

**Human Rights in times of crisis,
the contribution of
the European Social Charter**

Proceedings of the Round Table

**Organised jointly by
The Conference of the INGOs of the Council of Europe
and the Service of the European Social Charter**

at the Ecole Nationale d'Administration (ENA)
Strasbourg 17th October 2011



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

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CONSEIL DE L'EUROPE

***Are human rights caught up in the crisis or can they
help us to recover from it?***

Through practical and symbolic examples (women's rights, right to protection against poverty and social exclusion, right to housing), the round table will seek to inform stakeholders and decision-makers about the challenges and opportunities of the current situation on the key date of the International Day for the Eradication of Poverty and the eve of the celebration of the 50th anniversary of the European Social Charter.

Introduction to the proceedings

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Eve Esquenet, student in journalism, has written down the speeches recorded in French and in English for making these proceedings

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Participants in the Round Table

Opening session

Mr François-Gilles Le Theule,
Director of European Affairs at ENA

Mr Jean-Marie Heydt,
President of the Conference of INGOs of the Council of
Europe

Ms Yvette Heidinger,
International movement ATD Fourth World

Speakers

Chair : Ms Annelise Oeschger,
Chair of the Human Rights Committee
of the Conference of INGOs of the Council of Europe

Mr Régis Brillat,
Executive Secretary of the European Committee of Social
Rights

Ms Samara Jones,
(FEANTSA)
European federation of national organisations working for
homeless people

Ms Csilla Kollonay Lehoczky,
Member of the Committee of Social Rights

Ms Elena Vokach-Boldyreva,
Representative of the Russian Federation at the
Governmental Committee of the European Social Charter

Mr Taras Poljanec,
European Action of the Disabled (AEH)

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Mr Luis Jimena Quesada,
Chair of the European Committee of Social Rights

Introduction

There is no *impermeable barrier* between economic and social rights on the one hand and civil and political rights on the other hand. This statement was made by the European Court of Human Rights in the case Airey in 1979 which was a real turning point as regards « *the individual's real and efficient protection* » in its social and economic dimension ¹.

But it looks like if, until today, the communication between rights is not really functioning.

All human rights are « *indivisible, interdependent and interrelated* » as said in the final Declaration of the World Conference on Human Rights held in Vienna in 1993 that has been a milestone for the indivisibility of rights.²

And nevertheless, economic, social and cultural rights remain largely under-developed, are always disputed and mainly ignored.

The European Social Charter has been adopted within the framework of the Council of Europe already in 1961 as a counterpart of the European Convention on Human Rights which is essentially devoted to securing the civil and political rights as stated in the Universal Declaration. This European Social Charter contains legally binding commitments for the States having ratified it and provides in addition a collective complaint mechanism regarding those States that have accepted this type of action.

¹ Case Airey v. Ireland 8 October 1979 in which the applicant, lacking means, had been denied the right to effective judicial remedy in a divorce case .

² United Nations Conference, doc A/CONF. 157/23 §5 , en, 12 July 1993

However, today when we celebrate the 50 years of this Charter, not all European States are parties to it nor to its revised version (42 out of 47) and only 12 did accept the collective complaint procedure (by the end of 2011)

Are economic and social right really taken seriously as fully-fledged human rights? The still very lively disputes and reluctances they are arousing , especially in our continent are well known. Let's recall some of them:

- they are said to be political aims rather than “ real” rights in the sense of *rights and fundamental freedoms* (as in the European Convention);
- It is said that they can't be legally secured in the same way as civil and political rights and that, as a whole they cannot be justiciable to a court at national level, and a fortiori at international level;
- they are said to require important provisions from the State and that their implementation can only have a progressive character according to available resources in each country.

It would be easy to go on listing the open or hidden objections to the full and plain recognition of economic and social rights and above all to their real implementation and to punishment in case of breach. We will not list here the very relevant answers that have been brought to these objections, but let's just quote two of them:

- These rights, for most of them, can be brought to a court, as it is shown by the jurisprudence in different countries; in addition, the European Social Charter, with its Protocol of collective complaints and the United Nations' Covenant on economic, social and cultural rights with its Protocol concerning complaints in this domain (even if both came very late) confirm that these rights, or at least those

being the most vital of them, are subject to be secured by legal or quasi legal recourse.

- These rights are neither optional nor conditional: there is an obligation to guarantee them up to the limit of the resources that have to be developed and allocated with priority to their implementation in all cases and without any discrimination, as it is stated by the UN Committee on social, economic and cultural rights.

This is why the initiative to organise for the 17th October, International Day for the fight against poverty and celebration of the 50th anniversary of the Social Charter, a Round Table allowing for discussion, assessment and planning future action was particularly welcome and useful.

- It has given the opportunity to listen to a direct and moving testimony about the way in which severe breaches of human rights have been experienced and the daily resistance to their effects;
- It was developed and organised by the European civil society represented at the Conference of INGOs which is grouping some 400 INGOs having participatory status at the Council of Europe;
- It has involved as partners and speakers:
 - Representatives of NGOs fighting every day for the promotion and respect of economic and social rights;
 - Independent experts members of the European Committee of Social Rights who are responsible for the monitoring of the implementation by the states of the rights that are guaranteed by the Charter and the staff of the Secretariat of the Council of Europe dealing with the good

functioning of bodies like the Committee of Social Rights and more broadly with the advancement of these rights in all member States.

- Members of the Governmental Committee of the Charter
- University professors, trainers and social workers anxious to make these rights better known and implemented.

Finally, with its open and rich debate, this Round Table has given the floor to participants allowing them to give their opinion on the current existing oppositions and barriers and to come up with constructive proposals for overcoming them in practice and for promoting social and economic rights.

It was obvious that, whereas the present world crisis is a real challenge for social and economic rights and as well for all human rights that are absolutely related to them, it does also question the credibility of the States' commitments and is a reality check for the real existence of these rights. What is at stake is to know, and above all to bring the evidence through concrete action that the difficulties that have been faced can be a new chance to give credit to these rights and to place them at the centre of politics and of "true democracy" (as it is written in the Statutes of the Council of Europe).

An opportunity for combating exclusion, for giving real access to rights for all, for developing a participative democracy where the human and social dimension is prevailing over the rule of finance and private interest.

A new dream for tomorrow, perhaps a new deal. It is up to each and everyone to transform this dream into reality by all means presently available at individual and collective level.

In this sense, during the Round Table – which was far more than just a mere event for a celebration- direct actors,

organised defenders, experts and trainers have made it possible through their communications and exchanges to reach a new stage and opening the way for an ongoing cooperation and a synergy between all actors involved in this meeting so as to give their real place to the economic and social rights and above all to make each person and society the owner of these rights. This meeting has also brought renewed encouragement and support to the European Committee of Social Rights for continuing its task with the necessary authority and boldness.

The publication of the communications of this Round Table, - the actors of which have to be thanked - is a support that is provided here for use in the steady fight for all human rights - without any exception- to be recognized and guaranteed to each person in each country under the vigilant monitoring of international bodies.

Jean-Bernard Marie

University of Strasbourg

Conference of INGOs of the Council of Europe

Opening session

Jean-Marie Heydt, President of the Conference of INGOs at the Council of Europe

Good evening. It's really moving to see you here this evening. We will begin our working session immediately and I invite Mr François-Gilles Le Theule, Director of European affairs at the National School of Administration (ENA) where we have the opportunity to hold our meeting in this room, to take the floor for his welcome address.

Mr François-Gilles Le Theule,

Some of you were students at our Ecole Nationale d'Administration, in the various cycles that are open to civil society and then, I had the pleasure, four years ago now, to participate in your work which was also organised here at ENA. I am very happy to welcome you to the ENA; it's your place tonight and it will always be your place if you are interested in European issues.

I just want to tell you three things. Don't worry, I will not give you a lecture, but since the work you are doing is quite an echo to the thoughts, studies and research that ENA is undertaking.

My first point is to tell you that ENA specializes in studying and reflecting on the European Union construction. It is the leading school in Europe being engaged in this work and this is very special, enough special for me to stress it. The French government entrusted the ENA with the task to contribute to the European construction. So we, although we are a school for public officers, we have a kind of political responsibility that goes beyond, far beyond teaching just the profession of

public officers which we, of course are doing. As I said, we specialize in European governance.

My second point is about the crisis and I just want to share with you some thoughts. There has always been a kind of divorce between European ideas, which are democratic ideas, - a concept that refers to citizenship, a concept full of ideal - on the one hand and on the other hand European construction in reality. The latter is a technical reality with experts and very often reserved to the elite of politicians or senior officials, who are making up daily Europe. Already from the beginning there was this separation, this antagonism between the desire to create a European citizenship and the realism that led Europe to become a very technical construction.

The current crisis disrupts this separation. It is putting the citizen at the first place, for the simple reason that we have no technical solution, no civil servant and no politician, able to resolve the current crisis. This makes that Europe has to reach back to its core values. This is the basic message on which we are working and that we are trying to convey to those who pass here, women and men who are politicians, government officials, often they are also representatives of the private sector, industry and civil society. The construction of Europe, from the origin on, is not based only on politicians and senior civil servants but also on the civil society, although technical aspects have limited the extent of dissemination of the European ideal among all citizens.

So we were in a situation of divorce between citizenship and the legal and political reality of the European construction and now we are in a situation where we must find a means for linking both together, as it is the only way for us to overcome the crisis; we have to rely more on the idea of citizenship. I will end with the next point. I participated in a debate

organised by some people in this room, broadcast over a radio, the Christian Radio France, a debate with Michel Barnier on the particular problem of debt: a sharp and technical matter of interest for a wide audience. The most used words in this debate were the words of truth and commitment. Truth and commitment, what touches us the most in these two words? They are not technocratic words, they really are full of humanity and words that you also are asked to use on a daily basis in your activities of Non Governmental Organisation.

Human Rights are as well based on truth and commitment.

On behalf of the Director General of ENA, Bernard Boucault and on behalf of all colleagues working at ENA and involved with us in this European project, I wanted to tell you how much we are interested in your work which is particularly in tune with our own reflections. We expect to have the results of your work and hope to be able to use them. Anyway, what I am sure of is that your work will be used to fuel our thinking and provide us with the courage to continue.

I hope that you will find for yourself during this evening, here at ENA, inspiration and courage to continue your work that is particularly important. I want to stress once more the solidarity of the National School of Administration with your daily work and your work over the long term. I thank you and wish you a happy, useful and exciting evening. Thank you.

Applause

Mr Jean-Marie Heydt *taking again the floor.*

ies Ladies and gentlemen, I have first to bring you, on behalf of Mr. Senator Mayor of Strasbourg, his best greetings and also his apologies for having to change his program in the last minute and not being able to join us this evening.

Ladies and Gentlemen, Excellencies, ladies and gentlemen representatives, as well of the Governmental Committee, of the Court, or of the Committee of Social Rights, colleagues and friends of the Conference of INGOs, ladies and gentlemen, let me first, thank again the Director of European Affairs of ENA because without you, Mr Le Theule, we would not be here tonight and I think it's really important to stress it. In the remarks you made just before we see how the work done by the civil society will have more scope when reflected in the work of the States. The Social Charter is one example of this. The fact that you invited us for addressing this evening the issue of human rights in the present crisis, demonstrates how links can be forged, because it's going in the sense of working together for people. That's what you said in your remarks, I will not repeat it but it's actually also the spirit in which I wanted to say a few words tonight.

I welcome now some two hundred participants from twenty different countries. I think that twenty different countries in this room, - even if otherwise, at the Council of Europe we are used to work with up to forty-seven member States,- actually, for this evening, it has to be underlined and I wanted to stress it and tell you how much the Conference of INGOs of the Council of Europe appreciates this important moment.

As we know very well, national NGOs, are constantly and actively mobilized for the poorest ones, the excluded ones and for refusing misery. Each year we use to engage heavily in this issue, including at the Council of Europe, but not only, of course. I take this opportunity, on this day of 17th October to remind our fellow citizens in all member states, that this reality, this scourge is a scourge that must be fought against constantly.

We have also to remember that there are rights, rights enshrined in international treaties and that we have to rely on them and act with them in reality.

That's why this year we wanted especially to mark the 50th anniversary of the European Social Charter, a great tool to ensure that everyone, every man, every woman, has the means to live in dignity and take their responsibilities.

We have chosen October 17, World Day to Overcome Extreme Poverty, for this meeting because, as you know, in 1992, the UN General Assembly proclaimed this day of 17 October as World Day. In 2006, in his report on the celebration of this day, the Secretary General of the United Nations said, that "people living in extreme poverty are defenders of human rights and agents of change ". He also stressed the importance of a rights-based approach and the need for effective participation of people living in poverty.

I think that there is no need to invent new studies, new legislation, to hide behind some sort of excuse or institutional prerequisites; tools and mechanisms do exist, they exist, even though they could still be improved which may be sometimes necessary. But despite their existence today, we have to observe the sad situation of a number of

people in Europe, more and more living in poverty and forced to fight for their survival. As an example, just some figures: in the European Union alone 116 million people live in poverty and 42 million "under conditions of extreme poverty" as noted in the "2011 Datenreport of Sozialbericht für Deutschland" which has just been published, showing how it is becoming increasingly difficult for people living in poverty to overcome it.

In a joint action undertaken by people living in poverty and organisations, it has been requested several times that the Articles 30 and 31 of the Revised European Social Charter, that is to say, the articles on the right to protection against poverty and the right to housing, would belong to the series of articles that are compulsory for all States when they ratify the Charter. We did this request in more than one occasion in particular, in collaboration with the Congress of Local and Regional Authorities of the Council of Europe and other social actors. We continue to work, - the services of the Charter know how strongly- , for these two items to be now included in the hard core of the Charter and become therefore mandatory and imposed on all the States ratifying the Charter.

As NGOs, we have a great responsibility in the implementation of the Charter, for example through collective complaints. I think that it will be one of the topics of the Round Table we have just now. The first responsibility is to make that rights become reality. This responsibility rests with the States and this even more in times of economic downturn, when budgets are reduced to a trickle. The most vulnerable groups should not be treated as second class citizens that could be sacrificed. Ways have been found to save the banks, to save the financial system today, how could we then imagine that we would not find

the means to organize our societies so that each child can blossom and each adult contribute to the life of the community in which he/she is living. So, yes, INGOs can only support projects such as the one of a tax on financial transactions. It is estimated that the income would be 30 or 50 billions a year. We imagine that a little bit of this money could also help improving the situation of people living in extreme poverty.

The question is whether the fact that insecurities are growing, that panic is gaining the economic, political and professional sector, whether all these factors together would not make us lose sight of what is paramount, the human being. People should be at the centre, so was said here earlier. The human being, even very poor, is at the core of all institutions and it is for this human being that our policy instruments are existing.

The Council of Europe has done much work on the deeper meaning of human rights. To conclude I will quote only some sentences of the report "Access to social rights in Europe" of 2002 which is presently more relevant than ever: "It is important to remember that human rights are fundamental rights of non-majority nature, that is to say, they aim to protect everyone, not just most people. In short, these rights are recognised to people because they are part of the human family. "

This is why this evening with our guests whom I warmly thank for having accepted to join us, especially during this so busy week, we will try to give more force to the real implementation of the European Social Charter.

I suggest now to continue with the intervention of Yvette Heidinger, the International Movement ATD Fourth World.

Ms Heidinger

Good evening!

When I see you in this room, from different countries in Europe, I am saying to myself: fortunately there are still people fighting for human rights.

I live with my husband near Strasbourg. We are members of the group of the unemployed and have participated in demonstrations against the expulsion of Roma people in France, because it is a terrible injustice.

We, during two years, we were living in the streets. So we can feel what it means to be hunted, to suffer the separation of fathers, mothers and children.

And I also read what happened in the time of the war in the 40's. It's like if the same scenes were repeated, even if it's another situation. In France more and more people have no choice but to live in mobile homes or tents. More and more people are struggling to get health care. The State cuts the budget for social housing and for organisations supporting homeless people.

More and more children leave school without a minimal education. The illiteracy rate has increased and staffs for supporting children who learn with difficulties have been suppressed. It is like abandoning a portion of the population while we are always fighting for our children to have a better life.

I am interested in what happens, I am watching and I read different newspapers. This allows me to see the trends for the poorest. I have deep concerns for young people. Those without training cannot find even lower jobs so as to survive.

And faster and faster we treat the very young ones as criminals and deprive them of true justice. This is a danger for equal dignity and democracy.

Human Rights are in turmoil. And as to the crisis, authorities are playing with it and take people like Roma as scapegoats. They are always after the most vulnerable ones and it is always the poorest paying the highest price. Recently a colleague of mine said: "Poverty is not the fault of my neighbour who is a Roma, who is Turkish. Poverty does exist because we do not take people seriously". We also see this in Somalia and other countries where we let starve thousands of people.

We seek to be supportive. This is the meaning of the 17th October, World Day to Overcome Extreme Poverty. The basic issues here and there are the same. The world of politics does not take into account what the poor are experiencing. Human rights are there for making that the poor are not the victims of all these financial and economic policies present and future.

Human Rights are a thing that is only efficient if we work for it together.

Human rights are the defenders of mankind, a guarantee of freedom.

I brought the Guestbook on 17th October in Strasbourg and I invite you to sign it at the end of this evening. On the first page Joseph Wresinski's appeal is written down; he grew up himself in poverty and started the day on October 17 in 1987:

"Wherever men and women are condemned to live in poverty Human rights are violated.
Joining together to enforce them is a sacred duty."

The call for joining, so clear, causes loud applause as Ms. Heidinger goes back to her place.

Mr Jean-Marie Heydt takes again the floor for inviting Ms Annelise Oeschger, Chair of the Human Rights Committee of the INGO Conference of the Council of Europe to lead the round table.

Ms Annelise Oeschger

Thanks to all of you for being here this evening where we are looking together for answers, for arguments, demonstrating that Human Rights should not be cancelled by the crisis but that, on the contrary, they should help us to overcome it.

What we just have heard was so strong that it is not necessary to make any other comment. This is why I am now inviting the participants to present themselves. Then we will have a short presentation of the European Social Charter and after that, each participant will tell us what he or she thinks to be the most important as to our topic.

Mr Taras Poljanec

Good evening, Ladies and gentlemen, my name is Taras Poljanec. I am coming from Slovenia and I am a member of the organisation called European Action of disabled people.

Ms Elena Vodach-Boldyreva

Good evening, my name is Elena Vodach-Boldyreva. I am representing the Russian Federation at the Governmental Committee of the European Social Charter. I am working at the Ministry of Health and Social Development of the Russian Federation, I am a civil servant. I prepared the signature and the ratification of the Charter during nine years; it was like being « pregnant » of the European Social Charter during

those nine years! Now we have signed and ratified this document which is a very important step in our life.

Ms Csilla Kollonay Lehoczky

I am Csilla Kollonay Lehoczky, coming from Hungary. I am a member of the European Committee of Social Rights. I cannot emphasize enough the pride and commitment that this membership means to me due to the importance of the act of the Signatory Parties in 1961, fifty years ago, to establish social rights as a corollary to civil and political rights. As a professor of law, I am teaching labour and social rights at two different universities in Hungary. One of them, the Central European University, is an international post-graduate university where human rights and social rights, equality and equal protection have a core place in the curriculum.

Ms Samara Jones

Hello, my name is Samara Jones and I work at the European Federation of National Organisations working with the homeless, which acronym is FEANTSA (in French, la Fédération Européenne des Associations Travaillant avec les Sans-Abris). I am responsible for our work on the right to housing and in particular, working with our organisations and getting them to look at social exclusion from a right based approach. We are also involved in the Council of Europe where we have brought some collective complaints that have been very successful.

Mr Luis Jimena Quesada

Good evening, my name is Luis Jimena Quesada, from Spain and I have the honour to chair the European Committee of Social Rights. I will tell you a little story: I was in Strasbourg for the first time in 1992 for preparing my university thesis on the European Social Charter. At that time the offices of the Charter were not at the Agora, which is a very modern

building, but just in some shabby shacks. This shows that the indivisible nature of all Human Rights was not yet taken for granted as we were just located opposite to the European Human Rights Court. Things are changing now. I was there as a student and now I have the privilege to be an actor, as all of you, NGOs, social partners, members of the Governmental Committee are actors. We are all working for the European Social Charter. Thank you.

Ms Annelise Oeschger: Thanks to all of you. I now invite Mr Régis Brillat, Executive Secretary of the Committee of Social Rights, to make a short presentation of the Charter.

Mr Régis Brillat *launches a slideshow*

Thank you very much, good evening to all. Among the moments that we live around the anniversary of the Charter, there are some very happy ones and others that are more difficult. One of the most difficult is to present the Social Charter in three minutes! Let's start right now so that the panel has time to speak.

The European Social Charter is a treaty that is in force since fifty years, since 1961 and we will see immediately the context in which the Social Charter operates. The two main dimensions of the developmental context of the Social Charter are the Council of Europe and the Convention on Human Rights.

First dimension: the Council of Europe.

It has been said earlier that the European Union construction is at the heart of the Ecole Nationale d'Administration. At the Council of Europe we have an

even broader dimension since there are forty-seven states participating in the work of the Organisation. The next slide shows the flags of these states. These states are of course interested in the Social Charter. Currently forty-three of them have ratified the treaty, but major efforts are conducted with the other four states to make them in turn ratify the Social Charter.

The Council of Europe has three goals set by its Statute, democracy, rule of law and human rights. What is important to the Council of Europe is that these three goals form a whole and that we do not work in favour of one or the other of the goals of the Organisation but that all the three are respected and achieved simultaneously.

The second dimension is Human Rights. We know well the European Convention on Human Rights and the European Court of Human Rights which constitute the major part of the activities of the Council of Europe in the field of human rights. But the Social Charter, because of the principle of invisibility of Human Rights is also an important dimension of the protection of fundamental rights.

So let's see how this Charter does work.

To get to the point, I will present three aspects. It is primarily a treaty which declares the rights, then it is a procedure for identifying situations of violation of these rights, and finally, it's a text that allows for remedying these violations. It's easy to understand that these three aspects are interrelated. The first would be meaningless if the second did not exist and the second would not be effective without the third one. It's the combination of these three dimensions that gives strength to the treaty.

The rights, which are they? They appear on the screen, I read them out briefly: housing, health, education, employment, social protection and non-discrimination. The Charter provides a full range of rather complex rights, which are linked to each other for achieving a whole set thus contributing to the indivisibility of rights. We know today, October 17- and it was recalled with strong testimonies - the importance of each right and the fact that non-compliance with any of the rights has always an impact on compliance or failure to comply with other rights. That is why the Social Charter, although it is often considered as less important than the European Convention on Human Rights, is of great importance and, I am sure, that it's in fact a prerequisite for a perfect efficiency of the European Convention on Human Rights.

Proclaiming the rights is a good thing, but finding the violations of these rights is even better. To identify situations of violation, situations in which individual rights are not fully respected, we call on the European Committee of Social Rights. We have the standard procedure of reporting and also the collective complaints procedure which we have already spoken of and to which we will come back at the round table.

But once we have identified situations that do not conform to the Charter, we must go further. The States must be obliged to change these situations. The Governmental Committee, composed of representatives of the States has here a key role, since it is within this committee, through the pressure that states exercise the one on the other, that compliance may be achieved. Of course, the Governmental Committee is linking with the Committee of Ministers of the Council of Europe, the main body of the Organisation, which is also very active in this area. One of the axes of the

celebration of this anniversary is to encourage the Committee of Ministers to become even more active. We have to welcome the fact that it has adopted a very important political declaration in which it states this dimension of its activity. The Parliamentary Assembly also plays a crucial role since it is the democratic body elected by European citizens, which allows for the contribution of individuals to the functioning of the Council of Europe, through their representatives.

The final point I would like to mention is that the Social Charter is not isolated. It works of course with the European Convention on Human Rights but it is also linked to the European Union, with the EU of 27 States, which is increasingly involved in the defence of fundamental rights. The Social Charter is also linked to the United Nations, the Universal Declaration of 1948, but also the two UN Covenants, the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights. It is obviously related to the International Labour Organization and other United Nations conventions.

But the real incarnation of the Social Charter is in the laws of the States, because it's with the daily implementation in the different States of the Council of Europe that the impact of the Social Charter can be promoted.

I conclude by giving you the website address where you will get more information as what I just said would require more details. www.socialcharter.int

I give the floor to the round table.

Ms Annelise Oeschger

Thank you very much Mr Brillat. It is right to applaud you because you are one of those most committed to the Social Charter. I think most of us know of your commitment. You have travelled around the countries of Europe and are working today at the Council of Europe precisely to publicize, enforce, appreciation and we can even say, to love the Social Charter. Many thanks to you.

We'll start. I invite you to write down all your comments and questions about the different interventions that you will have now the opportunity to hear, you will be given the opportunity speak later on in the evening, during our exchange. I now give the floor to Samara Jones.

Ms Samara Jones, European Federation of national associations working with the homeless (FEANTSA)

First of all, thank you again for inviting FEANTSA and myself to make a presentation this evening. Obviously the 50th anniversary of the Social Charter, indeed calls for important celebration. It is very interesting and not easy to talk about Human Rights in the context of the crisis perhaps but, very important in the current and ongoing economic crisis, which is likely to push people in extreme poverty, even further to the outside and which can bring people from the middle classes dangerously close to the edge of poverty and homelessness. It is crucial that institutions like the Council of Europe, play their role of champions of Human Rights, even more strongly than usual.

In times of economic crisis like this, governments tend to put the breaks on the most progressive policies. That means that governments make drastic cuts to public spending.

Governments cancel policies that guarantee access to rights or they establish new policies that limit rights, or they slash the budgets for services that help people access their rights and insure people to live their lives in safety and dignity.

Obviously, the people we work with in FEANTSA with our members across the twenty-seven, - I think we are twenty-five member States within our membership -, are people living in extreme poverty. People living in poverty and homelessness, are very hard hit by these changes in government policy and the slowing down of progressive policies. For example in the UK, housing advice services and legal aid services that have been a place for people in housing difficulties, have had their budgets slashed by 50%, and this, at a time when the number of people looking for help from homeless services has increased by more than 15%.

How do we prevent this? How do we prevent regression in terms of Human Rights in these times of economic recession? We, as NGOs, have to call on institutions as the Council of Europe to be even stronger, to support more litigation from NGO's and to make decisions to challenge perverse policies that limit access and enjoyment of Human Rights across Europe.

From my point of view and for many of the NGO represented here or within the framework of the Council of Europe, the institutions and the instruments of the Council of Europe are very important to us, to insure that people living in Europe can do so in dignity and freedom from oppression. The Social Charter and in particular, the collective complaint mechanism is a very interesting tool especially for international NGOs.

FEANTSA has used this to the advantage of our members on two occasions so far: once against France and once against

Slovenia. Both complaints were successful and they are important decisions from the European Committee of Social Rights and have helped to bring about important changes in both, France and Slovenia. But how can we make progress? How can we build on the success of the past fifty years? Again, I say that we see an even stronger role for the Council of Europe, for the Committee of Social Rights and for the INGOs too.

The importance of these decisions on the collective complaints has been evident; FEANTSA asks the Council of Europe and the Committee, to be even more active champions of Human Rights. We as INGOs and our members are prepared to work together, to exploit the potential of the social Charter, especially the jurisprudence that arises from the decisions of the Committee of Social Rights and of the European Court of Human Rights.

That the Social Charter can instil policy and case law resulting from complaints put to the Committee is also an exceptionally useful tool. However, social NGOs across Europe rarely have the time and the resources to be able to adequately exploit this process, this opportunity. So, if the Council of Europe and the Committee are looking for ways to improve, we suggest that it help to create a list of legal expertise, to help make case law more accessible. There have been dramatic improvements in the past ten, fifteen years, of course. It is going in the right direction but, to make the case law and the pathway to justice more accessible for NGO, to help link lawyers who are interested in helping NGO to take cases; this sort of things would be tremendously helpful. The NGO can step up too. They can bring more cases; they can use the collective complaint model to start taking individual cases to national Constitutional Courts and then, bring them to the European Court of Human Rights, here in Strasbourg.

We think that the link between the Convention on Human Rights and the Court and the Committee of Social Rights should be strengthened because, unfortunately, member States are often more likely to respond and react to the decisions from the Court, then from the Committee. In our own experience we have seen member States, governments like Slovenia, stall and drag their heels to make the changes that are required, in terms of mediation.

More concretely, when it comes to the right to housing, we think that perhaps we could bring together within the Council of Europe - and the Charter Secretariat could help us - experts on the specific issue of the right to housing. Experts could perhaps publish a paper that would help NGOs, guide them and connect them to legal professionals. On the other hand, we also know that there is a drawback, the Charter has not been ratified by all countries and not everyone is bound, especially to the protocol of collective complaints. That is important too and it is not easy to get NGOs on board to campaign on that, with all the other things on their plate. When it comes to Human Rights, NGOs and in particular organisations working with homeless people in our sector, have an ambivalent relationship to Human Rights.

Service providers like FEANTSA's members, do not usually approach their work from the Human Rights based approach. It is both time and resource intensive to educate them at local or national level to look at their work in the context of Human Rights. Furthermore, some organisations might be worried that following the path of a Human Rights approach and taking cases to court, might backfire. It might take too much time; it might devote resources in the wrong direction. They worry that it might result in a jurisprudence that could work against them.

FEANTSA is dedicated to helping our members, overcome their scepticism to the Human Rights approach to eradicate homelessness. We can mobilise our members but, the institutions like the Council of Europe share this responsibility. We need support and expertise.

In conclusion, I just want to emphasise that the decisions have been very important and we will continue to work closely with the Council of Europe and the Charter Secretariat, as we have already done. I would like to add something to the point about the European Union. We think that the Council of Europe needs to be a guide for the European Union, especially when it comes to social rights. Now that the EU has its own Charter of Fundamental Rights, it is good, but it is unchartered territory for the EU institutions. They do not know how they can best use their own tools. For example, they have the right to housing assistance enshrined into the EU Charter and it is a great complement to the Social Charter. How can the Council of Europe and the NGOS work together to develop jurisprudence or get decisions, to make this right a reality for people across the EU?

I think we can and we must work together, especially during this prolonged recession, to use all the tools at our disposal, to prevent regression and to ensure the rights. Social rights in particular, are not to be eroded.

Thank you.

Applause

Ms Annelise Oeschger thanks Mme Samara Jones for her so interesting observations and good proposals and invites Ms Csilla Kollonay Lehoczky to take the floor

Ms Csilla Kollonay Lehoczky

Good evening.

I would like to thank you for the opportunity and the honour of being here and share with you a few ideas about the Social Charter in relation to the economic crisis. It may sound bizarre but the crisis offers a good opportunity for all of us to underline the growing importance of the protection of the Human Rights embodied in the Social Charter. Furthermore, even if by necessity, it may lead toward innovative solutions in protecting the rights of the weakest groups of the society.

In times of crisis, each government indeed, has to decide about budget cuts. As a rule, the first idea is to cut public costs, public expenditure. That predominantly means, decreasing the budget allocated for social tasks of the state: health, education and all social transfers. No one thinks that such cuts would be the most efficient step to manage the crisis, no one says, that these tasks are not important. The budget is reduced simply because it seems the easiest for all governments: the affected groups are weak; their power to resist or to lobby for their interests is low. If we consider the results, we see that these cuts may, in the long term, not solve but rather deepen the crisis. Thus they are not serving the interest of any country, especially when they reach young people and young generations, and in general the weakest groups of the society and are undermining cohesion and solidarity. Just a couple of weeks ago we could see the demonstrators in Madrid and their banners protesting against cutbacks in education. The slogan was: «one teacher less today, four police more tomorrow». A threat to civil rights and security. It has to be helped by the civil society that eyes of responsible decision-makers open to real solutions.

The next idea to address is: what connects the social groups that are represented at this conference today? There are three groups, homeless people, persons with disabilities and women. What is common in these three groups? It is not only their particular vulnerability to the crisis, that might be shared with other vulnerable groups, but also the pain added to their hardships aggravated by people's attitude, even by benevolent actors. Action is frequently taken above them, without them and frequently resulting in disappointing outcomes. It is very important to abandon any paternalistic approach and to involve these groups throughout the whole decision making process – as is expressed now in Article 4(3) of the Convention on the Rights of Persons with Disabilities, hopefully transpiring to all similar processes.

Next, I will address each group and say a sentence about each of these groups separately.

Homeless people perceive homelessness as a deep violation of their right to dignity that is an inborn, inalienable right of everyone, the core substance of all human rights. That means, to have a home – providing physical protection and a minimal level of privacy - regardless the level of education, income, or employment, whatever- it is an indispensable precondition to dignity. The existing massive violation of this fundamental right has increased with the crisis: the collapse of home benefits and loan structures has resulted in people and families becoming unable to pay their loans and other payments and being put on the street in several European countries. Therefore, the provisions of the Charter protecting families in precarious situations, restricting and indeed preventing forced eviction, are gaining increased importance.

Besides the indispensable preventive measures the existing and aggravating situation requires a renewed view of the group of homeless people. It has to be seen that being

homeless – its visible signs, the stereotypes, irrational fear and hostility attached to that attribute - is already resulting in discrimination in everyday life, access to services, employment, health care. Their discrimination approaches and even exceeds the level of traditional and historic race discrimination. While hardly any shopkeeper would dare to stop a person from entering his shop due to the colour of the face, this happens often with persons who “look” homeless. Thus, both in law and policies, at national and international level, new approach is needed that, on the one hand, includes homelessness into the catalogues of prohibited grounds of discrimination, and on the other, adopts positive measures to prevent and eliminate such discrimination through all adequate means and assistance, including the obligation and education of public administration and law enforcement authorities to adequate attitude and conduct.

Then, we come to women. Frequently they are the most hit by the crisis. This is true to a great extent in the area of employment, where the availability of secured and decent jobs is shrinking. Women are the first to be pushed into the informal, unsecured and low- paid jobs, with bad working conditions. At this point we can see the connection between the situation of women and that of people with disabilities. Both these groups are belonging to the main component of what is called the peripheral labour market, exposed to increasing flexibility and decreasing security- and thereby creating a competition for the core labour force. If the interest of these groups is not protected very soon, the conditions and security of the core labour force could melt and be lost. Therefore, it is not an overstatement to say that the frontline of protecting the core labour market (frequently labelled as the “ insiders”) from aggressive cuts resulting from the crisis is the protection and even improvement of the employment

opportunities and labour standards of women and people with disabilities.

The European Committee of Social Rights has consistently emphasised in its documents that equality for women has to be guaranteed, not only in theory *de jure* but also *de facto*. However this needs positive action that underlines again the connection between the two groups. It cannot be emphasized enough that

in case of both women and persons with disabilities we are not talking about “protection” or “positive discrimination” but rather about positive measures that level the playing field for them so that they have opportunities that are equal with others’ and they can compete with others under equal conditions.

People with disabilities have contributed a lot to the development of equality theory and advocacy, a great thank is due to them for that. Let’s take the concept of equal treatment: the concept of reasonable accommodation has made it clear, that equal treatment does not mean uniform treatment, but instead, it means treating everyone with respect to their differences. Taking a ballot box to a sick citizen on election day, putting a ramp on the stairs – this is not more than equal treatment, with respect to difficulties that do not emerge for the majority. Similarly, taking positive account of other existing differences deriving e.g. from biological difference of sexes, is, indeed, not different from equal treatment. This concept was emphasized many times by our Committee, first and above all in collective complaint No. 13/2002 Autism Europe v France, it may illuminate the road for treating other differences.

My closing statement is to emphasize the necessity of enhancing the efficiency of the implementation of the Social

Charter. This is not possible without progress in the ratification of the Collective Complaint Protocol. Countries must ratify it not despite the crisis, but because of the crisis. These are not my words, they are the words of the Secretary General of the Council of Europe in his opening address of the Forum in Cyprus a few days ago and one cannot more agree with that.

Europe has serious problems and as one possible way out of the crisis a tighter, a more federal type union is suggested with more power allocated to the institutions of the European Union, including the Commission, the Council and the Parliament. In case of such a development the powers should include not only mandatory measures in the area of finances and budgeting, but also, in the area of social policy. I was glad to read these ideas expressed by Martin Schulz, President of the European Parliament. As he said, strong resistance by governments may cause difficulties in creating such a Europe and for this reason he appealed to the people of the European Union. He called on for mobilising for this idea, to convince and pressure governments to reach this goal of social integration. True, without a social Europe, it is impossible to create an integrated Europe. But, in order to have a genuinely social and cohesive Europe, considering the accession of the European Union to the Social Charter and not only to the Convention is an indispensable precondition. Maybe in the long term, but at some point it has to happen, if European integration is a serious idea.

Thank you.

The round table goes on with the presentation of Russia

Ms Elena Vokach- Boldyreva, representative of the Russian Federation at the Governmental Committee of the European Social Charter

Hello,

As we just said, we are experiencing difficult times with the financial crisis, slowing down economic growth. Public debts in many countries not only have led to negative trends in the social field, but these factors have also exacerbated social inequalities. Declining purchasing power, erosion of social protection systems for a large majority of the population, have made it more visible that in many states, only 1-2% of the population owns between 40 and 45% of the national wealth and the gap continues to widen. Social cohesion of our societies is threatened by increasingly high social tensions. These tensions, in turn, encourage very negative phenomena that appeared to be almost forgotten in our country. I refer to xenophobia, racism, conflicts with ethnic or religious basis.

The crisis has resulted in different responses in different countries. Generally, the answer is to carry out austerity policies, which primarily means the compression of wages and benefits, including pensions.

But in Russia we have refused to follow this line of apparent simplicity that we consider dangerous, not only socially but also economically. Of course, we must try to increase the efficiency of public spending, to clean up banks and businesses, but not at any price.

We believe that in the era of globalisation, a truly sustainable and harmonious development is possible only in companies that strive to ensure the welfare of citizens and fight,

effectively, against the destructive forces of hatred and social disharmony.

We must not forget that without consideration of social problems, economic growth cannot by itself reduce social tensions. Inequality, poverty and instability can in turn make them worse. Even in times of relative prosperity, many people, including in Europe, have no access to basic benefits of modern civilization like comfortable accommodation, quality education, and effective health care and correct pensions. The social and economic equality between men and women everywhere is not guaranteed, the rights of children and persons with disabilities are not always guaranteed.

In this context, we believe it extremely important to all people, especially vulnerable groups, to have access to social rights. Moreover, it is logical that at European and international level, we promote a similar interpretation of human social rights. This approach allows us to conduct a fruitful exchange of experience, to take coordinated decisions on concrete problems and to implement joint programs, particularly in the context of international and interfaith dialogue.

We must also go on developing the principles of the authorities' social responsibility at central, regional and local level. We must focus our attention on the problems of the most vulnerable population groups, namely children and adults with disabilities. This priority has brought us to revise the State Budget. Whereas state spendings declined somewhat, credits for social security in Russia have even increased slightly.

It is in this context of crisis that we have ratified the European Social Charter. It was a deliberate choice. This confirmed the

commitment of Russia to the European social achievements and its commitment to be a welfare state, as proclaimed in its constitution. It is no accident that Russia ratified in 2010 the Revised European Social Charter, which is rightly regarded as the "second constitution" of the Council of Europe after the European Convention of Human rights. Now Russia, like other countries that adopted the Charter, must report to the relevant bodies of the Charter on the obligations it has taken as to social protection and employment, by ratifying a number of articles of this legal instrument of the Council of Europe.

The package of measures against the crisis, predicted an increase in financial support given to citizens who have lost their jobs or are about to lose it.

The maximum unemployment benefit has increased for example, by 50% in 2009. The year in which the Russian economy decreased by more than 7%, the government has taken from the federal budget, 44 billion rubbles to provide additional assistance to jobseekers, particularly in the form of a priority support for training for those wishing to start a small business, job creation and assistance to job mobility. Similar measures were also taken as part of special programs, established by regional authorities.

The most spectacular aspect of this policy was the increase in pensions in 2009-2010, in average by 30 to 40%.

We have also taken new measures and introduced new services to boost the birth rate including a provision for the second child we call "maternal capital". Currently, the amount of this benefit is 9000 Euros and access conditions have been considerably relaxed. In addition, huge investments have been made in the areas of health and education.

Of course, these policies and measures have not been able to

counteract all the effects of the crisis which is a global crisis. Russia is an open economy; it is part of the global economy and the global crisis has touched it. But maintaining the purchasing power of the population and increasing the protection of vulnerable groups have played in its favour. Economic growth did resume, the budget deficit was reduced and inflation remains relatively low. What is even more spectacular is that the positive demographic trends that emerged thanks to the active social policy of the Russian state, is still continuing. Slowly but surely, the birth rate is rising while mortality declines.

To summarize, I would note that social rights, as a very important part of human rights, must be protected and even enhanced, particularly in the context of the crisis. This is a lesson we learned from the Russian experience which I have just made the presentation of.

Thank you for your attention.

Ms Vokach-Boldyreva is applauded by the audience for this testimony and the figures and details she has given.

Ms Annelise Oeschger

Thank you very much Ms Vokach-Boldyreva. You are aware that the Conference of INGOs held a very important programme over three years in Russia. Part of this programme involved precisely, the European Social Charter; Russian NGOs did cooperate with the Conference of INGOs and it is very important for us to learn from this commitment that is, from a certain point of view, countercyclical. Maybe you can later give us the best arguments that you and your colleagues have used to do so.

I now give the floor to Mr Taras Poljanec.

Mr Taras Poljanec, European Action of the Disabled (AEH)

I will try to be short. My organisation is very much concerned by the problems deriving from the current situation in the European society. The Social Charter deals very specifically with disability in its article 15. It is about access to education which is a good basis for life, access to vocational guidance and vocational training. In another paragraph this article is on the right to work, access to the labour market, so that people get their own job. This means that they have their own financial resources providing them with the opportunity to live their whole life independently. Work provides access to the feeling to be a full member of the society and to live a full life. It allows people with disabilities to take their responsibilities for their own life and for their close relative's one. The third paragraph is about the right to be a part of the society.

Presently I am observing a problem. The organised civil society is pushed away from the decision making process. We can observe it as well in the Council of Europe as on the level of the State's governments and on other lower levels. We are pushed away. We are not listened to. We have our own wishes, we know our needs. How do we think that we can change the situation? How can we improve our lives and what can be our contribution to changes in the society? When considering the things in this way we have really good instruments: the European Convention of Human Rights and the Social Charter. These are two legal instruments, ratified by the States, even if some States did not yet ratify all paragraphs of the Charter. We can base our requests towards the states on these legal instruments. We have heard we have a system of collective complaints which is one way to go and on the

other hand, the States are obliged to report on how they respect and guarantee the rights enshrined in the Social Charter. The organised civil society has a possibility to write a shadow report about the implementation of these rights, to note, from grass roots level point of view, what is correct in the report of the States and what is not. This is also a way how we can contribute as an organised civil society to improve the situation. I will not be very much longer in my speech, I think we all have a possibility to bring about changes and we all have the responsibility to work on these issues and to help. The organised civil society can help European States and societies to build up together the new Europe.

We also have to reach a new agreement between all social stakeholders in Europe on the basis of new and old values, we have to join with others for participating in the decision making process; we have to promote a fair distribution of new created added values in economy, to take over the responsibility for our own way of living.

Thank you very much for your attention.

Ms Annelise Oeschger

Thanks to you.

We will now give the floor to the public. Jean-Marie Heydt and Marie-José Schmitt will pass you the microphones. This is also the opportunity to say a big thank you to Marie-José Schmitt, the European Association for the Disabled, because it's really thanks to her that we are gathered here this evening and that this meeting can take place.

Mr René Lederman, representative of the association
European Network of Social Action, ESAN.
Good evening,

I would like to thank everyone involved in this round table; it was very interesting. I wanted to speak about the programme of help to the poorest known as PEAD. It seems to me that the topic of this evening is fully online with the International Day for Eradicating poverty. As you know, the European Court of Justice, alerted by five States delivered its verdict: brutal suppression of the programme in 2013 and a decrease in subsidies is already expected for 2012.

A food disaster threatens millions of families, children, youth and seniors who are only eating thanks to this European programme PEAD. For example in Europe, this includes 13 million people and in France, 4 million. They get food in France through four organisations, food banks, the French Red Cross, the "Restaurants of Heart" and the French Secours Populaire, which also is a member of the European Network for Social Action. These European associations that distribute this support permanently are indeed the first barrier protecting from distress. They work in specific areas of health, education, housing, etc ... Everything leads to think that food aid is the first lever for the poor to raise their heads. In a common text of last June, formulating proposals for the future of the programme, the four French associations authorized to distribute food aid wrote: "The programme, as an essential component of food aid is also often one of the supports for promoting the integration of people in situations of precariousness".

Things are moving on now. There was recently a meeting in Germany, with representatives of the German Organisation, representatives of the French Organisation and the French

Minister of Agriculture. However, the danger remains -even if things are progressing including notably October 20th, with a meeting of Ministers of Agriculture-; but currently we are still in a terrible situation. This brings me to my question. What can we do, we, as an organisation, for finding solutions, to promoting decisions? How to avoid adding a crisis to the crisis?

Thank you.

The microphone passed from hand to hand to the next speaker.

Mr Alain Mouchoux, Vice-President of the Conference of INGOs at the Council of Europe

Good evening,

Naturally, we are moved and very touched by the description of the misery we also meet, when leaving this room on a daily basis. It is a constant call on INGOs but also on all social structures.

I wanted to share with you a comment. The title of this conference is about the context of crisis. However, it should not mean that we limit our interest only to the effects of the crisis. Prior to 2007, while there was little talk about "crisis", there were nevertheless homeless people, there were discriminations against women, there were youth having no job, there were unacceptable urban violence. We should not give the impression to look at the problem of the crisis just because it reveals the horrors of our society with its inequalities. Obviously, the crisis worsens significantly the situation of people who are already discriminated against.

I think we should acknowledge the existing structures, those of the Council of Europe in particular, but we have to consider

to which extent we can change the operating structures of our society. The role of policy makers has to be determined. We will leave this room with the feeling of having said excellent things, shared outstanding ideas. But the problem has to be tackled on its bottom: will our societies be able to get out of the crisis still referring to fundamental values that we are supposed to have in common?

Thank you

Mr Veysel Filiz, COJEP International, with its new name: "the Council for Justice, Equality and Peace"

Good evening everyone,

We just come back from the Forum for Democracy held in Cyprus, on "the interdependence of democracy and social cohesion". There too, the questions revolved a lot around the economic crisis, and even more around the social crisis that today affects all of us. Our aim there was to raise the issue of the relationship between the difficulties we are now talking about and the problems of democracy, participation, etc ...

Does what we have observed in recent years have a link with the lack of participation in different elections? I am not speaking of primary elections as organised by the Socialists in France- they are quite something else-, but rather of those elections with real impact at European level for electing politicians, to whom according to me all the changes are related. Except one member of the local assembly, there are not many politicians with us tonight. How can we pass on the message to them, the message of monitoring and involvement of the society and say: we are supporting the politicians we have elected, they are the actors. It is up to them to carry this message of change. Otherwise, let's just do as "indignant" and

occupy streets. But then, who will go on working and take all the difficulties in hand? Who will represent us in the various bodies and try to solve the crisis that will affect all of us?

Ms Jacqueline Martin, theatre Potimarron.

Good evening,

I would like to say that October 17th commemorates another anniversary, that of the demonstration on October 17, 1961; there are today peaceful demonstrations taking place throughout France. I think we can not be here celebrating 50 years of Social Rights, and not mention that other anniversary.

The right question was asked earlier: how will the civil society become an actor of social change? How do citizens participate in the development of these changes? This search for tools for so doing is very important.

Ms Annelise Oeschger *thanks her for this historical reminder. The event initiated by the FLN, was held in Paris in response to a curfew imposed on the Algerian community, by the prefect of police, Maurice Papon. Pacifist demonstrators, men, women and children wearing no weapons marched on the sidewalks so as not to impede the traffic. However, the event resulted in bloody confrontations, several deaths and hundreds of people taken into custody.*

Ms Marie-Christine Lackman.

Good evening,

I myself live in poverty. I hope this Social Charter may indeed have a concrete impact. In the search for solutions, I think I can bring one. I opened fourteen years ago, in the

neighbourhood of the Rhine port a democratic and cultural place. I am confident that this project will allow residents and neighbours from Germany, to discuss and participate effectively in Europe. I know from experience that it is possible, under certain conditions. The primary consideration is that people are informed. I assure you that everything is possible if there is a political will. It's now one year that have no longer this place; negotiations with the owner are fortunately still ongoing. The residents in this area whom I know are waiting for the site to reopen. There are, on this Rhine side, many people living in poverty and it's a pity that we can't be there. Specifically, how can we appeal to the Social Charter? How to link the European institutions and people?

Thank you.

Ms Annelise Oeschger *immediately responds to this testimony and invites Ms Lackman to communicate her contact details to follow this case. She explains the process: Non Governmental International Organisations can make a collective complaint, for example.*

You're right, she says, we INGOs have to link the local, national and international levels. We need to invest much more this role. Thank you very much for reminding us that we have to do so. We'll go on with one or two more questions before listening to feedback from our guests.

Mr Jean-Claude Gonon, European Association of Teachers.

I think we are all convinced of the importance of the tools that were presented, the Social Charter, etc. ... But I will say something rather stupid: I'm afraid. I'm afraid that because of this crisis, it's Europe that is taken as a scapegoat by the spontaneous movements of populations. We have seen with the other side of the Mediterranean Sea, that nothing is solid

now. A government, even a dictatorship can collapse suddenly, without warning. In our countries too, movements are being born, are about to be organized. Will these movements fight against the wrong enemy? Are they really going to tackle this 1% of the population, which organizes the crisis for enriching themselves, or will they tackle wrongly those institutions that have tried to build up a system of social protection? Currently, our models of social protection appear to be threatened in most countries affected by the crisis. So I am asking the speakers at the roundtable: what can we do more than just celebrate something that we consider to be great, but how can we effectively defend the Charter at grassroots level, in the media and on the street?

These questions addressed vigorously gathered big applause

Mr Gérard Greneron , Vice President of the Conference of INGOs at the Council of Europe.

I would like to raise a question about the future of the European Social Charter. We must build the Social Charter for tomorrow. As a representative of an organization that has introduced eight collective complaints, we were successful but unfortunately some governments, including France, do not execute the decisions of the European Committee of Social Rights. Sure, it's a nice tool; however there is a lack of constraints in implementing the decisions taken by this committee. I would like to look into the future and say, "how to turn this useful tool into something that invites but also sometimes forces states to implement the decisions of the Committee?"

Ms Annelise Oeschger

Thank you for this very clear proposal. I think the appeal of the public is very clear. How to explain to those who govern us that human rights are the foundations of our society? This is by no means a gadget that can be thrown away in the first wind. How to proceed? I am now coming back to our participants and invite them to answer.

Ms Csilla Kollonay Lehoczky

Thank you very much.

Listening to Mr Lederman, representative of ESAN talking about the difficulties for many children and adults just to get food, I thought it should be made absolutely clear, particularly today, that everyone, simply by being born a human being, has the right to elementary conditions of a dignifying life. Food and a roof over the head is a right of everyone, even if he/she has not a cent to pay, and even if this is due to his/her own fault. The right to food and shelter must not be dependent on deserve, contrary to populist arguments. It is closest to the right to life. If there is an accident caused by a drunk driver and he is the one who is the most seriously injured, he will be the first to be taken care of and taken to hospital by ambulance or by helicopter, preceding all others. No one would say: "Wait, he himself is to be blamed for his injury!" The human rights' spirit must always be present: the right to a dignifying life is not dependent on deserving the support from public funds. It is a right, indivisible and inalienable.

I am also thankful to those who mentioned the connection with the lack of public security, terrorism or similarly dangerous attacks, as indirect results of the economic crisis.

Governments must be aware of the fact that poverty in itself is a risk on security. This security risk is further increased by many governments who turn people against each other with reference to the crisis: turning taxpayers against the poor, turning the poor against the poor, rousing jealousy or envy instead of solidarity. This divides the society increasing exclusion and insecurity. It's very important to make society conscious of and resistant to such dangers.

What can be done to increase the power of the Social Charter or other Council of Europe's instruments? First of all, it should be in the mind of all: the Social Charter is a human rights Convention that has to be enforced. The way for doing so could be by approaching deputies, the members of Parliament in our countries. Their attention has to be directed to the importance of complying with the Charter. This can be done on occasion of relevant legislation or various events. Maybe ambassadors should be approached too. There is a lot of opportunity that may not result in immediate breakthrough, but still could bring gradual result if done with consistency and strong belief.

The need of bringing the Social Charter to the visible stage of daily politics is also connected to its publicity. My experience is that national NGOs do not know much about the Charter. Therefore INGOs should make the various national NGOs more aware of their possibility to make comments to government reports in the framework of the reporting mechanism. True, trade unions have a primary right to react on the reports. Some of them do and some of them do not, they could also be approached for greater activity. Even if governments are not obliged to contact NGOs for their comments, there is nothing preventing an NGO to formulate their comments on those reports and to transmit them to the relevant INGOs with a consultative status with the Council of

Europe. Indeed, NGOs and INGOs have a tremendous role in the gradual implementation of the Charter and for increasing its viability, visibility and enforcement.

Thank you.

Ms Samara Jones

I react in general but also specifically to your last point. Indeed NGOs want this Charter; they want the rights to be there during times of crisis but of course, also, all the time. We struggle because, as everyone who works in an NGO knows, the amount of work you want to do and the amount of work you can do, are very different things. We are trying to work with our own network of national NGOs but it is not easy. That is where, as I mentioned in my presentation, it is easier for the institutions to make it. You have the legal expertise, you have all of this expert knowledge that could be better packaged or made easier for us to access, to share with our members. France is one country among others, where a right's based approach is almost second nature, whereas in other countries it is not. When we are talking about INGOs, they are struggling a lot and the struggle becomes bigger now. Not to be discouraging but, in times of crisis our reserves are also stretched, so we have to work together and we need to find a way. There is maybe a momentum here happening that we can build on. We need to be organised to do so.

Mr Taras Poljanec

Well I think there is another level of this problem. I think each one of us is responsible and each one has to stand for his/her values, his/her decisions and needs. We all are responsible. In our system of democracy, we have the tools and we have to be aware of their power. We have to organise ourselves to stand

together for the things we want to achieve. That is our personal responsibility.

Ms Elena Vodach-Boldyreva

I think that the international instruments, of which the Charter is a part, are fundamental. They make it possible to develop a legislative basis for the functioning of life. I give an example. It is obvious that Russia is an actor in the Conventions and Covenants of the UN and, since 2009, an actor in the European Social Charter. There are resolutions and there is expert commentary available. With the resolutions of the department that deals with people with disabilities, early 2011 we developed a state program in this area. It is a special programme with a federal budget amounting to one and a half billion Euros. The goal of this program is to improve transportation for example, better integration into society. It's no secret that housing is a big problem in our country and now the government is doing everything possible to solve it.

In the speech of one of the previous speakers I would like to stress two words: truth and commitment. This is very true: when a government makes a commitment, this government knows about the real situation.

Ms Annelise Oeschger thanks each participant for their precious words and invites Mr. Luis Quesada Jimena to propose a conclusion to this evening and she adds, "provisional of course!"

Mr Luis Jimena Quesada Chair of the European Committee of Social Rights

It is an honour and a privilege for me to address this round table and to share with you a few closing thoughts, when the other speakers have all been so interesting, more so, perhaps, than these concluding remarks that I am about to make.

First of all, I would like to congratulate and sincerely thank the men and women who organised this event. Allow me to say a special thank you to Marie-José Schmitt, and also to our Chair, Annelise Oeschger. The role of the NGOs is vital for the effective enjoyment of the social rights set forth in the Social Charter: they have played a central part both in extending the catalogue of rights covered by the Charter and in improving the system of safeguards.

Indeed, the celebrations to mark the 50th anniversary of the Social Charter would not have the same significance had the 1961 Charter not been supplemented in 1996 by the revised Charter (conferring more rights and enhancing those already enshrined) and again in 1995 by the Protocol establishing the collective complaints mechanism.

The NGOs played a key role in the drafting of the revised Charter, the latter having been supplemented and/or improved, *inter alia*, with regard to the rights of people with disabilities, women's rights, the fight against poverty and social exclusion and housing. At the same time, the NGOs have played a crucial role in revitalising the collective complaints mechanism and, hence, in improving the visibility and implementation of the Social Charter, i.e. the enforceability and effectiveness of social rights. It is worth noting that more than half of the 73 collective complaints recorded up to the end of September 2011 were lodged by NGOs.

Allow me also to say a few words about the drafting of the revised Charter and the scope of the collective complaints procedure, so that we can relate them to the practical and iconic examples mentioned and discussed at this round table:

- Firstly, it is a well-known fact that the NGOs made a vital contribution when the scope of Article 15 was widened to include, alongside the “traditional” aspects relating to the social inclusion of people with disabilities in education and employment, the more recent concept of autonomy and participation in community life. Or when Article 30 was introduced into the revised Charter, to protect against poverty and social exclusion. The advantage of these two additions is that they highlight, in practice as well as in theory, the indivisible nature of all basic rights. Thus paving the way for the removal of obstacles that prevent people with disabilities from exercising their right to vote, or to the European Committee of Social Rights decisions on citizen participation and the voting rights of people in vulnerable circumstances – e.g. the decisions on the merits relating to Complaint No. 51/2008, *ERRC v. France* and Complaint No. 58/2009, *COHRE v. Italy*, both of which concern Roma rights.
- Secondly, some collective complaints lodged by NGOs have led to, in some cases, significant improvements (in legislation and/or practice) in terms of the right to housing (e.g. Complaint No. 33/2006, *International Movement ATD Fourth World v. France*, No. 39/2006, *FEANTSA v. France*, No. 52/2008, *COHRE v. Croatia*, or No. 53/2008, *FEANTSA v. Slovenia*). As regards women’s rights,

the European Committee of Social Rights limited so far its action to support these in a more roundabout way, through the reporting system (e.g. on the question of work-life balance under Article 27 of the Social Charter) or with regard to the work of the Parliamentary Assembly of the Council of Europe (e.g. in the field of action against the feminisation of poverty or the wage gap between women and men). The full potential of the collective complaints mechanism in this area still remains to be used, therefore.

- In this spirit, this celebration to mark the 50th anniversary of the Social Charter has got a special significance on this *International Day for the Eradication of Poverty*. The revised Social Charter was indeed the first international treaty to explicitly recognise the right to be protected against poverty and social exclusion (Article 30). It is important to note, however, that the 1961 Charter already contained a fairly wide-ranging provision for dealing with insecurity in the shape of the right to social assistance enshrined in Article 13. The scope of this provision can be seen from the following example: in its decision on the merits of 18 February 2009 relating to Collective Complaint No. 48/2008 (*ERRC v. Bulgaria*), the Committee declared, in paragraph 43, that "*Taking into account the serious risk that persons affected by the denial of continued social assistance will be deprived of adequate resources, and that social assistance must be provided as long as need persists to enable the person concerned to continue to live in a manner compatible with their human dignity, the Committee holds that the amendments to the Social*

Assistance Act interrupting minimum income for persons in need after 18, 12 or 6 months are in breach of Article 13§1 of the Revised Charter.” The Bulgarian government implemented the Committee’s decision through a draft law that once again amended the legislation on social assistance to satisfy this right to adequate resources. Had the Bulgarian government and parliament not responded as they did, however, the Committee’s decision could have been enforced through Bulgaria’s domestic courts.

I chose these examples because they teach us a number of lessons:

- Just like civil and political rights, social rights are enforceable.
- The Social Charter and the collective complaints procedure can strengthen this enforceability, particularly in the case of rights whose protection tends to be less effective when other remedies are used. For example, legal commentators have sometimes criticised the “self-restraint” or faintheartedness of the European Court of Human Rights when called upon to give decisions on the rights of people with disabilities or people experiencing poverty. It is important to remember, however, that the European Court of Human Rights was not designed as a European court of social rights. In addition, legal commentators, academics and we ourselves are partly to blame here, when we persist in trying to force or exaggerate the potential of the ECHR and the European Court in the field of social rights, while at the same time

turning our backs on other instruments and mechanisms that are specifically and explicitly concerned with social rights. Not only does this obsession with the “convention” route (the Court has already to face a huge overloading of cases) risks turning the Court into a victim of its own success, as it is usually said, but also, more importantly, it undermines the effective protection of social rights. What is needed therefore is a change of approach.

- The examples I have given (improvements in standards with the revised Charter of 1996, and development of the case-law of the European Committee of Social Rights, driven by the collective complaints mechanism) point to a progressive tendency that ought to grow in strength in these times of crisis. The social *acquis* developed under the Social Charter should be seen as irreversible: the revised Social Charter should finally replace the 1961 version, and the Protocol establishing the collective complaints procedure should be unanimously or broadly accepted. At the same time, the decisions of the European Committee of Social Rights and its methods of interpretation must not be used as an excuse to downgrade, rather than upgrade, national legislation and practice in the field of social rights. I also don't see how the European Court of Human Rights could use the economic crisis as an excuse to water down the standards set in the ECHR or reduce the scope of its case-law and interpretation methods. The methods (including legal methods) should serve the individual and human dignity.

In the light of this last point, I would like to reiterate the need for a change of approach: rather than being subjected to crisis measures, the Social Charter should itself be held up as a way of combating the crisis. Consider the case of Russia, which as Ms Vokach-Boldyreva (the Russian Federation's representative on the Governmental Committee of the Social Charter) reminded us, ratified the revised Charter in 2009, when times were already hard. In other words, the economic crisis must not become an excuse to reduce the scope of the Social Charter, i.e. to downgrade the protection of social rights. Far from it, the Charter should be seen as an antidote to attempts to undermine core human values (dignity, equality, autonomy, solidarity) and the fundamental pillars of the Council of Europe (welfare state, social democracy, social rights) and of its member states (all these states proclaim or subscribe in their respective Constitutions to these basic social values and pillars).

I would like to return once again to this idea of a fresh approach: the Social Charter isn't just an "external" instrument emanating from the Council of Europe. It is first and foremost an "internal" instrument for member states that allows them to better achieve their constitutional goals, a source of internal law. It is important, therefore, that there be consistency:

- Whenever a government challenges the Social Charter or the decisions of the European Committee of Social Rights, it is also casting doubt on its own legal order and, hence, the universal social aspirations proclaimed in its constitutional system.
- Whenever a government deviates from the Social

Charter or the decisions of the European Committee of Social Rights in negotiations within the EU, it is forgetting that the EU has incorporated a legal requirement in its primary law (including in the EU Charter of Fundamental Rights) to respect the Social Charter.

- Whenever a government finds itself bound by other international legal obligations regarding social rights (e.g. the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights establishing an individual complaints mechanism), a concern for consistency should make it think about the need to ensure complementarities between universal and regional human rights protection systems (e.g. by accepting the Social Charter's collective complaints mechanism as well).

To sum up, I would like to reiterate the following points: the crisis affects all human rights and, if anything, heightens the need to take account of the indivisibility of those rights in a way that is meaningful and sincere; the contribution made by the Social Charter has, to a large extent, come from the NGOs; there are legal channels for the protection of social rights and the eradication of poverty (legal interpretation methods are no stranger to this fight to ensure the effectiveness of social rights and protect human dignity); the Social Charter has proved to be an appropriate instrument for protecting vulnerable people and combating poverty and social exclusion; the Social Charter is the pre-eminent European treaty on social rights and its effective observance should be guided by positive approaches on the part of all stakeholders and decision-makers.

If we cannot deal with the crisis by enhancing the protection afforded by the Social Charter, then we, as the ones who have responsibilities in this area, should all join the ranks of the “indignant”, indignant, that is, at our own failure to do the right thing.

Ms Annelise Oeschger

Thank you very much Mr Jimena Quesada. You have shown the reason that led us to organize this roundtable. We are here to bring together the different actors. We are at your side, you, the representatives of the Committee of Social Rights (*turning to Ms Elena Boldyreva-Vodach*) we are with you, representatives of the Governmental Committee of the Social Charter. This is exactly what we're trying to do at the Conference of INGOs, to create a link between several actors.

When we programmed this panel, we also took the decision to publish the proceedings of this evening. Not to have tons of paper, but for keeping the very essential statements that have been made. Essential things were said, that political leaders but also leaders of our NGOs and our various institutions, need to hear and read. As the Conference of INGOs is one of the four pillars of the Council of Europe, we want to offer our work this evening to the other pillars. We will pass these proceedings, in good and due form, to the Committee of Ministers, the Parliamentary Assembly and Congress of Local and Regional Authorities. We will not only give them these proceedings, but we will find one member of each of these three entities to make them known in their respective assemblies.

We are not allowed, especially on October 17th, to leave such beautiful words fly away. Thank you very much to

you all, thank you to the Interprets, a big thank you to all members of the Secretariat of the Social Charter who have supported and encouraged us and make this event to happen from the very beginning on, thank you to all those who helped behind the scene.

See you on next October 17 for an evaluation of progress!
Ms Heidinger invites you to sign the guestbook.

Thank you and welcome back.

The speakers and the audience join in a round of applause.