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PROTOCOL AMENDING THE EUROPEAN SOCIAL CHARTER

Turin, 21.X.1991

The member States of the Council of Europe, signatory to this Protocol to the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as “the Charter”),

Being resolved to take some measures to improve the effectiveness of the Charter, and particularly the functioning of its supervisory machinery;

Considering therefore that it is desirable to amend certain provisions of the Charter,

Have agreed as follows :

Article 1

Article 23 of the Charter shall read as follows :

“Article 23 – Communication of copies of reports and comments

- 1 When sending to the Secretary General a report pursuant to Articles 21 and 22, each Contracting Party shall forward a copy of that report to such of its national organisations as are members of the international organisations of employers and trade unions invited, under Article 27, paragraph 2, to be represented at meetings of the Governmental Committee. Those organisations shall send to the Secretary General any comments on the reports of the Contracting Parties. The Secretary General shall send a copy of those comments to the Contracting Parties concerned, who might wish to respond.
- 2 The Secretary General shall forward a copy of the reports of the Contracting Parties to the international non-governmental organisations which have consultative status with the Council of Europe and have particular competence in the matters governed by the present Charter.
- 3 The reports and comments referred to in Articles 21 and 22 and in the present article shall be made available to the public on request.”

Article 2

Article 24 of the Charter shall read as follows :

“Article 24 – Examination of the reports

- 1 The reports sent to the Secretary General in accordance with Articles 21 and 22 shall be examined by a Committee of Independent Experts constituted pursuant to Article 25. The committee shall also have before it any comments forwarded to the Secretary General in accordance with paragraph 1 of Article 23. On completion of its examination, the Committee of Independent Experts shall draw up a report containing its conclusions.
- 2 With regard to the reports referred to in Article 21, the Committee of Independent Experts shall assess from a legal standpoint the compliance of national law and practice with the obligations arising from the Charter for the Contracting Parties concerned.

- 3 The Committee of Independent Experts may address requests for additional information and clarification directly to Contracting Parties. In this connection the Committee of Independent Experts may also hold, if necessary, a meeting with the representatives of a Contracting Party, either on its own initiative or at the request of the Contracting Party concerned. The organisations referred to in paragraph 1 of Article 23 shall be kept informed.
- 4 The conclusions of the Committee of Independent Experts shall be made public and communicated by the Secretary General to the Governmental Committee, to the Parliamentary Assembly and to the organisations which are mentioned in paragraph 1 of Article 23 and paragraph 2 of Article 27."

Article 3

Article 25 of the Charter shall read as follows :

"Article 25 – Committee of Independent Experts

- 1 The Committee of Independent Experts shall consist of at least nine members elected by the Parliamentary Assembly by a majority of votes cast from a list of experts of the highest integrity and of recognised competence in national and international social questions, nominated by the Contracting Parties. The exact number of members shall be determined by the Committee of Ministers.
- 2 The members of the committee shall be elected for a period of six years. They may stand for re-election once.
- 3 A member of the Committee of Independent Experts elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.
- 4 The members of the committee shall sit in their individual capacity. Throughout their term of office, they may not perform any function incompatible with the requirements of independence, impartiality and availability inherent in their office."

Article 4

Article 27 of the Charter shall read as follows :

"Article 27 – Governmental Committee

- 1 The reports of the Contracting Parties, the comments and information communicated in accordance with paragraphs 1 of Article 23 and 3 of Article 24, and the reports of the Committee of Independent Experts shall be submitted to a Governmental Committee.
- 2 The committee shall be composed of one representative of each of the Contracting Parties. It shall invite no more than two international organisations of employers and no more than two international trade union organisations to send observers in a consultative capacity to its meetings. Moreover, it may consult representatives of international non-governmental organisations which have consultative status with the Council of Europe and have particular competence in the matters governed by the present Charter.

- 3 The Governmental Committee shall prepare the decisions of the Committee of Ministers. In particular, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties, it shall select, giving reasons for its choice, on the basis of social, economic and other policy considerations the situations which should, in its view, be the subject of recommendations to each Contracting Party concerned, in accordance with Article 28 of the Charter. It shall present to the Committee of Ministers a report which shall be made public.
- 4 On the basis of its findings on the implementation of the Social Charter in general, the Governmental Committee may submit proposals to the Committee of Ministers aiming at studies to be carried out on social issues and on articles of the Charter which possibly might be updated."

Article 5

Article 28 of the Charter shall read as follows :

"Article 28 – Committee of Ministers

- 1 The Committee of Ministers shall adopt, by a majority of two-thirds of those voting, with entitlement to voting limited to the Contracting Parties, on the basis of the report of the Governmental Committee, a resolution covering the entire supervision cycle and containing individual recommendations to the Contracting Parties concerned.
- 2 Having regard to the proposals made by the Governmental Committee pursuant to paragraph 4 of Article 27, the Committee of Ministers shall take such decisions as it deems appropriate."

Article 6

Article 29 of the Charter shall read as follows :

"Article 29 – Parliamentary Assembly

The Secretary General of the Council of Europe shall transmit to the Parliamentary Assembly, with a view to the holding of periodical plenary debates, the reports of the Committee of Independent Experts and of the Governmental Committee, as well as the resolutions of the Committee of Ministers."

Article 7

- 1 This Protocol shall be open for signature by member States of the Council of Europe signatories to the Charter, which may express their consent to be bound by :
 - a signature without reservation as to ratification, acceptance or approval; or
 - b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 8

This Protocol shall enter into force on the thirtieth day after the date on which all Contracting Parties to the Charter have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.

Article 9

The Secretary General of the Council of Europe shall notify the member States of the Council of :

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c the date of entry into force of this Protocol in accordance with Article 8;
- d any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Turin, this 21st day of October 1991, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.