



The Community Charter of Fundamental Social Rights for Workers

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6/90

At the meeting of the European Council in Strasbourg on 8 and 9 December 1989, the Heads of State or Government of the European Community Member States, with the exception of the United Kingdom, adopted the Community Charter of Fundamental Social Rights for Workers. The signatories intend the Charter to be at once a solemn statement of progress already made in the social field and a preparation for new advances — so that the same importance may be given to the social dimension of the Community as to its economic aspects, in the construction of the large market of 1992. In the preamble to the Charter, the Heads of State or Government also underline the priority which they attach to job creation, the importance of the social consensus as a factor in economic development and their rejection of all forms of discrimination or exclusion. They also declare that, far from justifying any regression from the very diverse situations prevailing in the 12 member countries, the Charter demands a series of initiatives to develop workers' rights: responsibility for these initiatives will sometimes lie with the social partners, sometimes with the Member States and sometimes with the Community itself.

Accordingly, the Commission of the European Communities has drawn up an action programme for the parts of the Charter to be implemented at Community level. The programme sets out about 50 proposals which the Commission will bring forward by the end of 1992. The Council of Ministers should pronounce on these proposals within two years, having first consulted the European Parliament and the Community's Economic and Social Committee. The aim of these proposals will be to develop the social dimension of the large market, thus increasing the economic and social cohesion of the 12-member Community. They will address only those points in the Charter which require new initiatives and which fall within the responsibilities of the Community institutions, as defined by the Community Treaties and by the principle of subsidiarity, whereby the Community acts when the set objectives can be reached more effectively at its level than at that of the Member States. For certain questions, which fall within the competence of the Member States or the social partners but which arise in similar terms in all countries of the Community, the Commission has promised non-binding measures to encourage some convergence of efforts while respecting national practices.

The rest of this file consists of the full text of the Charter, apart from its introductory remarks, together with an account of the various measures announced in the Commission's programme.¹

¹ Text completed in January 1990.

The Heads of State or Government of the Member States of the European Community meeting at Strasbourg on 9 December 1989 (...) adopted the following declaration constituting the 'Community Charter of Fundamental Social Rights for Workers'.

TITLE I – FUNDAMENTAL SOCIAL RIGHTS OF WORKERS

Freedom of movement

1. Every worker of the European Community shall have the right to freedom of movement throughout the territory of the Community, subject to restrictions justified on grounds of public order, public safety or public health.
2. The right to freedom of movement shall enable any worker to engage in any occupation or profession in the Community in accordance with the principles of equal treatment as regards access to employment, working conditions and social protection in the host country.
3. The right to freedom of movement shall also imply:
 - (i) harmonization of conditions of residence in all Member States, particularly those concerning family reunification;
 - (ii) elimination of obstacles arising from the non-recognition of diplomas or equivalent occupational qualifications;
 - (iii) improvement of the living and working conditions of frontier workers.

In the Commission's programme

- Revision of the regulation on the right of workers to remain in a member country after having been employed there.
- Extension, to cover all insured persons, of the measures which enable workers to continue to avail themselves of social security benefits when they move from one member country to another.
- Study of the problems involved in the transfer from one member country to another of rights acquired under supplementary social security schemes; opening of a debate on this subject.
- Proposal on the working conditions of workers from one Member State who are engaged in the provision of services (subcontracting, etc.) in another. Also a proposal to include in public contracts a labour clause to ensure equal treatment for workers detached by a firm from another member country.
- Examination of the living and working conditions of Community citizens living in frontier regions and of frontier workers in particular.

Employment and remuneration

4. Every individual shall be free to choose and engage in an occupation according to the regulations governing each occupation.

5. All employment shall be fairly remunerated.

To this end, in accordance with arrangements applying in each country:

- (i) workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living;
 - (ii) workers subject to terms of employment other than an open-ended full-time contract shall benefit from an equitable reference wage;
 - (iii) wages may be withheld, seized or transferred only in accordance with national law; such provisions should entail measures enabling the worker concerned to continue to enjoy the necessary means of subsistence for him or herself and his or her family.
6. Every individual must be able to have access to public placement services free of charge.

In the Commission's programme

- Publication of an annual report on employment in Europe.
- Creation of an 'employment observatory' for the Community, to forecast trends in labour supply and demand.
- Development of the research and action programmes already launched on job creation for specific groups (long-term unemployed, young people, local initiatives, etc.).
- Improvement of systems for international exchange of vacancies and applications for employment which have not been satisfied at national level.
- Evaluation of the effectiveness of the European Social Fund's activities in helping to find jobs for young people and for the long-term unemployed.
- Opinion on the measures taken by the Member States to guarantee the right to an equitable wage.
- Proposal for a directive setting minimum requirements for contracts and employment relationships other than full-time open-ended contracts (part-time working, fixed-term working, casual work, etc.).

Improvement of living and working conditions

7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of these conditions while the improvement is being maintained, as regards in particular the duration and organization of working time and forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work.

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

8. Every worker of the European Community shall have a right to a weekly rest period and to annual paid leave, the duration of which must be progressively harmonized in accordance with national practices.

9. The conditions of employment of every worker of the European Community shall be stipulated in laws, a collective agreement or a contract of employment, according to arrangements applying in each country.

In the Commission's programme

- Proposal for a directive on the adaptation of working time and of essential working conditions, particularly in regard to the well-being and health of workers.
- Proposal for a directive to establish on a general basis a form of written proof of an employment contract and of its principal conditions.
- Revision of the directive setting out procedures for information and consultation prior to collective redundancies, in particular so that it applies in cases of transfrontier restructuring.
- Drawing up a memorandum on the social integration of migrants from countries outside the Community (education, housing, etc.).

Social protection

According to the arrangements applying in each country:

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Persons who have been unable either to enter or re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.

In the Commission's programme

- Recommendation on convergence of Member States' objectives in regard to social protection.
- Recommendation setting out common criteria for the guarantee given by Member States of sufficient resources and social assistance for the least advantaged citizens.

Freedom of association and collective bargaining

11. Employers and workers of the European Community shall have the right of association in order to constitute professional organizations or trade unions of their choice for the defence of their economic and social interests.

Every employer and every worker shall have the freedom to join or not to join such organizations without any personal or occupational damage being thereby suffered by him.

12. Employers or employers' organizations, on the one hand, and workers' organizations, on the other, shall have the right to negotiate and conclude collective agreements under the conditions laid down by national legislation and practice.

The dialogue between the two sides of industry at European level which must be developed, may, if the parties deem it desirable, result in contractual relations in particular at inter-occupational and sectoral level.

13. The right to resort to collective action in the event of a conflict of interests shall include the right to strike, subject to the obligations arising under national regulations and collective agreements.

In order to facilitate the settlement of industrial disputes the establishment and utilization at the appropriate levels of conciliation, mediation and arbitration procedures should be encouraged in accordance with national practice.

14. The internal legal order of the Member States shall determine under which conditions and to what extent the rights provided for in Articles 11 to 13 apply to the armed forces, the police and the civil service.

In the Commission's programme

- Continuation and development of dialogue with the social partners and a communication on their role in collective bargaining, including collective agreements at European level.

Vocational training

15. Every worker of the European Community must be able to have access to vocational training and to benefit therefrom throughout his working life. In the conditions governing access to such training there may be no discrimination on grounds of nationality.

The competent public authorities, undertakings or the two sides of industry, each within their own sphere of competence, should set up continuing and permanent training systems enabling every person to undergo retraining, more especially through leave for training purposes, to improve his skills or to acquire new skills, particularly in the light of technical developments.

In the Commission's programme

- Proposal for measures to improve access to training for all workers throughout their working lives.
- Revision of the general principles for vocational training originally established at Community level in 1963.
- Rationalization and better coordination of Community programmes in the field of initial and continued vocational training.
- Development and rationalization of Community programmes for youth exchanges and exchange of young workers.
- Continuation of work on comparability of vocational training qualifications between the member countries.

Equal treatment for men and women

16. Equal treatment for men and women must be assured. Equal opportunities for men and women must be developed.

To this end, action should be intensified to ensure the implementation of the principle of equality between men and women as regards in particular access to employment, remuneration, working conditions, social protection, education, vocational training and career development.

Measures should also be developed enabling men and women to reconcile their occupational and family obligations.

In the Commission's programme

- Preparation of a third action programme on equal opportunities for women.
- Proposal for a directive on the protection of pregnant women at work.

- Recommendation on methods of child care.
- Recommendation setting out a code of good conduct on the protection of working women in pregnancy and maternity.

Information, consultation and participation of workers

17. Information, consultation and participation of workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

This shall apply especially in companies or groups of companies having establishments or companies in two or more Member States of the European Community.

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

- (i) when technological changes which, from the point of view of working conditions and work organization, have major implications for the work force, are introduced into undertakings;
- (ii) in connection with restructuring operations in undertakings or in cases of mergers having an impact on the employment of workers;
- (iii) in cases of collective redundancy procedures;
- (iv) when transfrontier workers in particular are affected by employment policies pursued by the undertaking where they are employed.

In the Commission's programme

- Proposal on the information, consultation and participation of workers in undertakings of European or transnational scale.
- Proposal on equity sharing and financial participation by workers.

Health protection and safety at the workplace

19. Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements made.

These measures shall take account, in particular, of the need for the training, information, consultation and balanced participation of workers as regards the risks incurred and the steps taken to eliminate or reduce them.

The provisions regarding implementation of the internal market shall help to ensure such protection.

In the Commission's programme

- Proposals for directives on minimum health and safety requirements in a range of sectors: transport, shipping and fisheries, temporary or mobile work sites, the drilling industries, quarrying and open-cast mining.
- Proposal for a directive on minimum requirements in regard to exposure of workers to certain physical agents (vibration, electromagnetic radiation, etc.).
- Revision of the directive on exposure to asbestos at work.
- Proposal for a directive on safety and health signs at the workplace.
- Proposal for a directive on specific information for workers exposed to certain dangerous substances and industrial agents.
- Revision of the European schedule of industrial diseases and recommendation on its adoption by the Member States.
- Proposal to create a special European agency to provide scientific and technical support in the fields of safety, hygiene and health in the workplace.

Protection of children and adolescents

20. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through vocational training, and subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years.

21. Young people who are in gainful employment must receive equitable remuneration in accordance with national practice.

22. Appropriate measures must be taken to adjust labour regulations applicable to young workers so that their specific development and vocational training and access to employment needs are met.

The duration of work must, in particular, be limited — without it being possible to circumvent this limitation through recourse to overtime — and night work prohibited in the case of workers of under 18 years of age, save in the case of certain jobs laid down in national legislation or regulations.

23. Following the end of compulsory education, young people must be entitled to receive initial vocational training of a sufficient duration to enable them to adapt to the requirements of their future working life; for young workers, such training should take place during working hours.

In the Commission's programme

- Proposal for a directive approximating the laws of the Member States on the protection of young people in regard to employment (minimum age, working hours, etc.).

Elderly persons

According to the arrangements applying in each country:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.
25. Every person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.

In the Commission's programme

- Communication and proposal for an action programme to support pilot projects, exchanges of information, etc.
- Proposal to organize a 'Year of the Elderly' in 1993.

Disabled persons

26. All disabled persons, whatever the origin and nature of their disablement, must be entitled to additional concrete measures aimed at improving their social and professional integration.

These measures must concern, in particular, according to the capacities of the beneficiaries, vocational training, ergonomics, accessibility, mobility, means of transport and housing.

In the Commission's programme

- Preparation of a third Community action programme on integration and equality of opportunity for the disabled.
- Proposal for a directive to promote better travel possibilities for workers with motor disabilities.

TITLE II – IMPLEMENTATION OF THE CHARTER

27. It is more particularly the responsibility of the Member States in accordance with national practices, notably through legislative measures or collective agreements, to guarantee the fundamental social rights in this Charter and to implement the social measures indispensable to the smooth operation of the internal market as part of a strategy of economic and social cohesion.

28. The European Council invites the Commission to submit as soon as possible initiatives which fall within its powers, as provided for in the Treaties, with a view to the adoption of legal instruments for the effective implementation, as and when the internal market is completed, of those rights which come within the Community's area of competence.

29. The Commission shall establish each year, during the last three months, a report on the application of the Charter by the Member States and by the European Community.

30. The report of the Commission shall be forwarded to the European Council, the European Parliament and the Economic and Social Committee ■

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