

STANDARDS OF THE COUNCIL OF EUROPE

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INTRODUCTION

The Council of Europe is an intergovernmental organisation, which has today 45 Member States, and whose main mission is to protect human rights, pluralist democracy and the rule of law, to help consolidate democratic stability in Europe and to achieve greater unity between member States, facilitating their social progress.

One of the main tasks of the Council of Europe in the social field has been to develop an innovative approach integrating standard-setting and policy development with the overall goal of facilitating progress while guaranteeing social cohesion for all member countries.

Let me stress that the Council of Europe, like other international organisations and in particular the International Labour Organisation, pays increasing attention to social challenges facing its member States today. Promoting a system of social protection for all is among the Council of Europe's top priorities.

As you know, the European Code of Social Security, its Protocol and the European Code of Social Security (Revised) are the basic standard-setting instruments of the Council of Europe in the field of social security. The Code and the Protocol date back to 16 April 1964 (entered into force on 17 March 1968, one year after the deposit of the third instrument of ratification) have proved to be valuable tools in defining common European social security standards that can be used for orientation in the reform process going on in many European countries, especially in central and Eastern Europe.

The underlying idea of these instruments is **to promote a social security model based on social justice**. The state is deemed to be responsible for establishing and maintaining a stable and financially sound social security system. That is to say, for example, that those who cannot earn their own living because of sickness, unemployment, old age, employment injury, occupational disease, maternity, invalidity, or death of the breadwinner should be guaranteed **a decent standard of living**. The European Code of Social Security (Revised), the most recent instrument, dating from 1990, reflects some of the developments in social security philosophy towards the end of the century without abandoning the fundamental concepts laid down in the European Code of Social Security and its Protocol. These specialised social security instruments form an essential component of the protection of human rights through the Council of Europe.

Furthermore it is important to note that the "right to social security" is enshrined in one of the basic human rights instruments of the Council of Europe, namely in the European Social Charter. States having ratified the revised European Social Charter and having accepted Article 12, paragraph 2, are obliged to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security. Therefore, the promotion of the European Code of Social Security is seen as one of the core tasks of the Council of Europe in order to secure common values in the field of social cohesion in its member countries.

It is worth noting that the standards of the Council of Europe in the field of social security are closely linked to the conventions of the International Labour Organisation (ILO). Convention No. 102 (Social Security Minimum Standards) from 1952 served as a model for the elaboration of the European Code of Social Security. Moreover, the higher standards enshrined in the Protocol to the European Code of Social Security and in the later social security

conventions of the ILO also largely coincide. The control of the implementation of the social security standards of the Council of Europe is based on institutional co-operation between the Council of Europe and the ILO. The two organisations work together closely in promoting their standards. The overall aim of this co-operation is to combine the efforts of the two international organisations devoted to the promotion of social justice and to avoid divergences in the interpretation of international social standards.

WHAT IS THE EUROPEAN CODE OF SOCIAL SECURITY AND THE PROTOCOL TO THE EUROPEAN CODE OF SOCIAL SECURITY?

The Code and its Protocol represent **a series of minimum standards**. They do not call for the standardisation (or "unification" as it is sometimes called) of the national social security systems. Standardisation would require all the contracting parties to provide the same benefits to the same categories of their population at the same rates and under the same conditions. Instead, **the Code and Protocol recognise the desirability of harmonising the social security systems and of establishing minimum requirements that states must satisfy**. The aim is to guarantee at least a certain minimum level of social protection. If states wish to provide more than the minimum they are free to do so.

The Code and Protocol also respect the **diversity and individuality of the national social security systems**. All social security systems are different; they are the product of the distinctive social, political and economic traditions of the states in which they have evolved. The provisions of the Code and Protocol represent goals for every member state of the Council of Europe. They explain what must be achieved but leave every state to determine how it will be achieved. The goals are designed in such a way that they can be applied to all types of social security systems, whether entitlement is based on employment, specific categories of occupations, the whole economically active population or upon residence.

HARMONISATION VERSUS CO-ORDINATION

The instruments of the Council of Europe relating to social security may be classified as either harmonising instruments or coordinating ones. It is therefore important to distinguish these two types of legal measure. Harmonising instruments in this field require states to alter the substance of their social security systems. They may have to change the amount of benefit or length of the qualifying period. There are different degrees of harmonisation. These range from standardisation where all systems must adopt the same standards, nothing better and nothing worse, to minimum harmonisation, achieved through setting minimum standards and leaving the states free to provide better provisions if they so wish. The following Council of Europe instruments are concerned with the harmonisation of social security:

- a) The European Code of Social Security and its Protocol;
- b) The European Code of Social Security (Revised);
- c) The European Social Charter and its Protocols:
 - notably Articles 8 (the right of employed women to protection of maternity), Article 11 (the right to protection of health), Article 12 (the right to social security), Article 13 (the right to social and

medical assistance), Article 14 (the right to benefit from social welfare services) and Article 16 (the right of the family to social, legal and economic protection);

d) The revised European Social Charter.

All of these instruments work on the basis of minimum harmonisation, providing minimum standards and permitting (even encouraging) the contracting parties to exceed these standards.

Co-ordination of social security is concerned with migrants, people who move to another country in order to live or work there. Co-ordination provisions ensure that migrants are treated fairly. They also aim to reduce some of the disadvantages of moving from one state to another, particularly in respect of long-term benefits such as old age pensions. Co-ordination provisions do not oblige states to directly alter the substance of their social security laws. The amount of benefit, duration of payment and qualification periods all remain the same. Instruments of co-ordination only really affect the situation of migrants, for example by obliging states not to treat migrants differently from nationals. The following Council of Europe instruments are intended to co-ordinate the provision of social security:

a) The European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors;

b) The European Interim Agreement on Social Security Schemes other than Schemes for Old Age, Invalidity and Survivors;

c) The European Convention on Social and Medical Assistance;

d) The European Convention on Social Security and its Protocol.

THE HARMONISING INSTRUMENTS OF THE COUNCIL OF EUROPE

Besides the Code, Protocol and Revised Code, the remaining harmonising measures of the Council of Europe are the European Social Charter and the revised European Social Charter.

The European Social Charter

This instrument entered into force in 1965. Unlike the Code, Protocol or Revised Code, the Social Charter does not deal exclusively with social security. The Social Charter is intended to act as the social counterpart to the European Convention on Human Rights. It protects a wide range of social and economic rights including the right to work, the right to fair remuneration, the right to bargain collectively and the right to vocational training. It also establishes rights to protect specific groups of the population such as those with disabilities, children, pregnant women and migrants. As with the Code, the Social Charter is also a "menu instrument" whereby the contracting parties may select a minimum number of rights to protect. The following provisions of the Social Charter relate to social protection:

– Article 8: the right of employed women to protection of maternity

– Article 11: the right to protection of health;

– Article 12: the right to social security;

– Article 13: the right to social and medical assistance;

– Article 14: the right to benefit from social welfare services;

– Article 16: the right of the family to social, legal and economic protection.

In order to ratify the Social Charter a state must sign at least ten articles. At least five of these articles must come from the hard core articles. The hard core articles include those on the right to social security and the right to social and medical assistance.

As with the Code, the Social Charter is supervised on the basis of national reports. One important difference to the Code, however, is that a complaints procedure has been established under the Social Charter. This procedure was introduced through a protocol and only applies to those states that have acceded to this instrument. It allows international organisations, national non-governmental organisations and the social partners to complain about violations of the Social Charter.

The minimum standards for social security contained within the Social Charter are indirectly linked to the standards defined by the Code. In article 12, the right to social security, the Social Charter obliges contracting parties to establish a social security system, to maintain and improve that system as well as ensuring the equal treatment of the nationals of other contracting parties. Article 12 obliges states to maintain a system that is at least equivalent to that prescribed in ILO Convention No. 102 – a direct reference to the Code was not possible at the time the Social Charter was drafted (1961) as the work on the Code was only finished in 1964. But any state which ratifies the Social Charter, and in doing so accepts Article 12 paragraph 2 must implement the standards of convention No. 102 of the ILO, which largely coincide with those set by the Code.

The Revised European Social Charter

This instrument entered into force in 1999. It amends some of the existing rights contained in the European Social Charter and adds a series of new rights, including the right of elderly persons to social protection, the right to protection in the case of termination of employment, the right to housing, the right dignity at work and the right to protection against poverty and social exclusion. The aim of the Revised Charter is to secure higher standards as well as develop a global policy against problems such as poverty. Article 12 of the Revised Social Charter does not refer to Convention No. 102 of the ILO, but to the European Code of Social Security instead.

The structure of the European Code of Social Security

The European Code of Social Security is divided into fourteen parts that can be broken down into five sections (general provision, contingencies, calculation of periodical payment, common provisions, and miscellaneous provision) as follows:

General provisions

Part I of the Code explains the process of ratification. The Code is rather like a menu, states are allowed to pick and choose which parts they will accept and thereby become subject to. The states have nine contingencies (also known as "social risks") from which to choose. These contingencies are contained in Parts II to X. In order to ratify the Code, **each state must select six contingencies; however medical care (Part II) counts as two and old age (Part V) counts as three. Each contingency sets minimum levels of personal coverage**, in other words a minimum percentage of workers or residents must be covered for this contingency. Before a state can select a contingency for ratification, it must ensure that the prescribed percentage of its population is covered by social security schemes for that contingency.

Contingencies

Parts II to X define the contingencies and establish the minimum standards thereto. The nine contingencies covered are:

– Medical Care (Part II);

– Sickness Benefit (Part III);

– Unemployment Benefit (Part IV);

– Old-Age Benefit (Part V);

– Employment Injury Benefit (Part VI);

– Family Benefit (Part VII);

– Maternity Benefit (Part VIII);

– Invalidity Benefit (Part IX);

– Survivors' Benefit (Part X).

It is worthy of note that there is no coverage of the risk of need or poverty as such. Coverage of this risk is typically referred to as "social assistance" whereas the primary focus of the Code is "social insurance". However, since the 1950s attitudes towards social assistance have changed dramatically, especially since the entry into force of the European Social Charter that now makes entitlement to social assistance a subjective right.

As can be seen from the list above, each contingency is given its own part in the Code and each of these parts contains minimum standards relating to the following:

1. **Material scope:** describing the range of contingencies that must be covered.

2. **Personal scope:** defining the categories of individuals covered and the minimum percentages of these categories that must be protected.

3. **Conditions for entitlement to benefits:** setting limits on the conditions imposed upon applicants before the benefit is paid. The restrictions placed upon conditions of entitlement may be rather vague such as the requirement in Part IV on unemployment that permits (...) *such qualifying period as may be considered necessary to preclude abuse*. Other restrictions are more precise, such as those in Part V on old age which prescribe maximum qualifying periods in respect of entitlement to an old age pension, for example a maximum of thirty years of employment or twenty years of residence for entitlement to a pension at the level required by the Code.

4. **The type of benefit:** benefits may take a number of forms. They may be periodic or lump-sum benefits, periodic benefits are paid regularly whereas lump-sum benefits are one-off payments. **The Code deals principally with periodic payments. Benefits may also be divided into cash benefits and benefits in-kind.** Cash benefits, as their name suggests, are those that involve the payment of money. Benefits in-kind involve the actual provision of goods and services by the social security system. **Most of the provisions within the Code relate to cash benefits** but some parts do take into consideration benefits in-kind, such as that on family benefits (Part VII) which refers to “the provision to or in respect of children of food, clothing, housing, holidays or domestic help”.

5. **The calculation method used for periodic cash benefits:** the Code envisages three ways in which periodic cash benefits may be calculated:

– **earnings-related benefits:** reflect the income from work or similar economic activity that the recipient used to receive before they fell victim to one of the contingencies;

– **flat-rate benefits:** are usually based on the average earnings of the claimant over a prescribed period; these average earnings are often referred to as the “calculation basis”; and

– **means tested benefits:** are only paid to those who have income (and in some cases assets as well) below a prescribed level.

[These three methods of benefit calculation are described in detail in Articles 65, 66 and 67 of the Code.]

6. **The period of entitlement to benefit:** some states choose to restrict the duration for which periodic benefits are provided. The Code sets periods below which the maximum duration of benefit provided by the contracting party may not fall. The limits established by the Code on the maximum duration of benefit payments varies from contingency to contingency, in most cases it is set as a fixed number of weeks whereas in others the duration is more vague. For instance old age benefit must be granted “throughout the contingency”, given that the contingency covered by the part of the Code on old age is “survival beyond a prescribed age” this means that the benefit must be paid until the death of the recipient.

7. **The waiting period:** in some states benefits are not paid immediately upon the occurrence of a contingency, in other words the claimant must wait for a fixed period after the commencement of their unemployment, sickness, etc., before they are paid any social security benefit. Certain parts of the Code establish maximum waiting periods such as that on unemployment which declares that claimants may be unemployed for up to seven days before they receive any benefit.

Calculation of periodical payments

Part XI describes three methods by which periodic cash benefits may be evaluated and the minimum amounts that these benefits must provide. The Code aims to set equivalent standards for each type of social security system and does this by giving

contracting parties a choice of three models by which benefits levels may be assessed. The models are so designed as to provide standards that are roughly equal. Part XI of the Code can be applied to states that operate social security through periodic benefits that are either earnings-related, flat-rate or means tested.

The minimum amounts of benefit are based on the concept of a standard beneficiary. The definition of a standard beneficiary varies from one contingency to another. For sickness, unemployment, employment injury and invalidity it is a man with a wife and two children. For old age, it is a man with a wife of pensionable age. For survivors, it is a widow with two children. For maternity, it is a woman carrying a child.

At the time of the creation of the Code the standard beneficiary was defined on the basis of the typical family model. The Code focuses upon a family model because during the 1950s most women and children were not individually entitled to social security but derived their entitlement from the family breadwinner. Thus old age pension, unemployment benefit, invalidity pension, etc., was often increased by supplements for dependent wives and children. In order to assess and compare the real level of benefits these supplements had to be taken into consideration. However, today, family structures have changed considerably, especially the number of people living on their own. These developments in family structure have been taken into account in the Revised Code (described below). That said, since Poland is not ratifying at this stage the Revised Code, it might not be worth to speak about the changes introduced in this instrument.

As well as respecting the different models for organising benefits, the Code also has to respect the standard of living that varies considerably from one state to another. For this reason, the Code could not specify a minimum amount of benefit in terms of euros or dollars but had to establish evaluation tools that were relative to the standard of living. The amount of benefit for the standard beneficiary is therefore evaluated using one of the three evaluation models. The models effectively establish benchmarks against which to compare the level of benefit. These benchmarks may be based on the previous earnings of the claimant, the wage of a skilled male manual employee, the average earnings within the territory of the contracting state, etc. The benefits received by the standard beneficiary must be equal to or above a percentage of one of these benchmarks. These percentages are set down by the Code in a schedule to Part XI and vary from one contingency to another.

The reason why the Code provides for different types of periodic cash benefit and different types of benchmarks is to ensure that it does not favour one model of social security over another. These different typologies respect the individuality of national social security systems and ensure that every national system is obliged to comply with minimum standards of the same level.

Common provisions

Part XII contains the following minimum standards that are shared by all of the contingencies covered in Parts II to X:

1. **The grounds on which a benefit may be suspended** (Article 68): this article describes the only circumstances in which the payment of a social security benefit may be temporarily, and in some cases permanently, stopped.

2. **The arrangements for the right of appeal** (Article 69): this article sets minimum standards concerning a person’s right to appeal the refusal of a social security benefit, the quantity (amount) of a benefit or the quality of a benefit (in relation to benefits in-kind).

3. **The financing of social security** (Article 70): this article ensures that the financing of social security does not cause hardship to the people. It declares that social security should be collectively financed, in other words that it should be financed through a system of solidarity whereby people are concerned with financing for the greater good rather than their own individual needs. It also ensures that workers in systems where social security is financed by contributions from employers and employees are not forced to bear an unfair proportion of the burden.

4. **The administration of social security** (Article 71): this article makes the contracting party ultimately responsible for the administration of social security in its state. It also prescribes a minimum administrative role for the representatives of the people covered by social security schemes.

Miscellaneous provisions

Part XIII concerns the application of the Code and deals with the following:

1. **Temporal scope of application of the Code** (Article 72): this article explains that the Code does not apply to contingencies realised before its coming into force for the relevant party concerned or to benefits paid with respect to contingencies occurring after this point if the right to that benefit was acquired during periods preceding this date.

2. **The monitoring procedure** (Articles 73 to 76): these articles establish a system of national reporting by which the Council of Europe may supervise the implementation of the Code. It also provides for the production of reports on the contingencies that have not been accepted by the states.

Part XIV deals with the ratification procedure, the accession of non-member states of the Council of Europe and the denunciation of the Code by any party subject to it.

SIGNATURE, RATIFICATION AND ENTRY INTO FORCE

States are of course free to adopt more than the minimum number of risks. Several states have decided to comply with all of the risks contained within the Code, such as Belgium, Germany, Luxembourg and the Netherlands.

- Unemployment Benefit (Part IV);
- Old Age Benefit (Part V);
- Employment Injury Benefit (Part VI);
- Invalidity Benefit (Part IX);
- Survivors' Benefit (Part X).

However, in order to benefit from the alternative procedure the state must prove that its system is equivalent to one of the combination of contingencies provided for in the general ratification procedure (namely, six risks with medical care counting for two and old age for three) as well as either:

a) providing evidence that the level of protection provided by the three risks they select according to the alternative procedure exceed the standards of the Code as regards the number of people covered or the amount of benefit provided; or

b) prove that the standard of protection for the risks covered are higher than those provided for in the Code because the supplementary services listed in Addendum 2 are fully complied with. Addendum 2 sets out a number of additional minimum standards which establish longer minimum periods for the payment of benefits, higher amounts of benefits, a wider range of medical care and even introduces the obligation to pay a lump-sum funeral benefit upon the death of an insured person. As well as providing evidence about compliance with the supplementary services contained in Addendum 2, the state must also provide information on the branches of social security that do not currently attain the standards of the Code.

States wishing to take advantage of the alternative ratification procedure need permission from the Council of Europe before their ratification is accepted. They therefore have to provide reports containing the information above as well as the statistical information referred to in Article 78 of the Code, indicating the extent of personal coverage, amount of benefit, etc. These reports are sent to the Secretary General of the Council of Europe, who in turn passes them on to the Committee of Experts on Social Security. The committee of experts prepares a report for the Committee of Ministers which in turn decides, on the basis of a two-thirds majority, if the state complies with the requirements for alternative ratification laid down by the Code. If compliance is established then the state will be deemed to have ratified the Code, if not then the

Committee of Ministers may make a resolution recommending what may be done in order to secure compliance with the alternative ratification procedure. Thus one of the most significant differences between the normal procedure and the alternative procedure is that the alternative procedure requires the approval of the Committee of Ministers before the provisions of the Code take effect; whereas under the normal procedure the Code becomes effective simply upon the deposit of an instrument of ratification.

The idea behind the alternative ratification procedure is to offer a possibility of ratification to those countries whose systems of social security are highly developed in some branches (although not necessarily in the core branches of old age and medical care) but less developed in others. However, it is still important that the social security systems in all of the states bound by the Code are comparable. Otherwise, the harmonisation goals of the Code would not be achieved.

DECLARATIONS

Both the Code and the Revised Code offer contracting parties the option of restricting the application of their provisions.

This restriction takes the form of an official declaration made by the contracting party to the Council of Europe.

THE EUROPEAN CODE OF SOCIAL SECURITY

Article 80 of the Code describes the geographical scope of application declaring that the Code applies to the "metropolitan territory" of each contracting party. Each contracting party is free to define the range of the territory which will be covered by the Code.

DENUNCIATION

The Code, Protocol and Revised Code all contain provisions that allow the contracting parties to denounce one or more of the parts to which they have committed themselves. The states are therefore free to exit all or part of the Code, Protocol or Revised Code in accordance with the conditions contained therein.

THE SUPERVISION PROCEDURE

The effectiveness of international legal acts largely depends on the effectiveness of the supervision procedure. Therefore, the Code, the Protocol and the Revised Code establish **a control system based on national reporting at regular intervals**. So, even though violations of these instruments are not confirmed and sanctioned by an international court such as the European Court of Human Rights, there is a tight control of the observance of the legal obligations by the contracting parties.

The system of supervision demands that the contracting parties prepare reports concerning their compliance with the minimum standards provided within the Code, Protocol and Revised Code. These reports are then assessed by experts, who report in turn to the Committee of Ministers of the Council of Europe. The Committee of Ministers is composed of all the Foreign Ministers of the governments of the member states of the Council of Europe or the Ministers' Deputies. The Committee of Ministers then votes to determine if the contracting party has fulfilled its obligations. If the contracting party has failed to uphold the minimum standards to which it has committed itself then the Committee of Ministers can make **resolutions** inviting the contracting party concerned to rectify the situation and respect its international obligations. The Code and Protocol are subject to the same procedure for assessment of national reports. The Revised Code follows the same basic process as that developed for the Code but with a few important differences.

The Code, Protocol or Revised Code can have an important impact both on the national legislation process and the national judiciary in each of the contracting parties. When new laws are

passed, the experts in the ministries are called upon to check the compliance of the new rules with the prescriptions of the Code. If necessary, potential contradictions can be discussed with the experts of the ILO or the Council of Europe. **The influence on the national judiciary largely depends on the way rules of international law are implemented in the respective national legal system.** An international provision is self-executing (sometimes called “directly applicable” or “directly effective”) when it is clear, precise and unconditional. **In the case of the Code, the Protocol and the Revised Code most of the prescriptions leave the state parties a wide range of discretion on how to comply with their provisions.** These prescriptions are therefore insufficiently precise, conditional upon further acts of discretion and therefore not self-executing. For example, Article 10, paragraph 2, of the Code states that cost-sharing by the patient for medical treatment should be so designed as to avoid hardship. This does not lay down any precise levels on patient participation and would be dependent upon further definition by national law. However, there are some exceptions such as Article 68, sub-paragraph f, of the Code that states that benefits can only be suspended in the case of a willful misconduct of the person concerned, not in the case of gross negligence. This provision is clear, precise and effectively leaves the state party no choice in how it should be implemented. **It is important to stress that it is the national court that decides whether a provision in an international treaty is self-executing or not, the Council of Europe can not force a state to accept provisions of the Code, Protocol or Revised Code as self-executing.**

If an international provision is not accepted as being self-executing, it may still have an impact on how national judges interpret national law. This is because the national court may assume that, when passing domestic legislation, the national legislator would not disregard its international obligations unless this divergence from international standards is made absolutely clear in the legislation itself.

The preparation of national reports

Article 74 of the Code requires the contracting parties to prepare a national report every year. The article itself lays down a list of information that must be encompassed within the report; this includes statistical data on the:

- Number of persons protected;
- Amounts of benefit paid;
- Duration of unemployment benefit;
- Distribution of social security financing obligations between employers and employees.

The committee of experts has made the production of national reports easier by producing a standard format. This standard format first sets out the provisions of the Code and, wherever relevant, asks questions about the application of those provisions, such as “Please state whether the duration of unemployment benefit is limited and, if so, which are the limits or limits fixed”. The reports have to be completed in one of the two official languages of the Council of Europe, English or French. Copies of the national legislation that implements the contracting party’s obligations under the Code must accompany the report. This national legislation does not have to be translated into French or English. The structure of the reports required for the Code is very similar indeed to those required by ILO Convention No. 102. For this reason, contracting parties can usually satisfy their reporting obligations under the Code by submitting the same report they produced for the ILO.

The production of national reports requires a great deal of preparation. For this reason, it has been declared that **full reports**, produced according to the standard structure developed by the committee of experts, **shall only be produced every five years (one full report, four intermediate, and again one full report, a.s.o.)**. In the years between the contracting parties need only report any developments or amendments that have taken

place within their system. These reports on developments and amendments must be produced every year and supported by copies of any amended legislation. This is the same procedure that has been adopted by the ILO as regards Convention No. 102, which means that contracting parties to the Code may still rely upon the reports that shall be provided under the ILO system.

Supervision of the national reports

The completed national reports are deposited with the Secretary General of the Council of Europe along with copies of the national legislation. The Secretary General is free to request any additional information which may be necessary to assess compliance with the minimum standards established within the Code. The Secretary General sends the reports on to the Director General of the International Labour Office of the ILO. The Director of the International Labour Office then forwards the reports to the ILO Committee of Experts on the Application of Conventions and Recommendations, which is responsible for assessing the compliance of the national legislation with the ILO conventions. The committee is composed of twenty members selected from eminent labour and social security law experts from across the world. They include professors, judges and former government officials chosen by the Governing Body of the ILO for their thorough knowledge and objectivity.

This example of close inter-organisational co-operation between the Council of Europe and the ILO allows the Council of Europe **to benefit from the resources** of an internationally renowned committee of experts. It also ensures **a significant degree of harmonisation** in the application of the Code and ILO Convention No. 102, which is important considering these instruments are so similar in scope and substance. Once in receipt of the national reports the ILO committee of experts prepares its report and conclusions.

The conclusions of the ILO committee of experts are returned to the Secretary General of the Council of Europe and discussed by the Council of Europe’s **Committee of Experts on Social Security**. Over the years the name of the Committee of Experts on Social Security has changed, it is currently called the **“European Committee of Experts on Standard-Setting Instruments”** (known as the CS-CO). The CS-CO is composed of senior officials from the social security ministries of each member state and observers from international organisations such as the European Union. The CS-CO prepares its conclusions concerning the application of the Code on the basis of the report and the conclusions of the ILO committee of experts, which allows the member states to provide any extra information where this may be necessary. The report of the CS-CO is then forwarded to the Committee of Ministers of the Council of Europe.

The Committee of Ministers is also free to ask for the opinion of the Parliamentary Assembly of the Council of Europe. However, in practice this power has never actually been used (May 2002).

The Committee of Ministers assesses the conclusions of the CS-CO and decides, acting by a two-thirds majority, whether the social security schemes provided by each contracting party fulfill the minimum standards established by the Code. If it is decided that they do not then the Committee of Ministers shall produce a resolution asking the contracting party to rectify the situation. Failure to comply with this resolution will not incur direct sanctions but it will create political debate in the contracting state and will act as useful ammunition for social partners or opposition parties in parliament.

The process of supervision of national reports under the Code may be visualised like this: Contracting party prepares a national report National report is forwarded to ILO committee of experts Report and conclusions of ILO committee of experts are forwarded to the Council of Europe’s Committee of Experts on Standard-Setting Instruments Conclusions of the Committee of Experts on Standard-Setting Instruments are forwarded to the Council of Europe’s Committee of Ministers.