organisations - are entitled to lodge complaints if the state in question has previously granted them this right and these organisations are representative (Art. 3). The criteria according to which the Committee of Independent Experts should assess the representativity is also difficult in this point.[9] The Charter and the Protocol contain no detailed information in this respect.

3. The procedure before the Committee of Independent Experts

3.1. *Admissibility*

As already mentioned, the Additional Protocol contains very little concrete information with regard to which organisations are representative and whether the petitioning organisation has gained sufficient competence in the area of the complaint. The assessment of this is the first task of the Committee of Independent Experts. In making this decision, the state against which the complaint has been made shall certainly have the opportunity to express its views.

3.2. *Content*

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9 See R. Burk, The collective complaint: A new procedure in the European Social Charter, in FS R. Blanpain (1998) 266 ff.

If the complaint is declared valid, all Contracting Parties shall be informed. Nevertheless, only those states which have ratified the Protocol shall have the right to submit an opinion on the complaint. The Committee of Independent Experts can also organise "meetings" to ascertain facts, circumstances and the legal position more accurately if it deems this necessary, or if a party involved in the procedure demands it. Having investigated the complaint it shall compile a report (conclusion) on the matter. This shall be submitted to the petitioning party, to the Contracting States, to the Committee of Ministers and to the Parliamentary Assembly.

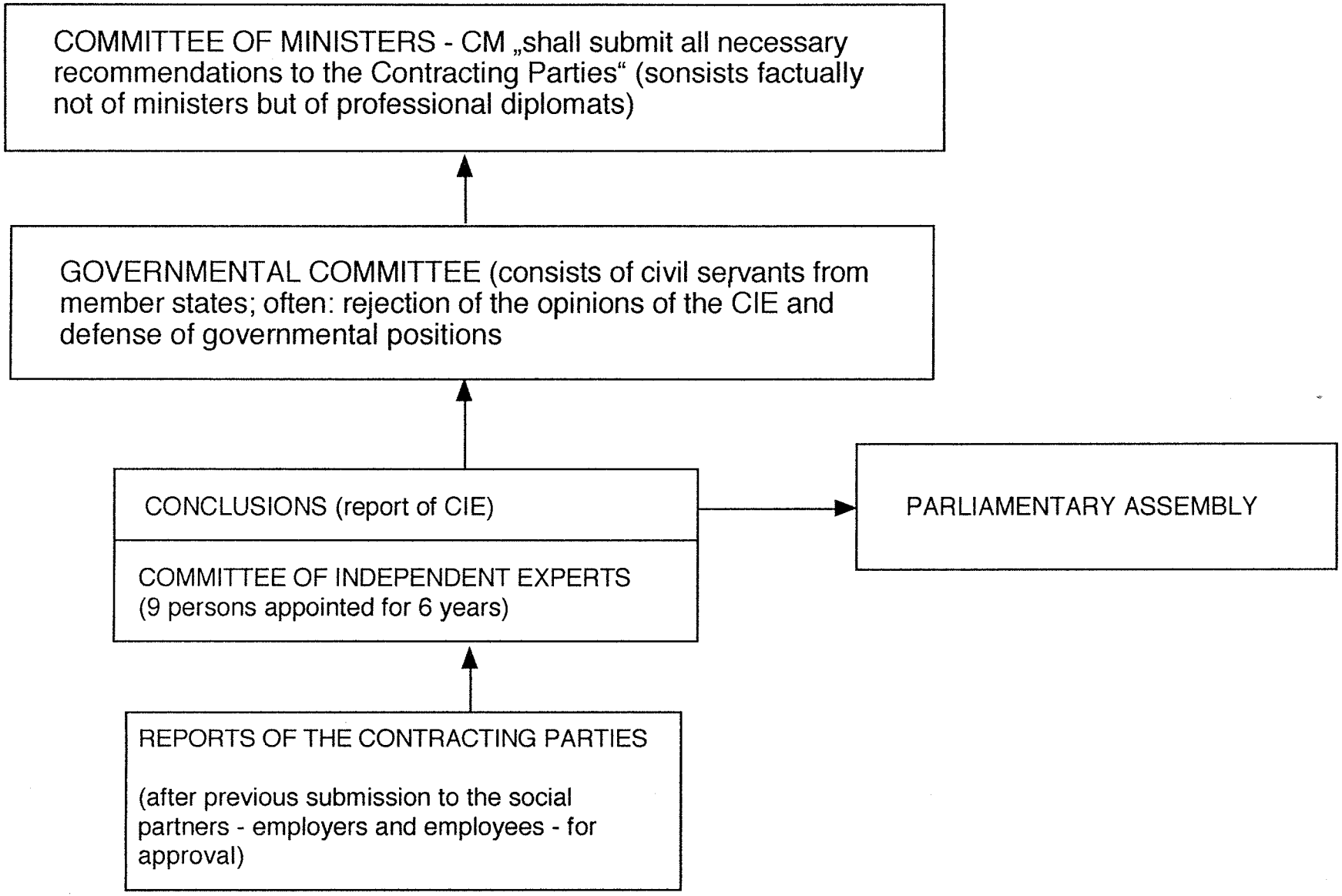
4. Decision of the Committee of Ministers

As with the reporting system, the final decision lies here with the Committee of Ministers. If the opinion of the Committee of Independent Experts is negative, i.e. if the complaint has been found justified, the Committee of Ministers shall, with a two thirds majority, issue a recommendation to the state in question. The state must then give details in its next report about what measures have been taken to remedy the criticised situation. The Governmental Committee is, therefore, not necessarily consulted when a collective complaint has been submitted. It is only involved in the procedure if the Committee of Ministers decides this with a two thirds majority (Art. 9 Additional Protocol).

VII. Summary

The European Social Charter is encountering in many points the same difficulties as social principles in the national constitutions and in other international conventions. Of course this does not mean that the value of these rights can be deemed less than that of most of the civil rights to freedom. Without social and economic security even the civil rights to freedom lose their meaning entirely or considerably. It is, therefore, welcomed when the Council of Europe endeavours to improve the mechanism of implementation of the Charter. However, publicity and public opinion on the content of the Charter, and above all on decisions which constitute a violation of this international contract, have at least as much significance as the legal instrument of implementation. There is still a lot to do in this respect.

REPORTING SYSTEM



Collective Complaints (Additional Protocol 1995)