

**Reaching the heights for the rights of the child**  
**Council of Europe Strategy for the Rights of the Child 2016-2021**  
**High-Level Launching Conference**  
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[SIDE EVENT 1. Handbook on European Law relating to the rights of the child]

**PROTECTING CHILDREN'S RIGHTS UNDER**  
**THE EUROPEAN SOCIAL CHARTER**

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## **I. PRELIMINARY REMARKS: APPROACHING THE EUROPEAN SOCIAL CHARTER AS A KIND OF EUROPEAN *CATALOGUE* OF CHILDREN'S RIGHTS**

- The Charter (either the 1961 text or the 1996 revised text) has been signed by all 47 member states of the Council of Europe and ratified by 43 (34 the 1961 Charter and 9 the 1996 Revised Charter).
- The Charter is the “natural complement” of the European Convention on Human Rights in terms of indivisibility of all human rights.

# I. PRELIMINARY REMARKS: APPROACHING THE EUROPEAN SOCIAL CHARTER AS A KIND OF EUROPEAN *CATALOGUE* OF CHILDREN'S RIGHTS

- The Charter is **the major European treaty which secures children's rights**. It guarantees the rights of a child in many circumstances from birth to adulthood in two different manners:

- \* Firstly, the Charter **contains specific rights relating exclusively to children: Articles 7 and Article 17**

- \* Secondly, **many of the rights guaranteed by the Charter have a relevance to children**: for example, Articles 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 27, 30 and 31.

- \* Actually **one half of the 31 substantial provisions of the Charter** (a kind of *European catalogue of children's rights*) guarantees rights to children up to the age of 18.

## II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:

- How to ensure the international commitments of Contracting Parties to the Charter? The **European Committee of Social Rights (ECSR)** through **two monitoring mechanisms**: the reporting system and the collective complaint procedure.

1) Under the **REPORTING SYSTEM**: four thematic groups (reports on an annual basis); the “**conclusions**” of the ECSR are published every year at the end of January.

## II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:

- **LAST FINDINGS (2015 –publication January 2016) concerning children's rights:**
  - (light) work for children still persists in Europe with ill-defined or inappropriate supervision;
  - exploitation of young workers and apprentices with regard to their working hours and pay is still a recurring problem;
  - prohibition of all forms corporal punishment has yet to be achieved in several States, especially in the home, but also in schools or childcare institutions
  - as regards protection against physical and moral dangers, in some States the legislation does not fully protect all children against **all forms of sexual exploitation**:
  - *On a **positive note**, the majority of States have taken significant measures to address the problem of trafficking of children.*

## II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:

2) The **COLLECTIVE COMPLAINT PROCEDURE** makes **more visible and effective (in terms of quick reaction) the rights protected by the Charter** through the involvement of the organizations entitled to submit these complaints (those having participatory status within the Council of Europe).

The average length of the procedure is 4-5 months for the admissibility and 12-15 months for the merits.

## **II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:**

**- An important number of collective complaints have focused on the rights of the child, concerning:**

- Protection of children in relation to the labour market.**
- Protection of children with disabilities.**
- Protection of foreign children.**
- Protection of children as family members** (including Roma people, refugees and national minorities).
- Protection of children against all corporal punishment** -legal framework and practice- (in school, home and institutions).
- Protection of child victims of human trafficking.**
- Education and health protection of children.**

## II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:

### - Illustrations of effectiveness of decisions concerning the protection of children:

\* **Executive measures (Government):** Decision on the merits of 30 March 2009 on CC No. 45/2007 *INTERIGHTS v. Croatia*.

\* **Judicial measures:** Decision on the merits of 8 September 2004 on CC No. 14/2003 *FIDH v. France*.

\* **Legislative measures:** Decision on the merits of 18 February 2009 on CC No. 48/2008 *ERRC v. Bulgaria*.



## II. THE EFFECTIVENESS OF THE RIGHTS SET FORTH IN THE SOCIAL CHARTER THROUGH ITS MONITORING MECHANISMS:

### - Illustrations of effectiveness of decisions concerning the protection of children:

Furthermore, “preventive role” of the Collective Complaint Procedure):

Decision on admissibility and the merits of 19 March 2013 on CC **No. 82/2012 EUROCEF v. France**;

And Decision to strike out of 12 May 2014 on CC **No. 97/2013 APPROACH v. Cyprus** (as a result of the enactment, during the procedure, of a new legislation protecting children from all forms of violence).

### **III. HOW TO IMPROVE THE PROTECTION OF CHILDREN'S RIGHTS UNDER THE SOCIAL CHARTER?**

#### ***1.- AT THE LEVEL OF THE RECOGNITION:***

- \* Accepting further paragraphs and provisions** (to overcome the “anomaly” of the “à la carte” system established by the Charter), **especially Articles 7 and 17.**
- \* Extending the number of the Council of Europe countries Parties to the Charter as well as to the Revised Charter, in consistency with the Stockholm Strategy (2009-2011).**
- \* EU accession to the Social Charter, in consistency with the so-called “Turin Process” and the Monaco Strategy (2012-2015).**

### III. HOW TO IMPROVE THE PROTECTION OF CHILDREN'S RIGHTS UNDER THE SOCIAL CHARTER?

#### ***2.- AT THE LEVEL OF THE GUARANTEES:***

- \* Acceptance of the Collective Complaint Procedure before the ECSR.**

- \* Improving synergies between levels of guarantees:** complementarity with other European (e.g., ECtHR or CPT) and Universal monitoring bodies (UN Committee on the Rights of the Child).

- Together with this complementarity at the central stage of the judicial assessment, there two **other important stages of synergy, before and after this assessment: the *INPUT* by NGOs and the *OUTPUT* by the involvement of different actors in the follow-up of the conclusions and decisions of the ECSR (e.g. PACE).**

***THANK YOU***