

ACTIVITY REPORT 2019



European Committee
of Social Rights



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Activity Report 2019

**European Committee
of Social Rights**

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter. The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by social partners and non-governmental organisations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

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Introduction

In some sense, 2019 was a transition year for the European Committee of Social Rights (ECSR), involving a partial renewal in the Committee's composition or membership, and developments also in respect of its working methods, in a constant endeavour to improve the Committee's monitoring activities and to render them more efficient and effective, through both the reporting procedure and collective complaints.

Three new members joined the ECSR in January 2019: Karin Møhl Larsen (Danish), Yusuf Balci (Turkish) and Ekaterina Torkunova (Russian), and a fourth new member, Tatiana Puiu (Moldovan), joined in March 2019. I take this opportunity to congratulate and welcome them to the Committee, and also to thank them for the great commitment they have shown as they got started and quickly became deeply involved in all of the Committee's activities.

As regards working methods, the Committee – the members, supported by its Secretariat in the Department of the European Social Charter – continued to strive to improve the reporting procedure and the drafting of the annual conclusions. The Committee tried to focus on the most problematic issues concerning the implementation by each State of the Charter's provisions under examination instead of considering every aspect of each right and every detail provided in the report submitted by the State in question. This should lead to adopting more succinct conclusions, highlighting the problems that need to be addressed as a matter of priority and that require attention with a view to bringing the national situation into conformity with the Charter.

Moving towards a more targeted reporting procedure, in 2019 the Committee submitted very specific questions to States Parties for their reports on the thematic group of rights to be examined in 2020 (i.e. employment, training and equal opportunities). It asked States to focus on topics of strategic importance for the implementation and protection of the rights in question. The Committee intends to update the questions each year, tailoring them to issues of particular concern or focussing on emerging problems that States need to be attentive to so as to ensure ongoing compliance with the provisions of the Charter.

The Committee also initiated a process to reinforce the quality and effectiveness of the collective complaints procedure. This procedure is designed as a quasi-jurisdictional mechanism, aimed at examining in depth and assessing in detail situations where a complaint is made about a specific problem concerning social rights. Rather than a general evaluation of the overall situation in the State concerned (typical of the reporting procedure), collective complaints involve an allegation of non-conformity in respect of specific provisions of the Charter and an adversarial procedure to elucidate the legal and factual issues that arise.

This review engaged by the Committee has two aspects. The first concerns the examination of the admissibility of collective complaints, where the Committee decided to pay the utmost attention to both subjective and objective conditions for admissibility of complaints submitted for its consideration. The second aspect

involves the follow-up to decisions on the merits. Already in 2018, the Committee started paying increased attention as to whether a State concerned by a previous negative decision on the merits had brought the situation into conformity with the Charter. It is indeed incumbent upon the State to bring about that result, according to authoritative interpretations of the States' obligations under the Charter.

In its effort to improve the procedures for monitoring the implementation of social rights, by making them more efficient and effective, the Committee also had the benefit of the work and the valuable reflections of the Steering Committee for Human Rights (CDDH). In particular, the CDDH finalised its "Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe", drawn up in response to the terms of reference given by the Committee of Ministers to make proposals on ways to strengthen the current treaty system of the European Social Charter and to make it more efficient. This objective is consistent with the Declaration adopted by the Committee of Ministers of the Council of Europe at its 129th Session (Helsinki, May 2019) reaffirming "the importance of social rights across the continent" and acknowledging that social justice is an indicator of a healthy democracy.

It is desirable that, in the near future, the Committee of Ministers will formally approve some of the interesting proposals advanced by the CDDH. Together with the new working methods adopted by the ECSR, the much-needed improvements in the functioning of the treaty system of the Charter could thus soon become a reality.

In this respect, I wish to express sincere gratitude to the French Presidency of the Committee of Ministers for its initiatives and efforts in focusing the attention of the Committee of Ministers and the Council of Europe member States on the Charter system and the implementation of social rights in Europe. From among their initiatives, I would single out the organisation of an Expert Seminar on "Reinforcing social rights protection in Europe: to achieve greater unity and equality" (Strasbourg, 19 September 2019). With the occasion of that Seminar, the French delegation in the Governmental Committee of the European Social Charter and the European Code of Social Security initiated a process that led to the representatives of the fifteen States that had already accepted the collective complaints procedure to make a formal and solemn "call" on other States Parties to the Charter to reinforce social rights protection by accepting this monitoring procedure.

I turn now to the outcomes of the treaty-based activities carried out by our Committee in 2019, starting with the reporting procedure.

In 2019, the ECSR examined reports submitted by 37 European States on social rights relating to children, families and migrants, encompassing: the right of children and young persons to protection; the right of the family to protection, as well as the right of workers with family responsibilities to equal opportunities and equal treatment; the right of women to protection of maternity; the right of migrant workers and their families to protection and assistance; and the right to housing.

The reference period was January 2014 to December 2017.

Out of almost 900 conclusions, more than half were of conformity, which shows that European States properly comply with many obligations concerning the rights of

children, families and migrants. However, around one of every three conclusions were of non-conformity, which shows that there are still many problems, and in many States, regarding the full respect of social rights in the different areas examined.

In fact, comparing the situation during the period under consideration to the previous reference period (2010-2013), improvements were observed in some States, progress that was sometimes consistent with the Committee's previous conclusions. For example, the Committee noted that there had been welcome developments in a number of States regarding the abolition of all forms of corporal punishment of children, in respect of the right of employed women to maternity protection and in the area of housing for people living in underprivileged communities.

But serious problems persist with respect to many rights, and in some cases the situation worsened. For example, as regards the protection of children, the prohibition of employment below 15 years of age is not effectively nor sufficiently monitored in many States (such as Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Romania, Serbia, Turkey and Ukraine). In some States, such as Greece or Turkey, the Committee is increasingly concerned about the treatment – and the detention – of children in an irregular migrant situation or seeking asylum.

The right of the family to protection was also a source of concern. The level of family or child benefits was manifestly inadequate in many States (including, among others, Belgium, Greece, Ireland, Italy, Poland and Spain).

As regards the rights of migrant workers, the respect of the right to family reunion was found to be particularly problematic, with almost three of every four countries not in conformity. In many cases, the obstacles to family reunion related to excessive requirements in respect of residence, language or income. The requirement of an excessively long period of residence as a condition for eligibility of migrant workers for public housing was also found to be a problem in many States.

Last in the enumeration of rights in the European Social Charter, but not least among social human rights, is the right to housing. In many States (including France, Portugal, Italy, Greece or Turkey), the situations of non-conformity often related to the conditions and treatment of Roma people. Shortcomings included obstacles for Roma to access social housing and housing assistance, substandard housing conditions or insufficient protection for evicted persons or groups.

When dealing with the abovementioned rights and provisions, the Committee also made resolute efforts both to clarify its case-law on certain critical issues, and to apply the Charter as a living instrument that needs to be constantly adapted to evolving realities or situations. Some statements of interpretation adopted by the Committee are evidence of this. Reference can be made, in particular, to the statements on Article 8§4 and 8§5 (the right of employed women to protection of maternity – night work and dangerous and unhealthy work), and on Article 17§2, concerning the obligation of States Parties to establish and maintain an educational system that is both accessible and effective.

I move now to the collective complaints procedure.

Fifteen new complaints were lodged in 2019, against 6 different States Parties to the Protocol providing for a system of collective complaints (France, Italy, Belgium, Czech Republic, Ireland and Portugal), which shows the continuing interest in this monitoring procedure from many national trade unions and International Non-Governmental Organisations (INGOs). During the sessions held in 2019, the Committee adopted 20 decisions on the merits and 11 on admissibility, including three decisions declaring the complaints inadmissible.

The decisions on the merits concerned a variety of problematic situations, including: the right of the *Guardia di Finanza* and the State Forestry Corps, in Italy, to organise and to bargain collectively; the right of access to education and care for children who have not reached mandatory school age and whose parents are unemployed or on maternity, paternity or parental leave, in Finland; the criminalisation of abuse of weakness as a condition for ensuring the effective exercise of the right of the elderly to social protection, in France; the protection of the right of workers in the private sector to adequate compensation in the event of unlawful dismissal, in Italy.

But the real challenge for the Committee was the decision of the fifteen – very similar – complaints, lodged against all the States Parties to the Protocol, concerning gender pay gap and underrepresentation of women in decision-making positions within private companies. The alleged violations involved in particular the right of men and women to equal pay for work of equal value (Article 4§3 of the Charter), and of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the ground of sex (Article 20 of the Charter). The two-fold challenge involved the most appropriate working method to be followed to properly deal with such similar complaints, but with significant differences in the facts and applicable laws, while meeting at the same time the requirement of equal treatment of all of the States involved. The need for meticulous consideration of the different situation in each State with respect to the many issues at stake is evident. The Committee had to – and did – live up to the challenge.

Apart from the above treaty-based activities, in 2019 the ECSR also continued to invest itself in developing intense relations with other international bodies, agencies, and States, active in the field of social rights.

In this respect, the participation of the Committee in a number of important initiatives deserves to be mentioned, for example, the official launching event of the two-year project “Promoting social human rights as a key factor of sustainable democracy in Ukraine” (Kyiv, 24 October 2019), or the “Joint Workshop on family as a hub for social policies” (Rome, 9 and 10 October 2019), co-organised by the Italian Department for Family Policies and the European Social Cohesion Platform (PECS) of the Council of Europe. Special reference should be made to the international Conference “Implementing social rights: lessons learnt - First dialogue between the European Committee of Social Rights and the Inter-American Court of Human Rights” (Madrid, 3-4 October 2019), co-organised by the Department of the European Social Charter and the Inter-American Court of Human Rights, in cooperation with the Ministry of Foreign Affairs of Spain and the Diplomatic School in Madrid. Discussions focused on the justiciability of social rights and the means to improve their respect. The exchange of views between the ECSR and the UN Special Rapporteur on extreme

poverty and human rights, Professor Philip Alston (Strasbourg, 2 July 2019), was also very valuable. It provided an opportunity for the Committee to discuss issues of common concern such as the right to protection against poverty and social exclusion, the impact of austerity measures on human rights, and the right to a healthy environment and climate change.

The process of change was not exhausted in 2019. There will be elections as the mandate of five members comes to an end in 2020, conclusions will evolve further, and the number of collective complaints continues to grow. The crisis stemming from the Covid-19 pandemic will make a mark in respect of working methods and will shape substantive issues. The situations revealed by Covid-19 and its as yet incalculable impact clearly show the need to reinforce social rights. The European Committee of Social Rights will examine the response of States Parties to the Covid-19 pandemic against the provisions of the European Social Charter. And the Charter, which is an essential part of human rights law, should shape the reconstruction process that will follow the pandemic.

Giuseppe Palmisano,
President of the European Committee of Social Rights

1. Overview and key figures

The European Committee of Social Rights was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States Parties under the 1996 revised European Social Charter, the 1988 Additional Protocol and the initial 1961 European Social Charter¹. It is made up of 15 independent experts of recognized competence in the field of social rights at national and international level, elected by the Committee of Ministers².

The Committee conducts its supervision through two distinct but complementary procedures: the reporting procedure, in which it examines written reports submitted by States Parties at regular intervals, and the collective complaints procedure, which allows certain national and international organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.³

The national reports and the collective complaints are examined during the Committee's sessions, seven in 2019:

- ▶ 310th Session 2-5 December 2019
- ▶ 309th Session 14-18 October 2019
- ▶ 308th Session 9-13 September 2019
- ▶ 307th Session 1-5 July 2019
- ▶ 306th Session 20-24 May 2019
- ▶ 305th Session 18-20 March 2019
- ▶ 304th Session 21-24 January 2019

The Committee examined 37 national reports presented by States Parties to the Charter describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "Children, families and migrants":

- the right of children and young persons to protection (Article 7);
- the right of employed women to protection of maternity (Article 8);
- the right of the family to social, legal and economic protection (Article 16);
- the right of children and young persons to social, legal and economic protection (Article 17);
- the right of migrant workers and their families to protection and assistance (Article 19);
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27);
- the right to housing (Article 31).

The reports cover the period from 1 January 2014 until 31 December 2017.

1. See Appendix 1: Signatures and ratifications

2. See Appendix 2: Composition of the Committee in 2019

3. In response to national reports, the Committee adopts conclusions; in response to collective complaints, it adopts decisions.

At its 311th session, held on 27-31 January 2020, the European Committee of Social Rights adopted its Conclusions 2019⁴ (European Social Charter revised) and 2018/XXI-4⁵ (1961 Charter) with a total of 896 conclusions including 289 cases of non-conformity, 453 cases of conformity. The Committee was unable to access the situation in 154 cases due to lack of information and therefore postponed (“deferred”) its conclusion in these cases.

Due to restrictions related to the Covid-19 outbreak, the Committee presented its conclusions by electronic means such as on-line publications, videos and through social media. The members of the Committee responded to media requests in writing or through telephone interviews.

As to the collective complaints procedure, 15 new complaints were lodged in 2019 against 6 States Parties: France (7), Italy (4), Belgium (1), Czech Republic (1), Ireland (1), Portugal (1), 12 complaints were submitted by national trade unions and 3 by international NGOs. The Committee adopted 20 decisions on the merits and 11 on admissibility, including 3 decisions declaring the complaints inadmissible and 3 decisions declaring complaints admissible and indicating immediate measures. Decisions on the merits related for example to the ceiling to compensation in situations of unfair dismissals in Italy; the right of elderly persons to social protection against financial exploitation in France ; the right of access to education and care for children who have not reached mandatory school age and whose parents are unemployed or on maternity, paternity or parental leave in Finland ; the right to equal pay for women and men and equal opportunities in the workplace in all the 15 States that have accepted the complaints procedure.

With regard to the decisions adopted during 2019, the average processing time was 8.8 months for the 11 admissibility decisions and 27.2 months for the 20 decisions on the merits. In comparison, the average times for the whole period from 1998 to 2019 were 5.7 months for admissibility decisions and 16.6 months for decisions on the merits.

In addition, the Committee held several meetings and exchanges with other institutions and bodies, such as the Inter-American Court of Human Rights, the United Nations, the Fundamental Rights Agency of the European Union, with National Human Rights Institutions and National Equality Bodies, as well as with national governments.

4. [Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, North Macedonia, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Turkey, Ukraine](#)

5. [Denmark, Germany, Iceland, Luxembourg, the Netherlands Curaçao, Poland, Spain, the United Kingdom](#)

2. Composition of the European Committee of Social Rights

The composition of the Committee is governed by Article 25 of the Charter. Its fifteen members are required to be “*independent experts of the highest integrity and of recognised competence in international social questions*”. They are elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

Three new members joined the ECSR as from 1 January 2019: Karin Møhl Larsen (Danish), Yusuf Balci (Turkish) and Ekaterina Torkunova (Russian), and a fourth new member, Tatiana Puiu (Moldovan), joined in March 2019. The term of office for these members ends on 31 December 2024.

The Committee’s Bureau is currently composed as follows: Giuseppe Palmisano, President, Karin Lukas, Vice-President, François Vandamme, Vice-President and Eliane Chemla, General Rapporteur.

3. Collective complaints procedure

3.1. Overview

15 new complaints were lodged in 2019. During the 7 sessions held in 2019, the European Committee of Social Rights adopted 20 decisions on the merits and 11 on admissibility, including 3 decisions declaring the complaints inadmissible and 3 decisions declaring complaints admissible and indicating immediate measures.

The 15 complaints registered in 2019 were lodged against 6 States Parties: France (7), Italy (4), Belgium (1), Czech Republic (1), Ireland (1), Portugal (1), 12 complaints were submitted by national trade unions and 3 by international NGOs.

With regard to the decisions adopted during 2019, the average processing time was 8.8 months for the 11 admissibility decisions and 27,2 months for the 20 decisions on the merits. In comparison, the average times for the whole period from 1998 to 2019 were 5.7 months for admissibility decisions and 16,6 months for decisions on the merits.

3.2. Decisions made public in 2019

In 2019, the following 6 decisions on the merits were made public:

- ▶ **The decision on the merits in *Confédération générale du travail (CGT)*, Complaint No. 154/20174, became public on 15 March 2019.**

CGT alleged that France failed to fulfil its obligations under Article 4§2 of the Charter with regard to increased remuneration for overtime work due to legislation which authorises the adjustment of working time for a period longer than a week and up to three years.

In its decision on the merits, adopted on 18 October 2018, the Committee concluded:

- unanimously that there is a violation of Article 4§2 of the Charter in respect of the reasonableness of the reference period;
- unanimously that there is no violation of Article 4§2 of the Charter in respect of the right of workers to be informed of any changes to their working time.

The Committee of Ministers adopted Resolution CM/ResChS(2019)5 on 14 May 2019.

- ▶ **The decision on the merits in *Equal Rights Trust (ERT) v. Bulgaria*, Complaint No. 121/2016, became public on 29 March 2018.**

ERT alleged that the situation in Bulgaria was in violation of Articles 12§3, 16 and 17§2, as well as Article E of the Revised European Social Charter in conjunction with each of these articles, on the ground that the Family Allowances for Children Act, as amended on 28 July 2015, provides that:

- monthly family allowances can only be paid in-kind rather than in cash, if the qualifying parent is a minor;
- monthly family allowances are suspended or terminated when the child stops attending school, and are thereafter stopped for a minimum period of one year, even if the child returns to school;
- monthly family allowances terminate where the child becomes him or herself a parent.

In its decision on the merits adopted on 16 October 2018, the Committee concluded:

- unanimously, that there is no violation of Article 16 of the Charter concerning the in-kind instead of cash payments of the family allowances imposed when the qualifying parent is under 18 years old;
- unanimously, that there is a violation of Article 16 of the Charter concerning the suspension or the termination of the family allowances when the child stops attending school;
- by 12 votes to one, that there is a violation of Article 16 of the Charter concerning the termination of the family allowances when the minor becomes a parent;
- by 12 votes to one, that there is no violation of Article E in conjunction with Article 16 of the Charter concerning the discrimination based on age because of the mandatory in-kind payments of the family allowances;
- by 12 votes to one, that there is a violation of Article E in conjunction with Article 16 of the Charter concerning the discrimination against Roma, and particularly towards Roma female minors.

The Committee of Ministers adopted Resolution CM/ResChS(2019)9 on 11 December 2019.

- ▶ **The decision on the merits in European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 151/2017, became public on 19 April 2019.**

ERRC alleged that Bulgaria was in violation of Articles 11§§1 and 2, as well as Article 13§§1 and 2, as well as Article E in conjunction with these provisions, as Bulgaria has not taken sufficient action to end racially segregated maternity wards, resulting in inferior and abusive treatment of Roma women in maternity care, as well as the disparate impact of lack of health insurance on Roma women.

In its decision on the merits adopted on 5 December 2018, the Committee concluded:

- unanimously, that there is a violation of Article E in conjunction with Article 11§1 of the Charter as regards the access to health insurance and health care for Roma women in respect of maternity;
- unanimously, that there is no violation of Article E in conjunction with Article 11§1 of the Charter, as regards the segregation in maternity wards.

The Committee of Ministers adopted Resolution CM/ResChS(2019)8 on 11 December 2019.

- ▶ **The decision on the merits in *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 140/2016 became public on 7 June 2019.**

CGIL alleged that Italy was in violation of:

- Article 5 of the Charter because it prohibits the members of the *Guardia di Finanza* from establishing professional trade unions or joining other trade unions;
- Article 6§1 of the Charter because it does not promote joint consultations between the members of the *Guardia di Finanza* and the Ministry of Economy and Finances/employer;
- Article 6§2 of the Charter because it does not promote voluntary negotiations between the members of the *Guardia di Finanza* and the Ministry of Economy and Finances/employer in order to regulate employment conditions by collective agreements;
- Article 6§4 of the Charter because it prohibits members of the *Guardia di Finanza* from exercising the right to strike.

In its decision on the merits, adopted on 22 January 2019, the Committee concluded:

- by 9 votes to 2 that there is a violation of Article 5 of the Charter;
- unanimously, that there is no violation of Article 6§1 of the Charter;
- unanimously, that there is a violation of Article 6§2 of the Charter;
- by 9 votes to 2, that there is a violation of Article 6§4 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2019)6 on 11 September 2019.

- ▶ **The decision on the merits in *International Federation of Associations of the Elderly (FIAPA) v. France*, Complaint No. 145/2017, became public on 11 September 2019.**

FIAPA alleged that France was in violation of Article 23 read alone and Article E read in conjunction with Article 23 of the Charter on the grounds that Article 223-15-2 of the Criminal Code on the repression of the abuse of weakness as applied by the domestic courts does not ensure the effective exercise of the right of the elderly to social protection. It maintained that French legislation and the national courts do not recognise the objective nature of the state of weakness linked with advanced age.

In its decision on the merits, adopted on 22 May 2019, the Committee concluded:

- unanimously, that there was no violation of Article 23 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2019)7 on 11 September 2019; thus making the decision public.

- ▶ **The decision on the merits in *Unione Generale Lavoratori Federazione Nazionale Corpo forestale dello Stato (UGL – CFS) and Sindacato autonomo polizia ambientale forestale (SAPAF) v. Italy*, Complaint No. 143/2017, became public on 26 November 2019.**

UGL–CFS and SAPAF alleged that the incorporation of the (formerly civilian) State Forestry Corps into the *Carabinieri* (military police) Force violates the rights of the personnel concerned, in particular as regards:

- their right to earn their living in an occupation freely entered upon, in violation of Article 1§2 of the Charter, as the contested measure substantially affects the conditions of work of the personnel concerned, whether they accept to acquire military status or opt for a reassignment to a civilian post;
- their right to organise, in violation of Article 5 of the Charter, taken separately or together with Article G of the Charter, because the trade union rights of the individuals transferred to the *Carabinieri* Force and the *Guardia di Finanza* are restricted as a result of their acquiring military status;
- their right to bargain collectively, in violation of Article 6§2 of the Charter, on account of the excessive restrictions imposed to the individuals transferred to the *Carabinieri* Force and *Guardia di Finanza*, as a result of their acquiring military status.

In its decision on the merits adopted on 3 July 2019, the Committee concluded:

- by 9 votes to 5 that Article 1§2 of the Charter is not applicable;
- by 12 votes to 2 that there is a violation of Article 5 of the Charter;
- by 13 votes to 1 that there is a violation of Article 6§2 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2020)1 on 22 January 2020.

3.3. Complaints declared inadmissible

▶ *ATTAC ry, Globaali sosiaalityö ry and Maan ystävät ry v. Finland, Complaint No. 163/2018*

The complainant organisations alleged that the proceedings by which Finland has negotiated the Comprehensive Economic and Trade Agreement (“CETA”) have endangered the respect for rights enacted by the European Social Charter and the state’s ability to duly fulfil them thus violating or exposing to violations the rights set out in Articles 1, 2, 3§1, 4§§2, 3 and 5, 5, 6, 7§§1 and 3, 11, 12, 13, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 and 31 as well as Article E of the Charter and requested that the Committee grant immediate measures requiring Finland to suspend the process of CETA approval and to assess CETA’s human rights impacts.

The Committee held that the complaint, as submitted, did not meet the requirements of Article 4 of the Protocol. The Committee declared the complaint inadmissible on 22 January 2019 and decided that it was not necessary to rule on the request for immediate measures.

▶ *Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy, Complaint No. 166/2018*

SAESE alleged that the Law-Decree No. 201/2011, called Fornero Act, of 6 December 2011 which extends the minimum retirement age for public and private sector workers, violates Article 11 of the Charter.

The Committee was unable to conclude that SAESE was a representative trade union within the meaning of Article 1 (c) of the Protocol because it did not have the information necessary to assess the representativeness of the complainant organisation. The Committee declared the complaint inadmissible on 18 March 2019.

▶ ***Associazione Medici Liberi v. Italy, Complaint No. 177/2019***

Medici Liberi complained that social security cover in Italy for self-employed doctors is provided through mandatory registration with the General Social Security Fund by all doctors enrolled with professional councils which does not ensure a dignified standard of living for self-employed doctors when they reach the retirement age in violation of Article 12§§ 1, 2 and 3 of the Charter.

The Committee considered that *Medici Liberi* could not be considered as a trade union within the meaning of Article 1(c) of the Protocol. The European Committee of Social Rights declared the complaint inadmissible on 6 December 2019.

3.4. Further decisions adopted in 2019

- ▶ The decision on the merits in *Central Union for Child Welfare (CUCW) v. Finland, Complaint No. 139/2016* was adopted on 11 September 2019. The decision became public on 4 February 2020;
- ▶ The decision on the merits in *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 158/2017* was adopted on 11 September 2019. The decision became public on 11 February 2020;
- ▶ The decisions on the merits in *University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden, Complaints Nos. 124/2016 to 138/2016* were adopted on 5 December 2019. The decisions became public on 29 June 2020.

3.5. Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event of violation of the Charter, the State concerned is asked to notify the Committee of Ministers of the Council of Europe of the measures taken or planned to bring the situation into conformity. The Committee of Ministers may adopt a resolution, by a majority of those voting. The resolution takes account of the respondent State's declared intention to take appropriate measures to bring the situation into conformity.

If the State in question does not indicate its intention to bring the situation into conformity, the Committee of Ministers may also adopt a recommendation to the State. In view of the importance of this decision, a two-thirds majority of those voting is required. In the case of both resolutions and recommendations, only States Parties to the Charter may take part in the vote.

The Committee of Ministers' decision is based on social, economic and other policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

As regards the practical organisation of the follow-up, the Committee of Ministers in February 2012 instructed its Group of Rapporteurs on social and health issues (GR-SOC) to prepare the items relating to the European Social Charter and in particular the decisions to be taken by the Committee of Ministers under the Charter's collective complaints' system and related issues.

In 2019, the Committee of Ministers adopted 6 resolutions concerning 6 complaints:

- ▶ **CM/ResChS(2019)9**
Resolution - Equal Rights Trust v. Bulgaria - Complaint No. 121/2016 (Adopted by the Committee of Ministers on 11 December 2019 at the 1363rd meeting of the Ministers' Deputies)
- ▶ **CM/ResChS(2019)8**
Resolution - European Roma Rights Centre (ERRC) v. Bulgaria - Complaint No. 151/2017 (Adopted by the Committee of Ministers on 11 December 2019 at the 1363rd meeting of the Ministers' Deputies)
- ▶ **CM/ResChS(2019)7**
Resolution - Complaint No. 145/2017 by the International Federation of Associations of the Elderly (FIAPA) v. France (Adopted by the Committee of Ministers on 11 September 2019 at the 1353rd meeting of the Ministers' Deputies)
- ▶ **CM/ResChS(2019)6**
Resolution - Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 140/2016 (Adopted by the Committee of Ministers on 11 September 2019 at the 1353rd meeting of the Ministers' Deputies)
- ▶ **CM/ResChS(2019)5**
Resolution - Confédération générale du travail (CGT) v. France - Complaint No.154/2017 (Adopted by the Committee of Ministers on 14 May 2019 at the 1346th meeting of the Ministers' Deputies)
- ▶ **CM/ResChS(2019)4**
Resolution - Confédération générale du travail Force ouvrière (FO) v. France - Complaint No. 118/2015 (Adopted by the Committee of Ministers on 14 May 2019 at the 1346th meeting of the Ministers' Deputies)

3.6. Reform of the system for the follow-up of collective complaints

At the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the Committee of Ministers adopted new changes to the Charter's monitoring system. The most important aim of the changes was to simplify the reporting system for States Parties having accepted the collective complaints procedure. As a result, Croatia, Cyprus, Czech Republic, the Netherlands, Norway, Slovenia and Sweden were exempted from reporting on the provisions under examination in Conclusions 2019. These States were instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation.

In 2019, in the framework of the follow-up to the decisions in collective complaints, the Committee examined the simplified national reports and noted that the following situations have been brought into conformity with the Charter:

► **Centre on Housing Rights and Evictions (COHRE) v. Croatia, Complaint No. 52/2008, decision on the merits of 22 June 2010**

The European Committee of Social Rights concluded unanimously that there had been a violation of Article 16 of the 1961 Charter read in the light of the non-discrimination clause, in respect of families who had been arbitrarily evicted from their housing during the conflict in the former Yugoslavia, and had clearly indicated their wish to return to Croatia, owing to the slow pace of the housing programme and a failure to take into account the heightened vulnerabilities of many displaced families, and of ethnic Serb families in particular.

The Committee took note of the substantial efforts made to provide housing to all returnees, displaced persons, refugees and other target groups in the war-affected areas.

It noted that both the national and regional housing programmes are implemented within reasonable time frames and in line with legal procedures and the available financial resources. The level of vulnerability is one of the most important criteria for selecting beneficiaries.

The Committee noted from the action report submitted to the Committee of Ministers (see document DH-DD (2018)315), that the Croatian authorities had put considerable funding into providing temporary occupants with other accommodation, making it possible for owners to recover their property, and that effective remedies had been set up for occupied property to be repossessed and for compensation for the losses arising from confiscation.

The Committee considered that the situation had been brought into conformity with the 1961 Charter and decided to close the examination of the follow-up to the decision.

► **Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018**

The European Committee of Social Rights found a violation of Article 6§2 of the 1961 Charter on the ground that the adoption in 2012 of the Act on Withdrawal of Certain Material Rights of the Employed in Public Services (Official Gazette No. 143/2012) amounted to an unjustified interference in the collective bargaining process. Although the intervention complained of was prescribed by law and was justified by the Government in order to maintain the fiscal stability of the public service system, (i.e. the public interest), the Government provided little information on the economic situation prevailing in Croatia at the time of the adoption of the legislation.

The Act of 2012 on Withdrawal of Certain Material Rights of the Employed in Public Services (Official Gazette No. 143/2012) which gave rise to the complaint in question, being no longer in force, the Committee decides, therefore, to bring its examination of the follow-up to the decision to an end.

► **European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014**

The Committee found violation of Article 31§2 on the grounds that the legislation and practice of the Netherlands fail to ensure access to community shelter for the purpose of preventing homelessness and that the quality and quantity of shelters available to vulnerable groups do not fulfil the requirements of the Charter. It also found violation of Article 13§1 and of Article 13§4 on the grounds the right to emergency assistance the right of adult migrants in an irregular situation and without adequate resources in the Netherlands is not guaranteed and that there is no right to appeal in matters concerning the granting of emergency assistance

The Committee notes the positive measures taken to remedy the violation found. According to the information provided results showed that access to shelter has improved in the country.

The Committee found that issues raised regarding the violation of Article 31§2 on the grounds that the right to shelter of adult migrants in an irregular situation and without adequate resources in the Netherlands is not guaranteed and regarding the violation of Article 13§1 and of Article 13§4 on the grounds that the right to emergency assistance of adult migrants in an irregular situation and without adequate resources in the Netherlands is not guaranteed, are examined under the assessment of the follow-up of the decision in Complaint Conference of European Churches (CEC) v. the Netherlands, No. 90/2013. The Committee considers that these violations have been addressed and decides to close its examination in this respect.

► **Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014**

The Committee found a violation of Article 13§4 on the grounds that adult migrants in an irregular situation (failed asylum seekers) without adequate resources are not guaranteed emergency assistance.

The Committee considered that, even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country. The Committee cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13§4 as a subjective right, to individuals in a highly precarious situation. In light of its established case law, the Committee considered that the situation, on the basis of which a violation was found under Article 13§4, also amounted to a violation of Article 31§2.

The Committee notes that the Central Appeals Court in decisions taken in December 2014 obliged municipalities to offer night shelter, shower and food to adult migrants in an irregular situation in their region.

The Committee recalls that it previously noted that some of the proposals outlined by the Government in their previous report may improve the situation of adult

migrants in an irregular situation; the decision not to apply too strictly the 12 week deadline to leave the country, the establishment of pre - VBL facilities, for example, (see Findings 2016).

The Committee notes that the Government has implemented the envisaged measures. A variety of solutions are made available to migrants in an irregular situation such as access to Municipal Bed-Bath-Bread shelters (BBB's); migrants in an irregular situation who cannot return can apply for a 'No Fault of their own' residence permit and can get access to general social security as soon as their request is accepted; deferral of removal for medical reasons; pre-Removal Centres are available to persons wishing to cooperate with return.

The Committee takes note of the Government's declaration that the current system ensures that no person irregularly present in the territory is forced to live on the street. Therefore, the Committee finds that the situation has been brought into conformity with the Charter both in respect of Article 13§4 and 31§2 and decides to bring its examination of the follow-up to the decision to an end.

► **Fellesforbundet for Sjøfolk (FFFS) v. Norway, Complaint No. 74/2011, decision on the merits of 2 July 2013**

In its decision, the Committee concluded that there was a violation of Article 24 of the Charter on the ground that Section 19, paragraph 1, subsection 7 of the Seamen's Act enables dismissal directly on grounds of age and does therefore not effectively guarantee the seamen's right to protection in cases of termination of employment.

In addition, it found that there was a violation of Article 1§2 of the Charter on the ground that the age-limit set out in Section 19, paragraph 1, subsection 7 of the Seamen's Act amounts to discrimination on grounds of age and constitutes a violation of the effective right of a worker to earn one's living in an occupation freely entered upon, as provided for under Article 1§2 of the Charter.

The Committee notes that Section 19, paragraph 1 of the Seamen's Act of 30 May 1975 (No. 18) was repealed by the Act of 21 June 2013 (No. 102) relating to employment protection etc. for employees on board ships (Maritime Labour Act) (*Lov om stillingsvern mv. for arbeidstakere på skip*), which entered into force on 20 August 2013. The Committee further notes that the general age limit set out in Section 15- 13a, paragraph 1 of the Working Environment Act was increased to 72 as of 1 July 2015.

The Committee recalls that in its previous finding (Findings 2017) it considered that no specific evidence had been submitted about the reasons/ justifications for the adoption of 70 as the age when employment may be terminated for seamen, which is two years earlier than the mandatory retirement age set by the Working Environment Act. It asked for comprehensive information in this respect and meanwhile reserved its position.

The Committee takes notes of the explanations provided and finds that the age limit of 70 years for seamen under the circumstances can be regarded as compatible with Articles 24 and 1§2 of the Charter, in particular in the light of the health and safety

considerations that may apply to the seamen's occupation. It also takes into account that consideration may be given to raising the age limit for seamen in the near future.

On this basis, the Committee therefore finds that the situation in this respect has been brought into conformity with Articles 24 and 1§2 of the Charter and decides to bring its examination of the follow-up to the decision to an end.

► **European Federation of National Organisations Working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009**

The Committee found a violation of Article 31§1 due to the revoking of acquired legal titles to homes following denationalisation, increasing the cost of dwelling and reducing the possibilities of acquiring adequate dwelling, thus encroaching upon acquired security of tenure; a violation of Article 31§2 in that the effect of the measures taken in respect of the vulnerable group in question was to provoke evictions and increase homelessness; a violation of Article 31§3 on the grounds of the failure to provide affordable housing; a violation of Article E in conjunction with Article 31§3 on the grounds of discrimination between former holders of a "housing right" and tenants of flats that were transferred to public ownership; and a violation of Article 16 and Article E in conjunction with Article 16 on the grounds of discrimination between former holders of a "housing right" and tenants of flats that were transferred to public ownership.

The Committee recalls that in its last Findings (Findings 2017) it noted the developments in the situation which were positive, however the Committee needed further information on measures to ensure that all those who held a "housing right" in a flat restored to its previous owners are not rendered homeless, for example, information on the number of tenants of denationalised dwellings who have not yet been rehoused, number of persons on waiting lists etc. The Committee takes note that according to the information provided by the Ministry responsible for the Environment and Spatial Planning none of the previous holders of specially protected tenancy were evicted from their dwellings nor became homeless, because they all had the right to remain in the dwelling in which they lived, together with their spouses or cohabiting partners, and for which they pay a non-profit rent.

The Committee concludes that according to the information at its disposal as regards former holders of a "housing right" over flats that had been restored to their private owners, there have been sufficient measures for the acquisition or access to a substitute flat, allowing them to effectively exercise their right to housing.

The Committee notes that former holders of a "housing right" have the possibility to rent the housing unit in which they lived for an indefinite period and for a non-profit rent; or acquire a non-profit municipal housing unit; or purchase the housing unit in which they lived with State support, provided the owner agreed to sell it; or purchase another dwelling or build a house with State support.

The Committee therefore finds that the situation has been brought into conformity with the Charter and decides to bring its examination of the follow-up to the decision to an end.

4. Reporting procedure

4.1. Overview

In 2019, in the framework of the reporting procedure, the European Committee of Social Rights examined national reports⁶ submitted by 37 States Parties on the Articles of the Charter relating to the thematic group “Children, families and migrants”:

- ▶ the right of children and young persons to protection (Article 7),
- ▶ the right of employed women to protection of maternity (Article 8),
- ▶ the right of the family to social, legal and economic protection (Article 16),
- ▶ the right of children and young persons to social, legal and economic protection (Article 17),
- ▶ the right of migrant workers and their families to protection and assistance (Article 19),
- ▶ the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27) and
- ▶ the right to housing (Article 31).

The following 37 countries were examined:

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Finland, France, Georgia, Greece, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Republic of Moldova, Montenegro, the Netherlands in respect of Curacao, North Macedonia, Poland, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Spain, Turkey, Ukraine and the United Kingdom.

The reports covered the reference period from 1 January 2014 to 31 December 2017.

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

In January 2020, the Committee adopted 896 conclusions on children, families and migrants in respect of the 37 states, including 289 conclusions of non-conformity and 453 conclusions of conformity. In 154 cases, the Committee was unable to assess the situation due to lack of information (“deferrals”).

The main findings concern child labour, including illegally working children in the formal and informal economy, as well as the protection of children from all forms of violence, abuse and exploitation.

6. National reports submitted by States Parties: <https://www.coe.int/en/web/european-social-charter/national-reports>

The Committee found a high number of states not to be in conformity with Article 7§1 of the Charter on the grounds that the prohibition of employment below 15 years of age was not sufficiently monitored or that the situation in practice was problematic. Another significant issue concerns the so-called 'light work' that can be performed by children under the age of 15 or by children who are still in compulsory education, which is not adequately regulated in many States Parties. Some states authorise excessively long hours of light work which ceases to be 'light' in nature according to the Committee evaluation and therefore represents a violation of the Charter. Therefore, the Committee requested all states to provide information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect **child labour**, including children working in the informal economy. In this regard, the Committee asked all states to provide information on the number of children actually working (either from existing statistics on this issue or from surveys to be conducted to obtain such information), as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

As regards the **right to education** under Article 17§2 of the Revised Charter the Committee asked states to specify what measures have been taken to introduce anti bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention. Further the Committee asked about the voice of the child in education. It noted that securing the right of the child to be heard within education is crucial to the realisation of the right to education in terms of Article 17§2. This requires States Parties to ensure child participation across a broad range of decision-making and activities related to education, including in the context of children's specific learning environments. The Committee asked what measures have been taken by the State to facilitate child participation in this regard.

With regard to Article 7§10 of the Charter - protection of children against physical and moral dangers including from sexual, labour and other forms of **exploitation** and trafficking - the Committee observed that the legislation of certain States does not protect all children from all forms of sexual or economic exploitation.

The Committee is increasingly concerned about the treatment of children in an **irregular migrant situation**, whether accompanied or not, and children seeking asylum. In particular, it stated that the detention of such children cannot be considered as being in their best interests and States Parties should find alternatives to detention. Further, accommodation must be appropriate and safe, in order to protect this vulnerable group from violence and exploitation.

The Committee also raised a question regarding **age assessments and bone testing**. It pointed out that the use of bone testing in order to assess the age of unaccompanied children is inappropriate and unreliable.

Moreover, the Committee highlighted the issue of **child poverty and social exclusion** under Article 17. The Committee pointed out that the prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection. The obligation of States Parties to take all appropriate and necessary measures to ensure that children and young persons have the assistance they need is strongly

linked to measures directed towards the amelioration and eradication of child poverty and social exclusion. Therefore, the Committee will take child poverty levels into account when considering the state's obligations in terms of Article 17 of the Charter. The Committee asked the next report to provide information on the measures adopted to reduce child poverty, including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc. Information should also be provided on measures focused on combating discrimination against and promoting equal opportunities for children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.

The Committee highlighted the issue of the increasing number of **stateless children** in Europe with reduced access to basic rights and services such as healthcare and education. The Committee asked states parties to provide additional information on measures to reduce statelessness in the next reporting cycle.

Furthermore, the Committee underlined the importance of eliminating **gender discrimination** and of protecting the rights of employed women during maternity, as well as in connection with night work and in dangerous and unhealthy working conditions. The Committee found that in almost a third (27%) of the situations examined the dismissal of pregnant employees and employees on maternity leave was permitted in circumstances which went beyond those allowed by Article 8§2 of the Charter or that the employee concerned could not get adequate redress or compensation in case of unlawful dismissal, particularly when no reinstatement is possible.

Inadequate measures to combat **domestic violence** have also given rise to a significant number of findings of non-conformity with the Charter.

The respect of the **rights of migrant workers** was found to be particularly problematic, with all but three countries not being in conformity with one or more of the provisions of Article 19. The Committee found a high number of non-conformities as regards infringements on the right to family reunion (Article 19§6). The Committee also noted that, in many cases, the expulsion of a migrant worker could entail the expulsion of his/her family members, without assessing their own personal circumstances. Certain states require a period of residence as a condition of eligibility for public housing that applies equally to nationals and non-nationals. Such a requirement is characterised by the Committee as indirect discrimination because it is a requirement that non-national migrant workers find significantly more difficult to comply with than nationals and that cannot be justified for good public interest reasons. This may lead to a conclusion of non-conformity with Article 19§4 of the Charter which requires equal treatment of nationals and non-nationals.

The findings of non-conformity under Article 19§1 involved mostly questions relating to practical and legal measures to tackle racism and xenophobia and to prevent hate speech in media and public discourse.

With regard to the **right to housing**, examined under Article 16 and Article 31, the Committee was particularly concerned about the substandard housing conditions of Roma and Travellers in many countries, the lack of supervision of housing standards and the lack of rules imposing obligations on landlords to ensure that dwellings are

of an adequate standard. The Committee emphasised that, in some countries, there are insufficient measures in place to reduce and prevent homelessness in general and there is a lack of affordable housing.

Moreover, in 2019 the Committee adopted two statements of interpretation:

- ▶ statement of Interpretation on Article 8§4 and 8§5 (the right of employed women to protection of maternity- night work and dangerous and unhealthy work) where it states that in order to ensure non-discrimination on the grounds of gender, employed women during the protected period may not be placed in a less advantageous situation, if an adjustment of their working conditions is necessary in order to ensure the required level of the protection of health. It follows that, in the case a woman cannot be employed in her workplace due to health and safety concerns and as a result, she is transferred to another post or, should such transfer not be possible, she is granted leave instead, States Parties must ensure that during the protected period, she is entitled to her average previous pay or provided with a social security benefit corresponding to 100% of her previous average pay. Further, she should have the right to return to her previous post.
- ▶ statement of interpretation on Article 17§2 of the Revised Charter (the right to education). The Committee recalled that Article 17§2 of the Charter requires States Parties to establish and maintain an educational system that is both accessible and effective. The Charter provides that the obligations under this provision may be met directly or through the involvement of private actors. The Committee notes further that in many states private education is also available. The Committee is also mindful in this respect of the *Abidjan Guiding Principles on the human rights obligations of states to provide public education and to regulate private involvement in education*. It recalls that the requirement that states respect the freedom of parents to choose an educational institution other than a public institution leaves unchanged the obligation under the Charter to provide free quality public education. Similarly, the offer of educational alternatives by private actors must not be to detrimental to the allocation of resources towards, or otherwise undermine the accessibility and quality of public education. Moreover, states are required to regulate and supervise private sector involvement in education strictly, making sure that the right to education is not undermined.

Nevertheless, the Committee also noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties. For instance, in North Macedonia, the Law on Labour Relations was amended in 2018 (outside the reference period) in respect of the duration of working hours of **light work and holidays for children**.

In Luxembourg, in accordance with a law of 15 December 2017, the duration of **postnatal leave** increased from 8 to 12 weeks.

In the Slovak Republic, the amount of **maternity benefits** increased from 65% (Conclusions 2015) to 75% of the employee's salary which allowed the Committee to conclude that, on this point, the situation was brought into conformity with Article 8§1 of the Charter.

The Committee welcomed, furthermore, Ireland’s decision to end the practice of **detaining children in prisons for adults**.

Another significant development involved Estonia, France, Ireland, Lithuania, Malta, Montenegro, Scotland and Wales all having abolished all forms of **corporal punishment** in all settings (albeit France, Scotland and Wales completed the process outside the reference period).

In the Republic of Moldova and Ukraine, efforts have been made to ensure that **children cannot be placed in care** on the grounds of the financial situation of their families.

In France, the situation as regards the legal protection of the **right to housing for non-nationals** has been brought into conformity with the Charter (article 31 of the Charter). In 2011, the Committee had concluded that the requirement of two years’ prior residence in France to benefit from an enforceable right to housing was excessive. This requirement was quashed by the *Conseil d’État* and, following that decision, the legislation was amended in 2012. The Committee found in 2019 that, in this respect, the situation had been brought into conformity with Article 31§1.

With regard to Finland, the Committee noted that according to an international evaluation commissioned on the programme on reducing long-term homelessness (2005-2015), Finland was one of the best examples of implementing the **“housing first” model**. The national report indicated that long-term homelessness has continued to decrease (by 35% between 2008 and 2015) and that at the end of 2017 there were 7112 homeless persons, less than 0.2 % of the population, and there is a new action plan for preventing homelessness (2016-2019). The current goal is to reduce the number of homeless people to less than 4 000 before 2023. The Committee considers that Finland continues to be committed to tackling homelessness in compliance with Article 31§2 of the Charter.

	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
Situations examined	896	580	486	576	824	724	568	608	950	569	572	425
Conformity	453	276	228	277	452	337	277	277	459	271	281	185
	51%	48%	47%	48%	55%	46%	49%	45%	48%	48%	49%	43%
Non-conformity	289	206	175	204	278	252	181	156	256	184	164	126
	32%	35%	36%	35%	34%	35%	32%	26%	27%	32%	29%	30%
Deferral	154	98	83	95	94	135	110	175	235	114	127	114
	17%	17%	17%	16%	11%	19%	19%	29%	25%	20%	22%	27%

Legend: Committee’s assessments of conclusions 2008-2019

4.2. Provisions concerned

An overview of the Committee's main findings in 2019 is presented article by article below. A complete table of the Committee's conclusions for 2019 per country and per article can be found as an Appendix⁷.

► The right of children to protection (Article 7)

Article 7 of the Charter guarantees the right of children and young persons to protection. It prohibits child labour (below 15 years of age) and employment of children in dangerous and unhealthy activities. It also guarantees special protection against physical and moral dangers, such as sexual exploitation.

The Committee found a high number of states not to be in conformity with Article 7§1 of the Charter on the grounds that the prohibition of employment below 15 years of age was not sufficiently monitored or that the situation in practice was problematic (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Romania, Serbia, Turkey and Ukraine).

Another not insignificant issue is that so-called 'light work' that can be performed by children under the age of 15 or by children who are still in compulsory education, is not adequately regulated in many states. Some states authorise excessively long hours of light work (Armenia, Estonia, Georgia, Greece, Lithuania, Malta, Portugal) The Committee considers that because of its excessive duration, the work performed by children ceases to be 'light' in nature and therefore, represents a violation of the Charter.

Article 7§5 also guarantees the right of young workers and apprentices to a fair wage (or an appropriate allowance as the case may be). The fairness of the wage of a young worker is determined with reference to the adult starting wage and/or the statutory minimum wage for adults (where applicable), and the difference must not exceed 20%.

The Committee found that that a significant number of states (e.g. Albania, Andorra, Armenia, Azerbaijan, Belgium, Georgia, Germany, Serbia, Spain, Romania, the United Kingdom and Ukraine) did not comply with this fairness criterion with young workers' wages falling too far below the level of adult wages.

Article 7§10 of the Charter - protection against physical and moral dangers - covers the protection of children from sexual, labour and other forms of exploitation, as well as protection from the misuse of information technologies and trafficking. The Committee observed that in some states the legislation does not fully protect all children against all forms of sexual exploitation (Bosnia and Herzegovina, Georgia, the Russian Federation, Turkey and Ukraine). Several states were found not to be in conformity on the grounds that children were not adequately protected against economic exploitation (Albania Georgia). There was a very high number of deferrals under this provision.

► The right to maternity protection (Article 8)

Under **Article 8§1**, the Committee assessed in particular whether employed women were entitled, in law and in practice, to at least 6-weeks post-natal paid leave. An

7. Appendix 6: Summary of the Committee's Conclusions 2019

essential element assessed under this provision is whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave (with some exceptions possible for high-salaries. Several states were found not to be in conformity on this ground Bosnia and Herzegovina, Ireland, the Republic of Moldova, Turkey, the Russian Federation and the United Kingdom.

The Committee found that in almost a third (27%) of the situations examined the dismissal of pregnant employees and employees on maternity leave was allowed in circumstances which went beyond those allowed by **Article 8§2** of the Charter (Bosnia and Herzegovina, Ireland, the Slovak Republic, Spain and Turkey) or that the employee concerned could not get adequate redress or compensation in case of unlawful dismissal (Albania, Bosnia and Herzegovina and Turkey), particularly when no reinstatement is possible (Albania, Finland Italy, Turkey).

As regards the right to paid nursing breaks (**Article 8§3**), and the protection of employees who are pregnant, have recently given birth or are nursing their child in respect of night-work (Article 8§4) as well as in respect of dangerous, unhealthy or arduous work (Article 8§5), the few findings of non-conformity related mainly to insufficient evidence of an adequate specific protection of the women concerned in the relevant legislation. France and Spain were not in conformity with Article 8§3 during the reference period. Bosnia and Herzegovina Georgia the Republic of Moldova and Poland were not in conformity with Article 8§4. Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, the Republic of Moldova, Serbia, Turkey and Ukraine were not in conformity with Article 8§5.

► **The right of the family to social, legal and economic protection (Article 16)**

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, childcare, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women and family benefits.

A reoccurring ground of non-conformity relates to family benefits 15 states (out of 33) are not in conformity with this provision: Azerbaijan, Belgium, Bosnia and Herzegovina, Greece, Ireland Italy, Latvia, the Republic of Moldova, Montenegro, North Macedonia, Poland, Spain Ukraine and Turkey).

10 states (out of 33) are still not in conformity on this point as the entitlement to child benefits for nationals of other State Parties is made conditional on a length of residence of more than 6 months. The Committee accepts a length of up to 6 months, as the benefit in question is a non-contributory benefit. A length that is beyond 6 months is not in conformity with the Charter (Azerbaijan, Belgium, Bosnia and Herzegovina, Greece, Italy, Latvia, the Republic of Moldova, North Macedonia, Poland).

As regards adequacy of child benefits, the Committee looks at two issues: first, the adequacy of coverage (i.e. the percentage of families covered). Even if there is no obligation to have a universal system of child benefit (i.e. the entitlement can be means-tested), it should still be provided to a significant number of families. For instance, if the entitlement is limited only to those families who are below the poverty

threshold (very poor families), then the Committee considers that its coverage is not adequate. In this cycle the Committee asked for information about the percentage of families covered. The second issue is the adequacy of level (the amount granted) – here the Committee has always considered that if the level of benefit (the lowest granted) falls below 5% of the median equivalised income, then the situation is not in conformity, unless it is made evident that in addition, there are other benefits, which are also paid to significant number of families. 9 states are not in conformity on this ground (Azerbaijan, Italy, Latvia, the Republic of Moldova, Montenegro, North Macedonia, Poland, Spain and Ukraine).

Other violations identified under this provision relate to housing for families. 17 states (out of 33) are not in conformity on the issue of housing for families: Azerbaijan, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, France, Greece, Hungary, Ireland, Italy, Malta, the Republic of Moldova, North Macedonia, Portugal, Romania, the Russian Federation and the Slovak Republic)

The specific grounds for non-conformity are:

- equal treatment of foreign nationals (length of residence requirement): 2 states: Austria, Malta;
- adequate housing (general): one state: Azerbaijan (conformity not established);
- sufficient supply of adequate housing for (vulnerable) families: 2 states: Ireland (conformity not established), the Russian Federation);
- legal protection for persons threatened by eviction: 4 states: Bosnia and Herzegovina, Estonia, Hungary, Romania;
- vulnerable families (Roma/Traveller families): 12 states: Belgium, Bulgaria, France, Greece, Hungary, Ireland, Italy, the Republic of Moldova, Portugal, Romania, the Russian Federation and the Slovak Republic.

Inadequate measures to combat domestic violence has also given rise to a significant number of findings of non-conformity (Azerbaijan, Bosnia and Herzegovina, Bulgaria, Montenegro, the Republic of Moldova, Romania, the Russian Federation, the Slovak Republic, Turkey and Ukraine).

► **The right of children and young persons to social, legal and economic protection (Article 17)**

Article 17 guarantees the right of children and young persons to legal, social and economic protection. It is a wide-ranging provision covering issues such as the legal status of the child, protection from ill treatment and abuse, rights of children in public care, children in conflict with the law and the right to assistance.

It examined 33 national situations and found 19 countries to be in violation of the provision. For 6 countries it deferred its conclusion.

The Committee has found that prohibition of all forms of corporal punishment, which is at the heart of this provision of the Charter, has yet to be achieved in several states, especially in the home (Armenia, Belgium, Bosnia and Herzegovina, Georgia, the Russian Federation, Serbia, the Slovak Republic, and the United Kingdom (England)). The Committee noted that outside the reference period

Scotland and Wales removed the defence of reasonable chastisement thereby prohibiting corporal punishment.

Article 17 also guarantees the rights of children in public care. The Committee has noted that in the majority of states the procedures for placement of children in care are well established and observed.

The Committee also observed that some states have taken steps to de-institutionalise public care by closing down large institutions and favouring placement of children in foster care or other family-type environment. However, in respect of two countries it found that the ratio of children in institutions to the number of children in foster care or other types of family based care was too high (Armenia and Ukraine).

As regards children in conflict with the law, an age of criminal responsibility which is manifestly too low is still in existence in Ireland, Turkey and the United Kingdom. However, the Committee noted that outside the reference period Scotland raised the age of criminal responsibility to 12 years.

Some states still make it possible to detain young offenders pending trial for long periods of time in breach of the Charter (Armenia, Austria, Belgium, Denmark, France, Hungary, Latvia, the Russian Federation, Poland, the Slovak Republic, Turkey).

A question was put to all states on the solitary confinement of children. One country is not in conformity on this ground (Denmark).

Another issue which arose for one state (United Kingdom) is the use of pain inducing restraint techniques in Young Offender Institutions.

An issue that was considerably developed during the cycle was the right to assistance. The Committee is increasingly concerned about the treatment of children in an irregular migrant situation unaccompanied or not and children seeking asylum. In particular, it stated that the detention of such children cannot be considered as being in their best interests and States Parties should find alternatives to detention. Further accommodation must be appropriate and in particular safe, in order to protect this vulnerable group from violence and exploitation. In the respect it found two countries not to be in conformity on the ground of the inadequate and often unsafe accommodation of unaccompanied migrant children or the inadequate protection from violence and abuse (Greece, Hungary).

The Committee also raised a question regarding age assessments and bone testing. It noted that the use of bone testing in order to assess the age of unaccompanied children is inappropriate and unreliable. It asked whether the state uses bone testing to assess age and in what situations the state does so. Should the state carry out such testing, the Committee asked what potential consequences such testing may have (e.g. can a child be excluded from the child protection system on the sole basis of the outcome of such a test).

The Committee also decided to examine the issue of child poverty under this provision. It adopted a statement of interpretation on this provision and posed questions to all states.

Another new issue examined under Article 17§1 under the legal status of the child is the issue of statelessness, the Committee asked what measures have been taken to reduce statelessness such as ensuring that every stateless migrant child is identified simplifying procedures for obtaining nationality and taking measures to identify children unregistered at birth and to facilitate birth registration.

► **The Right to education (Article 17§2)**

Under **Article 17§2** of the Revised Charter⁸ the States Parties have positive obligations to ensure equal access to education for all children, with particular attention to be paid to vulnerable groups.

The Committee examined the situation in 26 countries. It found 10 countries not to be in conformity (and deferred its conclusions in another 10 situations).

While in the majority of the states an effective and accessible system of education is in place, some states (Armenia, Bulgaria, the Republic of Moldova, North Macedonia, Romania, the Slovak Republic) still have low enrolment rates in compulsory education, whereas in others (the Republic of Moldova) measures taken to ensure that Roma children complete compulsory education are not sufficient, Roma children are still subject to segregation in the education field (Hungary) or are disproportionately represented in special classes (Republic of Moldova, the Slovak Republic). Montenegro and the Russian Federation do not grant irregularly present children an effective right to education, which is also required by Article 17 of the Charter.

New issues raised include anti-bullying measures and the voice of the child in education.

► **The rights of migrant workers (Article 19)**

The respect of the rights of migrant workers was found to be particularly problematic, with all but three countries (Estonia, Lithuania and the United Kingdom) not being in conformity with one or more of the provisions of Article 19.

In particular, the rate of non-conformity findings rose to 72% as regards infringements on the right to family reunion (Article 19§6). It may result from the fact that at the previous cycle, the Committee adopted several statements of interpretation clarifying the scope of Article 19§6. The Council of Europe evidently faces a daunting challenge in persuading more member States to accept the right to family reunion and the obligations that follow from it. Family reunion procedures account for a very significant proportion of migration flows to Europe; in the EU area ranging from 30-50% of total legal immigration over the last decade. It is not surprising therefore that the right to family reunion leads an uneasy existence caught between mostly competing concerns: on the one hand a commitment to protect human rights and on the other hand economic and political interests in “managing” migration.

Apart from obstacles to family reunion related to excessive residence, language or income requirements, the Committee noted that in many cases the expulsion of a migrant worker could entail the expulsion of his/her family members, without assessing their own personal circumstances.

8. NB: There is no corresponding provision in the 1961 Charter.

On the positive side, all states (apart from one deferral) were found to be in conformity as regards Article 19§5, which recognizes the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.

Also, the situation in States Parties as regards the requirement to take appropriate measures to facilitate reception of migrant workers and their families (Article 19§2) is also improving, with only two findings of non-conformity (Armenia and Luxembourg) which were due to lacking information on the above issues.

Article 19§4 concerns, as the whole Article 19, the migrant workers and their families and does not apply to refugees and asylum seekers.

The most problematic matter for states has been the ruling by the Committee that a requirement of a period of residence as a condition of eligibility for public housing that applies equally to nationals and non-nationals is a breach of Article 19§4. Such a requirement is characterised by the Committee as indirect discrimination because it is a requirement that non-national migrant workers find significantly more difficult to comply with than nationals and that cannot be justified for good public interest reasons.

Article 19§8 of the European Social Charter provides that migrant workers lawfully residing within the territories of the State parties shall not be expelled unless they endanger national security or offend against public interest or morality. The situation has improved comparing to previous cycles. Five countries were found to be in non-conformity (Luxembourg, Romania, Greece, North Macedonia, Turkey and Poland). The established problems were that the reasons for expulsion went beyond the exemptions allowed under the Charter, in particular in situations where migrant workers do not endanger national security or offend against public interest or morality.

The findings of non-conformity under Article 19§1 revealed predominantly problems with practical and legal measures to tackle racism and xenophobia and prevent hate speech in media and public discourse (Belgium, France, Italy Turkey and Georgia).

In addition to the conclusions state-by-state, the Committee also adopted a statement of interpretation clarifying the scope of Article 19, underlying that it concerns specifically rights of migrant workers and their families and does not apply to refugees and asylum seekers, whose relevant rights are protected under other provisions of the Charter.

► **The right of workers with family responsibilities to equal opportunities and equal treatment (Article 27)**

Article 27 guarantees the right of workers with family responsibilities to equal opportunities and treatment. National legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions the Committee found that in the majority of states having accepted this provision of the Charter both parents enjoy a right to parental leave.

The Committee found that the situation was not in conformity with Article 27§1 (participation in working life) only in one case (Georgia) on the ground that the

legislation does not specifically provide for facilitation of reconciliation of working and private life for persons with family responsibilities.

According to Article 27§2 (parental leave), national legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions, the Committee found that in the majority of states having accepted this provision of the Charter both parents enjoy a right to parental leave. However, one of the key features of Article 27§2 is that states shall ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave. It is not the case in three situations: Armenia, Azerbaijan and Ukraine (the level of parental leave benefit is inadequate). In three other cases, the Committee found that the situations were not in conformity on the ground that no compensation or remuneration is provided for parental leave (Ireland, Malta and Turkey).

Article 27§3 (illegality of dismissal on the ground of family responsibilities) also requires the prohibition of dismissal on the ground of family responsibilities and the existence of effective remedies in case of unlawful dismissal. The Committee has observed that dismissal on grounds of family responsibilities is prohibited in all but three states (Bulgaria, Italy and Turkey) having accepted this provision.

► **The right to housing (Article 31)**

Article 31 guarantees the right to housing. While Article 31 cannot be interpreted as imposing on states an obligation of “results” it notably obliges them to adopt the necessary legal, financial and operational means of ensuring steady progress, measurable and within reasonable time, in the realisation of this right.

The Committee’s conclusions reflect a relatively low degree of compliance with the provisions of Article 31.

Under **Article 31§1 (adequacy of housing)** two countries are in conformity (Andorra and Finland) and eight countries in non-conformity with this provision of the Charter.

Most of the non-conformities concern the substandard housing conditions of Roma and Travellers (France, Greece, Italy, Latvia, Portugal, Turkey, and Ukraine). Other non-conformities concern more general problems such as substandard housing for a large number of dwellings (France), supervision of housing standards (Lithuania) and the lack of rules imposing obligations on landlords to ensure that dwellings are of an adequate standard (Turkey).

As regards **Article 31§2 (reduction of homelessness)** eight countries are not in conformity with this provision of the Charter and only one country (Finland) is in conformity.

Most of the conclusions on non-conformity concern the insufficient legal protection for persons threatened by eviction (forced eviction), including on specific issues under this topic such as the prohibition of evictions during winter: Andorra, France, Greece, Lithuania, Portugal, Turkey and Ukraine. Some of these are due to the lack of sufficient information (“it has not been demonstrated”).

Some non-conformities refer specifically to evictions of Roma (France, Greece, and Italy). Other non-conformities are based on the insufficient measures to reduce

and prevent homelessness in general (France, Italy, and Turkey). Another ground for non-conformity is the insufficient protection of the right to shelter (Lithuania, Portugal, Turkey and Ukraine).

Finally, under **Article 31§3 on affordable housing**, one country is in conformity (Finland), three in non-conformity (France, Italy and Portugal) and there are two deferrals (Greece and Turkey).

The non-conformities with Article 31§3 basically concern the shortage of social housing (France and Portugal) and the lack of equal treatment of foreign nationals lawfully residing with regard to social housing and housing benefits (length of residence requirements, Italy, in connection with Article 19§4). Two non-conformities concern access of Roma/Travellers/Sinti to social housing or housing assistance (France and Italy).

Some of the issues raised in the questions formulated to the states for the next reports are: the overall availability of social housing (number of applications introduced, percentage of those granted, and average of waiting times); housing support and benefits for foreign nationals lawfully residing.

4.3. Examples of progress in the application of the European Social Charter with respect to children, families and migrants' rights

When preparing Conclusions 2019, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or in some cases on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information).

The Committee welcomes these developments which contribute to a better implementation of the Charter at national level and invites the States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights of the Charter.

This chapter contains a non-exhaustive list of examples of progress by country and provision regarding countries bound by the 1961 Charter and countries bound by the Revised Charter of 1996.

4.3.1. Article 7§1

- ▶ In **North Macedonia** the Law on Labour Relations was amended in 2018 (outside the reference period) published in the Official Gazette No. 120/2018 in respect of the duration of working hours of light work and holidays for children. Article 18 (2) of the Law on Labour Relations now reads as follows: *“This Law shall forbid the work of a child under the age of 15 or a child who has not completed compulsory schooling, except for participation in activities allowed by law, but no longer than two hours a day and or 12 hours a week, and during the school holidays no longer than six hours a day or 30 hours a week, and during this period, the child is entitled to a two-week holiday.”*

4.3.2. Article 8§1

- ▶ Article 45 of the **Brčko District (Bosnia and Herzegovina)** Labour Law had been amended on 23 August 2014 and a Decision on the Conditions and Manners of Payment of Compensation of Salary during Maternity Leave (No. 34-000890/13 of 15 January 2014) had come into force on 22 January 2014. During maternity leave, employees are entitled to salary compensation equal to the average net wage earned over the last six months prior to maternity leave (and not 12 months).
- ▶ In **Armenia**, Law No. HO-160-N of 27 October 2010 was amended by Law No. HO-206-N of 1 December 2014 in order to replace “temporary incapacity benefits” for pregnant women or those on maternity leave by “maternity benefits”.
- ▶ In **Luxembourg**, in accordance with the law of 15 December 2017, the duration of postnatal leave increased from 8 to 12 weeks.
- ▶ In **North Macedonia**, following amendments to the Law on Labour Relations during the reference period (Official Gazette No. 72/15), paid maternity leave for multiple births was extended from 12 to 15 months.
- ▶ In **the Slovak Republic**, the amount of maternity benefits increased from 65% (Conclusions 2015) to 75% of the employee’s salary (the situation is now in conformity with Article 8§1 of the Charter on this point).

4.3.3. Article 8§2

- ▶ In **France** Under Article 10 of Law No. 2016-1088 of 8 August 2016 relating to Work, Modernisation of Social Dialogue and Securing of Professional Processes, the statutory period of prohibition to terminate the employment contract at the employer’s initiative following pregnancy or maternity leave has been extended from four to ten weeks after maternity leave and now includes the period of paid leave immediately following maternity leave. This protection covers pregnant women and also their employed spouses and adoptive parents.
- ▶ In **Lithuania**, according to the new Labour Code which came into force on 1st July 2017, pregnant women enjoy protection against dismissal from the day they notify their employer that they are pregnant until the child is four months old.

4.3.4. Article 16

- ▶ In **Austria**, pursuant to legislative changes, the situation in seven out of nine *Länder* (Burgenland, Carinthia, Upper Austria, Styria, Salzburg, Tyrol and Vorarlberg) has been put in conformity with the Charter insofar as their Housing Subsidies Acts provide for equal treatment of foreign nationals. However, in Lower Austria and in Vienna *Länder* a distinction continued to apply, to a certain extent, in the specific context of housing allowances (five years residence requirement). The situation remains in breach of the Charter in respect of these two *Länder*.
- ▶ In **Hungary**, the national report refers to the results of several programmes for slums: by 2015-2016, 55 programmes for slums were implemented in 66 segregated areas. Renovation or building work was carried out in 8 settlements, in

112 dwellings (39 newly built; 73 renovated). The housing conditions of about 500 persons of 132 families were improved. The Committee takes note of the continuing efforts made by Hungary, in particular as regards the improvement of housing conditions of people living in slums and segregated areas. However, it puts additional questions on the availability of housing support for the next report and defers its conclusion on this aspect (in 2015 and 2017 it was non-conformity for non-establishment on this ground, adequate supply of housing for vulnerable families).

- ▶ As regards **Iceland**, the current report provides information on the different types of housing support during the reference period, including figures on the number of households that benefitted from them and the number of social housing units (municipal rental apartments) for each year. The Housing Benefit Act No. 75/2016 replaced the earlier Rent Benefit Act. Under this new legislation, the administration of financial support to tenants (previously termed “rent benefit”, now termed “housing benefit”) was transferred from the municipalities to the State. The main change is that the basic amount of housing benefit rises according to the number of persons in the household, irrespective of their age. Thus, housing support is not bound by the type of family and has been made more equal than it used to be. Housing benefit can, at its maximum level, amount to 75% of the rent, while maximum rent benefit in the old system could reach only 50% of the rent. On the other hand, municipalities are now obliged to offer additional special housing support to tenants if certain conditions which each municipality sets are met (tenants living under very difficult social and financial conditions). Prior to the new system, they were permitted, but not obliged, to offer these special rent benefits. The Committee takes note of all the legislative developments which have taken place during the reference period as well as of the figures provided in the report on the availability and the different modalities of housing support. It considers that the situation is in conformity with the Charter on this aspect.
- ▶ In **Estonia** the amount of child allowance has been significantly raised compared to the previous reference period from € 19 (2013) to € 55 (2017). The Committee notes that the child allowances now represent 7% of the median equivalised income. The Committee considers that with the raise in the child allowance, the situation has been brought into conformity with the Charter.
- ▶ In **Hungary** following the amendments of 2014 to the Family Support Act, the personal scope of family benefits has been extended and now covers third-country nationals holding a single permit, provided that their employment was permitted for a period exceeding 6 months. The Committee considers that these amendments have brought the situation into conformity with the Charter as there is no longer a length of residence requirement for access to family benefits.

4.3.5. Article 17

- ▶ **Estonia, France, Ireland, Lithuania, Malta, Montenegro, Scotland and Wales** all abolished all forms of corporal punishment in all settings (albeit France, Scotland and Wales outside the reference period).

- ▶ **Ireland** the practice of detaining children in adult prison facilities ended.
- ▶ In **the Republic of Moldova** and **Ukraine** efforts have been made to ensure that children cannot be taken into care on the grounds of the financial circumstances of their families.

4.3.6. Article 27

- ▶ In **France** under Law No. 2014-459 of 9 May 2014, companies may set up a system for donating rest days to a parent whose child is seriously ill. Law No. 2018-84 of 13 February 2018 has set up similar arrangements which make it possible to donate leave days which have not been taken to the caregivers of dependent persons or persons with disabilities.
- ▶ In **Turkey** under Act No. 6663 which entered into force on 10 February 2016, workers with family responsibilities (public and private sectors) may work part-time until their child reaches compulsory school age. Requests to work part-time may not be regarded as valid grounds for termination of employment contracts.

4.3.7. Article 31

- ▶ In **France**, the situation as regards the legal protection of the right to housing for non-nationals has been brought into conformity with the Charter. In 2011 the Committee found that the requirement of two years' prior residence in France to be entitled to submit an application to the committee in charge of the DALO procedure (enforceable right to housing) was excessive. This requirement was annulled by the *Conseil d'Etat* and the legislation was amended in 2012 following this decision: the 2-year residence requirement is no longer applied. The Committee has found in 2019 that the situation has been brought into conformity with Article 31§1 on this aspect.
- ▶ In respect of **Portugal**, the Committee noted that there is a new basic housing law (Law No. 83/2019, outside the reference period, not referred to in the national report). It asks the next report to describe what are the legal remedies provided for by this law for the protection of the right to adequate housing (31§1).
- ▶ In **Andorra**, although there is no formal prohibition against evicting persons staying in temporary shelters (hotels), in the event that the hotelier should no longer wish to continue accommodate the person concerned, the hotelier notifies social services so that they can make alternative arrangements. The Committee previously reserved its position (2017) and now concludes, in the light of this information, that the situation is in conformity with Article 31§2 of the Charter.
- ▶ With regard to **Finland**, the Committee noted that according to an international evaluation commissioned on the programme on reducing long-term homelessness (2005-2015), Finland was one of the best examples of implementing the "housing first" model. The national report indicated that long-term homelessness has continued to decrease (by 35% between 2008 and 2015) and that at the end of 2017 there were 7 112 homeless persons, less than 0.2 % of the population. There is a new action plan for preventing homelessness

2016-2019. The current goal is to reduce the number of homeless people to less than 4 000 before 2023. The Committee considers that Finland continues to be committed to tackling homelessness in compliance with Article 31§2 of the Charter.

- ▶ As regards **Lithuania**, the Committee had previously considered that the legal protection for persons threatened with eviction was not adequate (2011, 2015, 2017). While the Committee reiterates its conclusion of non-conformity on the specific point of prohibition of evictions during the winter period, it now considers that the situation is in conformity with respect to: the obligation to rehouse the persons evicted in case of eviction for reasons of public interest (notably when the dwellings are unfit for habitation and when they are being demolished, reconstructed); and access to legal remedies and compensation in the event of illegal eviction.
- ▶ In **Italy**, the Committee takes note of a positive development in the domestic case-law: the Constitutional Court has found in 2018 (20/07/2018) that the conditions of access applied to third-country nationals with regard to housing benefits granted for the payment of rent were unconstitutional. The CC held that it was manifestly unreasonable and arbitrary to set a 10-year national residence requirement or a 5-year regional residence requirement for third country nationals to be entitled to housing benefits of this type. However, since this judgment was given outside the reference period, the Committee reiterates its previous conclusion of non-conformity with Article 31§3.

4.4. Follow-up of the conclusions by the Governmental Committee of the European Social Charter and the European Code of Social Security

In 2019, the Governmental Committee examined follow-up measures taken by the Governments with respect to conclusions of non-conformity issued by the European Committee of Social Rights on articles of the European Social Charter relating to “Labour rights” (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29) covering the reference period 1st January 2013 – 31 December 2016, related to ECSR Conclusions XXI-3(2018) of the 1961 Charter and Conclusions 2018 of the Revised European Social Charter.

The Governmental Committee examined 119 situations not in conformity with the Charter as selected by the ECSR: 34 concerned countries bound by the 1961 Social Charter and 85 countries bound by the Revised European Social Charter. The detailed reports of the Governmental Committee meetings contain more extensive information regarding the cases of non-conformity examined and may be consulted at www.coe.int/socialcharter.

The Governmental Committee held two meetings in 2019 (139th Meeting on 13-17 May 2019 and 140th Meeting on 16-20 September 2019) with Mr Joseph Faber (Luxembourg) in the Chair. The Representative of the European Trade Union Confederation (ETUC) attended the meetings of the Governmental Committee in a consultative capacity. In accordance with its Rules of Procedure, the Governmental Committee at its autumn meeting elected for a two-year term (until 31 December 2021) its new members of the Bureau. Mr. Joseph Faber (Luxembourg) Chair, Mr. Aongus

Horgan (Ireland) 1st vice Chair, Ms Kristina Vysniauskaite-Radinskiene (Lithuania) 2nd vice Chair, Ms Brigita Vernerova (Czech Republic) Member, Mr. Edward Buttigieg (Malta) Member.

In the last year supervisory cycle, there were not proposals for individual recommendations by the Governmental Committee to be addressed to State Parties for non-compliance with the Charter. During its examination, the Governmental Committee took note of the Conclusions deferred for lack of information and of important positive developments in several State Parties.

The Governmental Committee adopted 37 warnings in total, as set out in the table below.

GOVERNMENTAL COMMITTEE - TABLE OF WARNINGS ADOPTED IN 2019													
ARTICLES													
States	2.1	2.5	2.7	4.2	5	6.1	6.2	6.4	22	26.1	26.2	28	Warnings
1. Armenia					1			3					4
2. Azerbaijan					1	1	1	2	1	2	2	2	12
3. Estonia								1					1
4. Georgia						1		1					2
5. Germany								1					1
6. Lithuania											1		1
7. Moldova								2					2
8. The Netherlands				1									1
9. Poland	1												1
10. Romania								1					1
11. Ukraine			1		1			1				1	4
12. United Kingdom		1		1	1		1	3					7
TOTAL	1	1	1	2	4	2	2	15	1	2	3	3	37

28 warnings in respect of the 9 countries bound by the Revised European Social Charter: Azerbaijan (12), Armenia (4), Ukraine (4), Georgia (2), Republic of Moldova (2), Estonia (1), Lithuania (1), Netherlands (1) and Romania (1) and 9 warnings in respect of the 3 countries bound by the 1961 Charter: United Kingdom (7), Germany (1) and Poland (1).

The Governmental Committee asked national authorities to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous Recommendations adopted by the Committee of Ministers.

The Governmental Committee in its abridged reports on 2019 activities, proposed to the Committee of Ministers to approve 2 Resolutions on the implementation of the European Social Charter. The Committee of Ministers in its 1370th meeting on 11 March 2020 adopted the two resolutions:

- ▶ [CMresChs\(2020\)5](#) Resolution on the implementation of the European Social Charter during the period 2013-2016 (Conclusions 2018), provisions related to the thematic group “Labour rights”;
- ▶ [CMresChs\(2020\)4](#) Resolution on the implementation of the European Social Charter during the period 2013-2016 (Conclusions XXI-3 (2018)), provisions related to the thematic group “Labour rights”.

5. Procedure on non-accepted provisions

5.1. Introduction

Article A of the European Social Charter (Article 20 of the 1961 Charter) authorizes States to ratify the treaty without accepting all its substantive provisions. The same article also allows States, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs⁹. This gradual acceptance principle is described in Article 22 of the 1961 Charter.

The Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

For the first years of the Charter's existence, this procedure took the form of a traditional reporting exercise, with States submitting reports describing the implementation, in both law and practice, of the provisions concerned. The Committee of Ministers launched these "exercises" on eight occasions between 1981 and 2002.

In December 2002, the Committee of Ministers decided that "States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned" (Committee of Ministers Decision of 11 December 2002). Following this decision, it was agreed that the European Committee of Social Rights would examine – either in meetings or as part of a written procedure – the legal and practical situation in the States concerned from the standpoint of the situation's compatibility with the non-accepted provisions. The first examination would take place five years after ratification of the revised Social Charter and thereafter every five years, so that the situation could be assessed on a continuing basis and States would be encouraged to accept new provisions. In practice, experience has shown that States have tended to lose sight of the fact that the selective acceptance of Charter provisions must only be a temporary phenomenon.

A detailed table of the accepted provisions of the European Social Charter can be found in the appendices¹⁰.

9. Appendix 7: Table with number of accepted provisions by year since 1962.

10. Appendix 8: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

5.2. Overview of the States Parties concerned in 2019

In 2019 the procedure on non-accepted provisions concerned eleven States: Andorra, Armenia, Azerbaijan, Belgium, Hungary, Italy, Romania, the Russian Federation, Serbia, the Slovak Republic and Slovenia.

The Committee held meetings in:

- ▶ Albania (25-26 March 2019, procedure 2017);
- ▶ Andorra (14 November 2019);
- ▶ Romania (7 November 2019);
- ▶ Serbia (22 November 2019).

The Committee adopted the reports concerning non-accepted provisions for the following countries: Armenia, Belgium, Italy, the Russian Federation, Serbia, the Slovak Republic and Slovenia.

The Committee will adopt the reports concerning non-accepted provisions on Albania, Andorra, Azerbaijan, Romania in 2020. Hungary did not submit the report on non-accepted provisions in 2019.

Armenia

Armenia ratified the European Social Charter on 21 January 2004, accepting 67 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 2§7, 3§2, 3§3, 3§4, 4§1, 9, 10§1, 10§2, 10§3, 10§4, 10§5, 11§1, 11§2, 11§3, 12§2, 12§4, 13§3, 13§4, 14§1, 15§1, 16, 21, 23, 25, 26§1, 26§2, 29, 30 and 31§1, 31§2, 31§3 (31 provisions).¹¹

With a view to carrying out the procedure in 2019, the European Committee of Social Rights decided, at its 300th session, to invite Armenia to provide written information on possible progress achieved towards accepting additional provisions and, if appropriate, the reasons for the delay in accepting them.

In response to this request, sent on 16 April 2019, the Ministry of Labour and Social Affairs of Armenia referred to the meeting held in 2015 and indicated that a large-scale reform was being implemented in the field of labour and social protection with the consideration of conclusions and recommendations of the European Committee of Social Rights regarding Armenia.

The Committee welcomes these developments, but it looks forward to acceptance by Armenia in the near future of additional provisions of the Charter, at least of those identified in 2015¹² as posing no problems for acceptance. Furthermore, the

11. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

12. See the report on non-accepted provisions of the European Social Charter by Armenia, 2016: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000168066b9a0>

Committee encourages Armenia to consider the possibility of accepting the collective complaints procedure.

The next examination of the provisions not accepted by Armenia will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/second-report-on-the-non-accepted-provisions-of-the-european-social-ch/16809661b1>

Belgium

Belgium ratified the European Social Charter on 16 October 1990 and the Revised European Social Charter on 02 March 2004, accepting 87 of the Revised Charter's 98 paragraphs. In June 2015 Belgium accepted to be bound by 4 additional provisions (Articles 26§2, 27§1, 27§2 and 28 of the Revised Charter), bringing the total of accepted provisions to 91 of the 98 paragraphs. Following provisions are not yet accepted: Articles 19§12, 23, 24, 27§3, 31§1-3.

It accepted the Additional Protocol of 1995 providing for a system of collective complaints on 23 June 2003 but has not yet made a declaration enabling national NGOs to submit collective complaints.¹³ The procedure provided for in Article 22 of the 1961 Charter was applied for the first time in 2009 and second time in 2014. With a view to the implementation of the procedure for the third time in 2019, the Belgian authorities were invited to send written information concerning the progress made towards the acceptance of new provisions and, where appropriate, the reasons for delay in acceptance of these provisions.

After having examined the written report communicated by the Belgian authorities on April 30, 2019, the Committee encourages the government of Belgium to accept the following provisions as soon as possible: Articles 23 and 27§3 and, in particular, Article 31 of the Charter.

It invites the Belgian authorities to adopt legislation without delay in accordance with the provisions of article 38 of the law of 26 December 2013 on the introduction of a single status between workers and employees, which would remove the obstacle to the acceptance of Article 24 of the Charter. With regard to Article 19§12 of the Charter, the Committee considers that further information on the current legal and practical situation in Belgium is necessary to enable it to correctly assess the situation.

In addition, the Committee invites Belgium to consider recognising the right of national NGOs to lodge complaints in accordance with article 2 of the Additional Protocol providing for a system of collective complaints.

The next examination of the provisions not accepted by Belgium will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/3eme-rapport-belgique-2019/1680994eac>

13. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

Italy

Italy ratified the Revised European Social Charter on 03 May 1996 and has accepted 97 of the

Revised Charter's 98 paragraphs. Italy ratified Protocol No. 3 on "collective complaints" on 03 November 1997.¹⁴

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in 2004, for the second time in 2009 and for the third time in 2014. In all these cases, the European Committee of Social Rights decided to adopt the written procedure on the only non-accepted provision of the Charter - Article 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer).

With a view to carrying out the procedure in 2019, the European Committee of Social Rights decided, at its 300th session, to invite Italy to provide written information on the only non-accepted provision, indicating in particular any progress achieved towards accepting Article 25 of the Charter and, if appropriate, the reasons for the delay in accepting this provision.

On 6 June 2019, the Italian authorities informed the Committee that the representatives of the Council of Europe and the competent authorities of the country met on 13 December 2016 to discuss the obstacles that prevent Italy from accepting Article 25 of the Charter. Following this meeting, the Directorate General of Labour and Industrial Relations of the Ministry of Labour and Social Policies took the necessary steps to clarify the situation regarding the operation of the Guarantee Fund. In conclusion, it was of the opinion, that the problem of the alleged non-compliance of the national legislative framework - the reason for the non-acceptance of Article 25 of the Charter - could be overcome. In fact, according to data from the INPS (National Social Welfare Scheme), the average period of payment of funds to workers is in line with the 60-day period prescribed by Law No. 297 of 29 May 1982 and, consequently, with the deadline set by the case law of the European Committee of Social Rights. The Ministry will therefore continue to analyze the matter, hoping to initiate the ratification procedure of Article 25 of the Charter.

The Committee welcomes these developments and again encourages the Italian authorities to accept Article 25 of the Charter, in the near future.

The next examination of the provision not accepted by Italy will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/4th-report-italy-2019/1680994eb1>

Russian Federation

The Russian Federation ratified the Charter on 16 October 2009, accepting 67 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§2, 4§1, 12§2,

14. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

12§3, 12§4, 13§1, 13§2, 13§3, 13§4, 15§3, 18§1, 18§2, 18§3, 19§1, 19§2, 19§3, 19§4, 19§6, 19§7, 19§8, 19§10, 19§11, 19§12, 23, 25, 26§1, 26§2, 30, 31§1, 31§2 and 31§3.¹⁵

The procedure provided for in Article 22 of the 1961 Charter was applied for the first time in the context of an exchange of views organised by the Committee on Labour, Social Policy and Veterans Affairs of the State Duma in Moscow on 10 April 2015. The information provided at that meeting was supplemented by technical information on the situation in law and practice as regards the non-accepted provisions of the Charter, sent to the European Committee of Social Rights by the authorities of the Russian Federation on 23 July 2015.

With a view to carrying out the procedure for the second time in 2019, the authorities of the Russian Federation were invited to provide written information on the non-accepted provisions of the Charter.

After examining the written information provided by the Government of the Russian Federation on 9 September 2019, the European Committee of Social Rights considers that there are no major obstacles to the acceptance by the Russian Federation of Articles 2§2, 12§3, 13§3, 15§3, 19§1, 19§3, 19§4 (a) and (b), 25 and 31§1 of the Charter.

The Committee is of the opinion that the Russian Federation, is in a position to meet, in the near future, the conditions enabling it to comply with the requirements of Article 4§1 of the Charter. It encourages the authorities to pursue its policy in this direction.

It considers that the current legal situation and practice in the Russian Federation should be further improved to meet the requirements of Articles 12§4, 13§1, 18§2, 18§3, 19§2, 19§4(c), 19§6, 19§7, 19§8, 19§11, 19§12, 23, 26§1, 26§2, 30, 31§2 and 31§3 of the Charter.

The Committee needs more detailed information to reach a firm opinion on the level of conformity of the situation with the requirements of the Charter as regards to Articles 12§2, 13§2, 13§4, and 19§10 of the Charter.

The Committee encourages the Russian Federation to consider accepting additional provisions of the Charter as well as the 1995 Additional Protocol providing for a system of collective complaints as soon as possible, so as to make full use of the Charter to guarantee and promote social rights in the interest of all.

The next examination of the provisions not accepted by the Russian Federation will take place in 2024.

The Committee's report can be consulted at: <https://www.coe.int/en/web/european-social-charter/the-russian-federation-and-the-european-social-charter>

Serbia

Serbia ratified the Revised Charter on 14 September 2009, accepting 88 of the 98 paragraphs of the Revised Charter. At the time of ratification, Serbia did not consider it bound by 10 numbered paragraphs of the Revised Charter, namely Articles . 2§4, Art. 10§5, Art. 19§§11 and 12, Art. 27§§1, 2 and 3, and Art. 31§§1, 2 and 3. Furthermore,

15. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

in the declaration deposited with the instrument of ratification, it was indicated that Serbia did not consider itself bound by Art. 6§4 in regard to professional military personnel of the Serbian Army, as well as by Art.17§1(a).¹⁶

For the first time, the procedure provided by Article 22 of the 1961 Charter took place in 2014, and a meeting between members of the European Committee of Social Rights and representatives of various institutions of Serbia was held in Belgrade on 4 November 2014.

The second meeting on the non-accepted provisions of the Revised Charter was held in Belgrade on 22 November 2019.

The Committee noted that given the progress achieved by Serbia, there are good indications that no significant obstacles exist to accept Articles 10§5, 19§§11,12, and 27§§1–3, as well as to lift the reservations as regards Articles 6§4 and 17§1a of the Charter.

The European Committee of Social Rights remains at the disposal of the authorities of Serbia and encourages them to take the necessary steps towards acceptance of the collective complaints' procedure and more provisions of the Revised Charter.

The next examination of the provisions not yet accepted by Serbia will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/2nd-report-serbia-eng-naprovisions-/16809c8946>

Slovak Republic

The Slovak Republic ratified the European Social Charter and the Additional Protocol to the Charter on 22 June 1998, accepting 60 of the Charter's 72 paragraphs, and all 4 articles of the Additional Protocol. It also ratified the Amending Protocol to the Charter on 22 June 1998.

It ratified the Revised European Social Charter on 23 April 2009, accepting 87 of the Revised Charter's 98 paragraphs. The following provisions are not yet accepted: Articles 13§4, 15§3m 18§3, 19§2, 19§3, 19§4c, 19§8, 19§10, 19§12 and 31§§1-3.¹⁷

It signed the Additional Protocol providing for a system of collective complaints on 18 November 1999 but has not yet accepted the procedure. As the Slovak Republic ratified the revised Charter on 23 April 2009, the procedure provided by Article 22 of the Charter was applied the first time in 2014.

With a view to carrying out the procedure for the second time, the European Committee of Social Rights decided to invite the Slovak Republic to provide updated written information on the actual situation regarding the possible acceptance of additional provisions.

16. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

17. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

Having examined the written information provided by the Ministry, the Committee observes that no progress has been made with regard to the acceptance of the remaining provisions, since the report sent by the Government on 30 April 2019 contains substantially the same information as that contained in the report of 30 September 2014.

The Committee therefore reiterates its conclusions adopted in 2014, namely: the Slovak Republic could consider acceptance of Articles 18§3, 19§3, 19§4 (c) and 31§2. Article 19§12 could possibly be accepted by the Slovak Republic subject to further analysis by the Committee in particular, as regards the situation of adults, with regard to mother-tongue teaching. Further information on the current legal situation and practice related to Articles 13§4 and 19§2 is needed to allow the Committee to take the view on the possibility of accepting these provisions of the Charter by the Slovak Republic.

The Committee finds that the situation did not appear to be fully in conformity with the following provisions of the Charter: Articles 19§8, 19§10, 31§1, 31§2 and 31§3. However, the Committee considers that for several of these provisions only minor adjustments to the law or practice, would be sufficient to remove obstacles to acceptance.

In addition, the Committee was not in a position to assess the situation regarding Article 15§3, as no information had been provided by the Government of the Slovak Republic. The Committee also encourages the Slovak Republic to consider ratifying the Additional Protocol providing for a system of collective complaints, which it signed on 18 November 1999.

The next examination of the provisions not accepted by the Slovak Republic will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/3rd-report-slovak-republic-2019/1680994eaf>

Slovenia

Slovenia ratified the Charter on 7 May 1999, accepting 95 of its 98 paragraphs. The following provisions are not yet accepted: Articles 13§1, 13§4 and 18§2.¹⁸

The procedure provided by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between members of the European Committee of Social Rights and representatives of various Slovenian ministries, in Ljubljana on 15 September 2004.

With a view to carrying out the procedure for the second time in 2009, for the third time in 2014 and for the fourth time in 2019, the Slovenian authorities were invited to provide written information on the non-accepted provisions of the Charter.

After examining the written information provided by the Government of Slovenia in June 2019, the European Committee of Social Rights invites the Slovenian authorities

18. See the country factsheet at: <https://www.coe.int/en/web/european-social-charter/implementing-the-european-social-charter#Factsheets>

to consider the possibility of accepting Article 13§1 of the Charter, reiterates its opinion that there are no major obstacles to the acceptance of Article 13§4 of the Charter and encourages the Slovenian authorities to accept this provision as well as Article 18§2 of the Charter without delay.

Since Slovenia is bound by the collective complaints' procedure, the Committee also wishes to invite the Slovenian authorities to consider making the declaration provided for in Article 2 of the 1995 Additional Protocol in order to allow national non-governmental organisations to submit such complaints.

The next examination of the provisions not accepted by Slovenia will take place in 2024.

The Committee's report can be consulted at: <https://rm.coe.int/4th-report-slovenia-2019/1680994ebf>

6. Strengthening the European Social Charter treaty system

The “Turin process”, launched in 2014, aims at strengthening the treaty system of the European Social Charter within the Council of Europe and in its relationship with the law of the European Union. Based on the principles of indivisibility, interdependence and interrelation of fundamental rights, formally established by the United Nations, its purpose is to improve the implementation of social and economic rights at the continental level, in parallel to civil and political rights granted by the European Convention on Human Rights.

The Turin process promotes the idea that upholding social rights in Europe is an essential contribution to the principles of the rule of law, democracy and human rights, promoted by the Council of Europe. In this light, one of its objectives is the ratification of the 1996 European Social Charter (revised) and acceptance of the 1995 Additional Protocol providing for a system of collective complaints by all Council of Europe member States. Member States that have not done so should ratify the Revised Charter and accept additional provisions, preferably all, as well as the collective complaints system. Ratification of the Charter or acceptance of its provisions - which has also been encouraged by the European Union Fundamental Rights Agency and its Director, both for EU member States and the EU itself - is not constitutive of rights, it is the enabler for monitoring compliance, while social rights remain human rights, indivisible, universal and interrelated.

At its 129th Session (Helsinki, May 2019), the Committee of Ministers of the Council of Europe “reaffirmed the importance of social rights across the continent”, acknowledging that social justice is an indicator of a healthy democracy. Where social rights are disregarded, the link between people and elected representatives erodes. That is why the increased inequality we face today is a major challenge for Europe.

For this purpose, the Steering Committee for Human Rights (CDDH) has drawn up a sound “Analysis of the Council of Europe legal framework for the protection of social rights in Europe”¹⁹ (1st report) and has also identified good practices and made proposals with a view to improving the implementation of social rights in Europe in a 2nd report²⁰. This includes ideas to facilitate the relationship between the treaty system of the European Social Charter with other European or global instruments for the protection of social rights. At the initiative of the Committee of Ministers’ French Presidency (May – November 2019), governments have already started their

19. “Analysis of the Council of Europe legal framework for the protection of social rights in Europe”, 2018 report of the Steering Committee for Human Rights (CDDH)

20. “Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe”, 2019 Report of the Steering Committee for Human Rights (CDDH)

reflection on possible measures to improve the protection of social rights in Europe and for the better functioning of the treaty system of the Charter.

The pertinence of the 2nd Report of the CDDH was also underlined by Giuseppe Palmisano, President of the European Committee of Social Rights, during an exchange of views with the Ministers Deputies on 23 October 2019²¹. Giuseppe Palmisano also underlined the commitment of the Finnish (November 2018 – May 2019) and French (May – November 2019) Presidencies of the Committee of Ministers to protect and promote social rights in Europe for the good of European citizens and recalled the invitation of the Committee of Ministers at the Helsinki session in May 2019 to all the member States that have not yet done it to consider signing and ratifying the Revised European Social Charter and its Additional Protocol providing for a system of collective complaints.

21. Appendix 9: Intervention of Giuseppe Palmisano, President of the European Committee of Social Rights, before the Committee of Ministers of the Council of Europe, 23 October 2019

7. Relations with Council of Europe Bodies

7.1. Secretary General of the Council of Europe

In the context of his last Report “Ready for future challenges – reinforcing the Council of Europe”²², the Secretary General of the Council of Europe, Thorbjørn Jagland, said that the enforcement of social rights to tackle extremes of poverty and inequality is required more than ever. Moreover, the Council of Europe has been characterised by some as the “conscience” of Europe. An important part of that “conscience” is represented by the European Social Charter which, in turn, has been characterised as the Social Constitution of Europe.

Together with the European Convention on Human Rights, the European Social Charter embodies the best of the European democratic and social model. It outlines the fundamental rights required to ensure human dignity: the right to education, to health care, to housing, to fair remuneration, social security, and social assistance. This is a means to ensure social justice, consolidate inclusive societies and strengthen democratic security in our member States.

Besides, the Secretary General’s Report states that the process of mutual harmonisation with the European Union’s standards should be brought forward. It is important to ensure synergy between the European Social Charter mechanism and EU standards and to avoid conflicts between different instruments. The European Social Charter should be central to the implementation of the European Pillar of Social Rights and new ways to promote this should be explored.

The Secretary General also emphasize that in many countries, public services were deeply affected over the last decade by cuts in public funding, with a particular impact on health and social protection. “The negative impact of these measures has been heaviest on the most vulnerable persons and groups, such as the poor, the elderly, the sick, children, people with disabilities, migrants and refugees. Those coming from disadvantaged neighbourhoods have suffered most from the resulting poverty and social exclusion. Since 2009, the Council of Europe has emphasised that the economic crisis and the austerity measures should not result in the deterioration of protection for social rights.”

The European Committee of Social Rights has insisted over the past years through its monitoring procedure that austerity measures have exacerbated the already severe human consequences of the economic crisis marked by record levels of unemployment, discrimination, social exclusion, poverty including child deprivation. The subsequent destruction of jobs and increased duration of joblessness ensure that unemployment will continue to rise and stay stubbornly high for some time to come,

22. “Ready for future challenges – reinforcing the Council of Europe”, 2019 Report of the Secretary General of the Council of Europe, Thorbjørn Jagland

well after the economy has begun to recover. Several collective complaints against Greece relating to the impact of austerity measures on social rights were brought before the Committee. The latter, having regard to the context of economic crises, recalls that ensuring the effective enjoyment of equal, inalienable and universal human rights cannot be subordinated to changes in the political, economic or fiscal environment. In the General introduction to Conclusions XIX-2 from 2009, the Committee has stated that *“the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.”* The Committee subsequently reiterated this analysis and stated that *“doing away with such guarantees would not only force employees to shoulder an excessively large share of the consequences of the crisis but also accept pro-cyclical effects liable to make the crisis worse and to increase the burden on welfare systems [...]”* (GENOP-DEI and ADEDY v. Greece, [Complaint No. 65/2011](#), op.cit., §18).“

In its decision on the merits of 23 March 2017 in Greek General Confederation of Labour (GSEE) v. Greece, [Complaint No. 111/2014](#), the Committee held that there was a violation of: Article 1§2, Article 2§1, Article 2§5 and Article 4§1 of the 1961 Charter on the grounds that: a) fair remuneration is not guaranteed; b) the reduction of the minimum wage for workers under 25 years is excessive and constitutes discrimination on grounds of age; Article 4§4, Article 7§5 of the 1961 Charter on the grounds that the minimum wage of young workers aged 15 to 18 years is not fair; Article 7§7 of the 1961 Charter; Article 3 of the 1988 Additional Protocol.

7.2. Committee of Ministers

Political support for the Charter and the Charter system continued in 2019. There were a number of occasions when Council of Europe Member States’ delegations restated their support within the framework Committee of Ministers or Rapporteur Group discussions. At its 129th Session (Helsinki, 16-17 May 2019), the Committee of Ministers expressed its support for the European Social Charter, underlining the importance of social rights, and inviting further commitments by member States under the Charter. In particular, the Ministers reaffirmed the importance of social rights across the continent, and invited member States that have not yet done so to consider signing and/or ratifying the revised European Social Charter and its Additional Protocol providing for a system of collective complaints.

The mandate given by the Committee of Ministers to the Steering Committee for Human Rights (CDDH) also provides evidence of the continued support for the Charter system and the determination to “identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights”. The work of CDDH on social rights was completed in 2019 and its reports were submitted to the Committee of Ministers. CDDH makes repeated reference to the desirability that member States make further commitments under the Charter and, in particular, that they accept further provisions from the Charter’s à la carte system and that those that have not yet done so ratify the revised Charter and the Protocol on collective complaints. The Steering Committee for Human Rights pointed out that European

States should be proud of their consolidated high standards in the protection of social rights, and indicated that strengthening the system of the Charter, which reflects the most complete and up-to-date expression of the European perception of social rights, strengthens the European model.

On 10 July 2019, the Deputies instructed the Secretariat to prepare, on the basis of the CDDH report and in consultation with the European Committee on Social Rights (ECSR) and the Governmental Committee of the European Social Charter and the European Code of Social Security (GC), initial suggestions to improve the protection of social rights in Europe and for the better functioning of the treaty system of the Charter, in the short term as well as the longer term. Consideration by GR-SOC of the Secretariat's initial suggestions, responding exhaustively to action proposed by the CDDH, started in 2019 and is expected to continue in 2020. Already in 2019 (11 December), the Committee of Ministers adopted a number of decisions in response²³.

7.3. Parliamentary Assembly of the Council of Europe

Eliane Chemla, General Rapporteur of the European Committee of Social Rights, and Jan Malinowski, Head of the Department of the European Social Charter, held an exchange of views with members of the Sub-Committee on Children and members of the Sub-Committee on the European Social Charter of the Parliamentary Assembly of the Council of Europe on 15 November 2019 in Strasbourg.

How to involve parliaments in actions that aim to protect children in Europe from poverty or how to build strong and powerful networks that work for and with children living in poor social conditions were some of the questions discussed.

The importance of invigorating the collective complaints procedure under the European Social Charter was highlighted in order to act for poor children with disabilities deprived of a proper education, prevent child marriages in poor Roma communities and avoid intergenerational transmission of poverty. The Parliamentary Assembly could also create a network of national parliamentary « ambassadors » to push for better implementation and wider ratification of key Social Charter rights and mechanisms relating to children's rights.

The joint meeting was organised in the framework of the 30th anniversary of the United Nations Convention on the Rights of the Child (UN CRC) and the European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse, 18 November.

7.4. European Court of Human Rights

The European Committee of Social Rights often refers to the case-law of the European Court of Human Rights, both in the framework of the reporting procedure and its decisions concerning the collective complaints. Prominent examples in 2019, include the following decisions:

23. 1363rd Meeting of the Ministers Deputies, 11 December 2019, Steering Committee for Human Rights (CDDH) – Follow-up to the CDDH report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680993bba

- ▶ ATTAC Finland, Global Social Work Finland (GSW) et Friends of the Earth Finland v. Finland, Complaint No. 163/2018, decision on admissibility and on immediate measures of 22 January 2019
- ▶ International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on admissibility and on immediate measures of 21 May 2019
- ▶ Amnesty International v. Italy, Complaint No. 178/2019, decision on admissibility and on immediate measures of 4 July 2019
- ▶ *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 140/2016, decision on the merits of 22 January 2019
- ▶ International Federation of Associations of the Elderly (FIAPA) v. France, Complaint No. 145/2017, decision on the merits of 22 May 2019
- ▶ *Unione Generale Lavoratori Federazione Nazionale Corpo forestale dello Stato (UGL – CFS) and Sindacato autonomo polizia ambientale forestale (SAPAF) v. Italy*, Complaint No. 143/2017, decision on the merits of 11 September 2019
- ▶ *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 158/2017, decision on the merits of 11 September 2019.

Similarly, in 2019, the European Court of Human Rights cited the European Committee of Social Rights in the following cases:

- ▶ Case Stoian v. Romania (Application No. 289/14), Judgment of 25 June 2019
- ▶ Case Kavala v. Turkey (Application No. 28749/18), Judgment of 10 December 2019

7.5. Conference of INGOs

In order to mark the **International Day for the Eradication of Poverty** (17 October 2019), the Conference of International Non-governmental Organisations of the Council of Europe organised a ceremony in the presence of Jean-Baptiste Mattéi, Permanent Representative of France to the Council of Europe, Anna Rurka, President of the Conference of INGOs, Giuseppe Palmisano, President of the European Committee of Social Rights, as well as members of the Secretariat of the Council of Europe.

The commitments taken by member States with respect to the European Social Charter and other Council of Europe conventions must be perceived and implemented with even greater intensity and attention when it comes to tackle poverty and homelessness of children, emphasised Giuseppe Palmisano during his intervention²⁴.

In addition, school children from Strasbourg read messages sent by other children living in poverty or in extremely precarious conditions, some of them demanding European countries to take action. Because, as pointed out by Jan Malinowski, Head of the Department of the European Social Charter, poverty and homelessness are not a fatality and have to be addressed.

24. Appendix 10: Address by Giuseppe Palmisano, President of the European Committee of Social Rights, on the occasion of the International Day for the Eradication of Poverty

8. Relations with other international organisations

8.1. European Union

On 11 April, a delegation of the Secretariat of the Council of Europe's Department of the European Social Charter (ESC) visited the European Union Fundamental Rights Agency (FRA) to meet with FRA experts in Vienna. The purpose of the visit was to discuss cooperation and how the European Committee of Social Rights could use FRA data in its reporting and collective complaint procedures. FRA presented the agency's available information in the thematic areas of Roma and Travelers; rights of people with disabilities; LGBTI; asylum seekers, migrant workers and social rights; poverty and social exclusion; children's rights; as well as human rights in relation to the Sustainable Development Goals. Discussions also touched on the development of the agency's European Union Fundamental Rights Information System (EFRIS)²⁵. The delegation of the Department of the European Social Charter presented relevant examples of its ongoing and planned work. It pointed out that, in the framework of its monitoring activities (collective complaints and reporting), the ECSR regularly draws on data made available by FRA on the wide range of areas covered by both entities (in particular, concerning Roma and Travellers, the rights of the child and persons with disability) and reports examined in 2019 relating to Roma and Travellers (Articles 16 and 31 of the Social Charter), the rights of the child (Articles 7 and 17 of the Social Charter), migration (Article 19 of the Social Charter) and violence against women (Article 16 of the Social Charter).

The European Committee of Social Rights is holding regular exchanges of views with representatives of the FRA in the framework of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform for Social Rights. More information on the Platform's activities in 2019 can be found in chapter 8.5 below.

8.2. United Nations

The European Committee of Social Rights held an **exchange of views with Professor Philip Alston**, United Nations Special Rapporteur on extreme poverty and human rights on 2 July 2019 in Strasbourg.

The meeting provided an opportunity for the Committee to learn more about the recent work carried out by Philip Alston and to exchange on issues of common concern such as the right to protection against poverty and social exclusion, the impact of austerity measures on human rights, the right to health and healthy environment. Philip Alston referred to climate change as having disproportionate negative impact on those living in poverty, and as a serious threat to democracy and human rights.

25. European Union Fundamental Rights Information System (EFRIS): <https://fra.europa.eu/en/databases/efris/>

The UN Special Rapporteur also presented his work on the human rights impacts, especially on those living in poverty, of the introduction of digital technology in the labour market and in respect of welfare provision systems.

Other discussion topics included Article 30 on the protection against poverty and social exclusions under the European Social Charter and the importance of developing closer cooperation between the Council of Europe and the United Nations bodies for a coordinated approach in guaranteeing and promoting social rights was highlighted.

The European Committee of Social Rights and its Secretariat participated in the **round table on access to social and economic rights and integration related services for refugees²⁶ and stateless persons** in Armenia, Azerbaijan and Georgia, which took place in Tbilisi on 10 October 2019. The event was jointly organised by the Division of Legal Co-operation, the Department of the European Social Charter and the Directorate General of Human Rights and Rule of Law of the Council of Europe's and the United Nations High Commissioner for Refugees (UNHCR).

The round table addressed challenges in guaranteeing in law and practice access to social rights of refugees and stateless persons, in particular children, as well as best practices from selected Council of Europe member States in terms of legal frameworks.

Participants referred to the European Social Charter as a fundamental instrument that guarantees protection for refugees and stateless persons, often exposed to poverty and social exclusion and are in daily need of basic social rights.

8.3. Interamerican Court of Human Rights

On 3-4 October 2019, the Department of the European Social Charter organised, together with the Inter-American court of Human Rights and in cooperation with the Ministry of Foreign Affairs of Spain and the Diplomatic School of Madrid, a conference in Madrid to broaden the discussion between the European Committee on Social Rights and the Inter-American Court of Human Rights in order to improve the respect for social rights in States Parties.

This first dialogue forum followed several informal and formal meetings which took place in 2017 and 2018. As a result of these meetings, two main lines of cooperation were agreed: to have a sustained mutual exchange of recent case-law between the two mechanisms and to have a first open event in 2019, in order to broaden the discussion on ensuring respect for social rights.

As planned, the conference created a forum for exchange of case law on social rights between the two bodies, ensuring compliance with international legal instruments promoting and protecting fundamental social rights and guarantying legal follow up by States Parties of the decisions taken by the two bodies. Finally, the conference also discussed larger acceptance of international social rights instruments. The role

26. For the purpose of this round table the term refugee includes asylum-seekers, refugees, refugees recognized under UNHCR's mandate, persons in a refugee-like situation and humanitarian status holders.

of social partners and civil society and their collaboration with the political leadership was also examined.

During the conference, the Ministry of Labour of Spain announced that the process of ratification of the Revised European Social Charter was on its way, and that Spain intended also to ratify the 1995 Additional Protocol providing for a system of collective complaints.

8.4. Academic Network on the European Social Charter and Social Rights (ANESC)

In 2019, the Committee continued to cooperate with the Academic Network on the European Social Charter and Social Rights (ANESC)²⁷. The Committee welcomed the measures taken by ANESC to promote the European Social Charter and respect for the values that it stands for.

The measures include, in particular, the following:

- ▶ A series of seminars entitled “Multilevel protection of fundamental social rights”, held by the Portuguese Section for Master students and foreign students in Portugal, between February and May 2019;
- ▶ A seminar on “The activities of the European Committee of Social Rights and the implementation of the European Social Charter in Italy”, held by the Italian Section of ANESC and co-ordinated by Professor Jörg Luther from the University of Eastern Piedmont, Alessandria, in April 2019, for PhD students in public, social and cultural institutions: Languages, law and history.
- ▶ Participation by the French Section in a European debate on “Gender equality, a value and fundamental right of European democratic civilisation” held in the “Maison du Barreau” in Paris, on 4 April 2019;
- ▶ A study afternoon on current issues relating to certain rights and freedoms enjoyed by workers, held by the Belgian Section of ANESC in Brussels on 10 May 2019;
- ▶ International symposium on “Social justice and judges – Are judges the new players in social conflicts?”, held by the French Section of ANESC at the University of Rouen on 27 and 28 June 2019;
- ▶ Contribution by the French Section at the international symposium on “Modern Forms of Work”, held by the European Labour Law Young Scholars (ELLYS)

27. ANESC is an association registered with the Strasbourg District Court (Tribunal d’Instance) and governed by Articles 21 to 79-III of the local Civil Code kept in force in the departments of Haut-Rhin, Bas-Rhin and Moselle by the Law of 1 June 1924, and by its statute. Its registered office is at the “Maison des associations”, 1-a Place des Orphelins, 67000 Strasbourg. According to its statute, the main objective of ANESC is to promote the European Social Charter and social rights in Europe and to take every initiative conducive to publicising the European Social Charter and the other instruments for the protection of social rights in Europe, and to improving their implementation and protection both at the level of the Council of Europe and in its member States (see Article 2). For more information on ANESC, please consult the following website: <http://www.racse-anesc.org/>.

and the International Society for Labour and Social Security Law (ISLSSL) at Sapienza University of Rome, on 3 and 4 July 2019;

- ▶ Contribution by the French Section on “The Relationship between the ILO and the European Social Charter Mechanism” at the “International Symposium on the ILO Centenary”, held by the Labour Studies Institute (LSI), the IREDIES and the CIELO network at the University Paris I Panthéon-Sorbonne, on 24 September 2019;
- ▶ International congress on “The protection of social rights in Europe and the European Social Charter”, held by the Greek Section of ANESC and the Centre of International and European Economic Law (CIEEL), in Thessaloniki, on 4 and 5 October 2019;
- ▶ As part of the activities of the Portuguese Observatory for the Protection of Social Rights in a European Context (established in 2015-2016), several updates were made to the analysis of the decisions and reports of the European Committee of Social Rights (in English - <http://www.direito.porto.ucp.pt/pt/seccao-portuguesa-da-anesc?msite=14> and in Portuguese - <http://www.direito.porto.ucp.pt/pt/seccao-portuguesa-da-anesc?msite=13>).

ANESC was represented at the fourth and last meeting of the Drafting Group on Social Rights of the Steering Committee for Human Rights (CDDH-SOC), held in Strasbourg from 3 to 5 April 2019.

ANESC was also represented at the Expert Seminar on “Reinforcing social rights protection in Europe to achieve greater unity and equality”, held by the Department of the European Social Charter in Strasbourg, on 19 September 2019, in the context of the French Chairmanship of the Committee of Ministers of the Council of Europe.

ANESC was also represented at the study day held by the Law Faculty of the University of Huelva, on 12 December 2019, as part of the Jean Monnet Project on: “The constitutional bases of Europe: building a common European Constitutional culture – EUCONS”, focusing on “Social Europe: the basis for common constitutionalism”; part of the day was spent on “The European Social Charter: a vital treaty for a genuinely social Europe”.

The Committee notes with great interest that ANESC is continuing its work on the Commentary on the European Social Charter, in which its current and former members are involved, with a view to publishing it in 2020.

The Committee welcomes the launching of the moot court competition based on the European Social Charter. It fully supports this initiative.

The Committee notes that at its meeting held in Thessaloniki on 3 October 2019, ANESC Co-ordination Council elected the following members of its Co-ordination Committee:

- ▶ Giovanni GUIGLIA, General Co-ordinator
- ▶ Catarina OLIVEIRA CARVALHO, 1st Deputy General Co-ordinator
- ▶ Christina DELIYANNI-DIMITRAKOU, 2nd Deputy General Co-ordinator
- ▶ Claire LOUGARRE, Linguistic Co-ordinator for the English Language

- ▶ Konstantina CHATZILAOU, Linguistic Co-ordinator for the French Language
- ▶ Danuta WISNIEWSKA-CAZALS, Secretary
- ▶ Laura SPATARU-NEGURA, Deputy Secretary (on maternity leave)
- ▶ Brigitte NAPIWOCKA, Interim Deputy Secretary
- ▶ Fabrizio PROIETTI, Treasurer

The Committee unreservedly supports the initiatives taken by the ASNEC to promote the European Social Charter and protect social rights, and fully shares its concerns.

8.5. CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights

The CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights²⁸ organised two events in 2019 with an active participation of the European Committee of Social Rights, the European Court of Human Rights, National Human Rights Institutions and National Equality Bodies, the European Union Fundamental Rights Agency, the United Nations, civil society partners and academics.

The **8th meeting of the Platform** was organised in cooperation with the Greek National Commission for Human Rights and it was held on 10 April 2019 in Athens, Greece. The meeting aimed in particular at identifying the implications of austerity measures for equality and human rights and discussing possible responses to the challenges they present. In addition, participants identified, analysed and discussed the potential implementation of best practices and solutions to counter the negative impact of austerity measures and budget cuts on equality and human rights.

Participants agreed that the economic crisis of 2007 – 2008 and cuts in public spending have not only impacted the funding of National Human Rights Institutions and National Equality Bodies, but also the functioning of civil society organisations, a privileged partner of human rights institutions. Therefore, it is necessary to strengthen linkages and create synergies between national human rights bodies, including civil society, and the Council of Europe as a leading European human rights organisation. The Council of Europe Commissioner for Human Rights has issued actionable recommendations which help forge a new path along which governments can align their economic recovery policies with their commitments for human rights. In addition, it has issued a Human rights comment which points out that National Human Rights Institutions are needed more than ever. Moreover, participants highlighted the absolute necessity to include the human rights-based approach in legislative acts and measures related to economic policies.

The **9th meeting of the Platform** was held on 28 November 2019 in Strasbourg. The main objectives of the meeting was to introduce and discuss the role played by domestic courts and international judicial and quasi-judicial bodies in ensuring legal enforcement of social and economic rights and to specifically examine the role of

28. The COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights is a follow-up activity to the conference held jointly by the Council of Europe, the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (EQUINET) and the European Union Agency for Fundamental Rights (FRA) in Vienna in October 2013.

National Human Rights Institutions (NHRIs) and National Equality Bodies (NEBs) in litigating social and economic rights and the way they can support domestic courts and international judicial and quasi-judicial bodies with an aim to enhance the implementation of social and economic rights in Europe. Once again, the Platform provided the opportunity for national and international experts to exchange and cooperate in order to find effective solutions to the implementation of social and economic rights at the national level.

Another important event was the **Annual Conference of the European Network of National Human Rights Institutions (ENNHRI)**, held in Brussels on 14 November 2019. The conference brought together European National Human Rights Institutions (NHRIs) with regional and international organisations and civil society to showcase the role and relevance of NHRIs in the realisation of social and economic rights in Europe and encourage a human rights-based approach to economic and social policies and reforms at the national and European level.

The programme included high-level panels and interactive small group discussions, with a focus on poverty, the right to housing, labour rights, justiciability and promotion of economic and social rights. François Vandamme, Vice-President of the European Committee of Social Rights, highlighted the work of the Committee as a source of inspiration for national and international stakeholders, including National Human Rights Institutions. Branko Lubarda, Judge at the European Court of Human Rights presented the Court's case-law related to economic and social rights, underlining that human rights are a way of talking about or framing issues in society such as poverty, of social injustice, health etc.

An interactive, online page with good practices illustrating how NHRIs work on economic and social rights in Europe was launched prior to the conference as a background information and will be updated on the basis of the outcomes of the Conference. A Guide for NHRIs on how to contribute to a human rights-based approach to poverty reduction and measurement was also presented at the conference.

9. Major events

The year 2019 was rich in many aspects, including the events²⁹ organised or co-organised by the Secretariat of the European Social Charter. The European Committee of Social Rights continued to defend the values of the Council of Europe by promoting social rights across Europe.

The **20th anniversary of the entry into force of the Revised European Social Charter** was celebrated on 1 July 2019. The Secretary General of the Council of Europe, Thorbjørn Jagland, called on the Council of Europe members states “for more commitment to the European Social Charter” underlining that “increased inequality is a major challenge for Europe and social rights’ protection across the continent should be a top priority”.

Social rights and social progress are, since 1949, one of the Council of Europe’s aims and primary tools intended to be a “source of individual freedom, political liberty and the rule of law” as bases of “genuine democracy”, as stated in Council of Europe’s foundational Statute. Social progress - and the protection of social rights and social justice - are not only a hallmark of democracy but also an indicator of its functioning. If social progress fails and social rights are not protected or social justice is not delivered, the operational link between people and elected representatives appears broken.

“The entry into force of the Revised European Social Charter was the culmination of a reform and modernisation process, which defined new rights under international human rights law and set up the mechanisms for their effective monitoring. It upgraded the protection of social rights to meet 21st century needs”, underlined the President of the European Committee of Social Rights, Giuseppe Palmisano.

“The Committee of Ministers reaffirmed unequivocally in Helsinki the importance of social rights across the continent and invited those member States which have not yet done so to consider signing and ratifying the Revised European Social Charter and its Additional Protocol providing for a system of collective complaints. The promotion of social rights is one of the priorities of the French Presidency of the Committee of Ministers”, emphasised Ambassador Jean-Baptiste Mattéi.

Ambassador Mattéi also opened³⁰, together with Gabriella Battaini-Dragoni³¹, Deputy Secretary General of the Council of Europe, the **expert seminar on the protection of social rights in Europe so as to achieve greater unity and equality**, organised under the auspices of the French Presidency of the Committee of Ministers of the

29. Appendix 11: List of events organised in 2019

30. Appendix 12: Opening address by Jean-Baptiste Mattéi, French Ambassador to the Council of Europe, at the Expert seminar on reinforcing social rights protection in Europe to achieve greater unity and equality, organised under the auspices of the French Presidency of the Committee of Ministers, 19 September 2019.

31. Appendix 13: Opening address by Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe, at the Expert seminar on reinforcing social rights protection in Europe to achieve greater unity and equality, organised under the auspices of the French Presidency of the Committee of Ministers, 19 September 2019.

Council of Europe, on 19 September 2019. The seminar also followed up on the Committee of Ministers declaration at its Helsinki session in May 2019. At that session, the Committee of Ministers invited all the member States concerned to consider signing and ratifying the revised European Social Charter and its Additional Protocol providing for a system of collective complaints, as a starting point for a resolutely proactive and collective drive to combat inequalities and achieve greater social justice.

Moreover, following the seminar, representatives of the fifteen Council of Europe member States which have already accepted the collective complaints procedure called on the others to strengthen the protection of social rights by accepting this monitoring procedure³².

The European Social Charter and the European Committee of Social rights guarantee key principles such as free movement of persons, non-discrimination, legal and social security, protection against poverty and exclusion, access to decent housing, health, education and training, as well as employment, safety at work and equality at the workplace, including equal pay.

An introduction on strengthening social rights to ensure social justice, national cohesion and the rule of law was pronounced by José Fernandez-Albertos, Researcher at Institute for Policies and Public Goods, Spanish National Research Council (CSIC).

The seminar was organised in liaison with the "Institut de recherche Carré de Malberg", University of Strasbourg which organised a **follow-up event** on 20 September to offer an academic approach to the issues related to the reform of the monitoring mechanisms by placing the European Social Charter in the European and international context of the protection of social and economic rights. An opening address was given by Jeanne-Marie Tufféry-Andrieu, Dean of the Faculty of Law, Political Science and Management and Jan Malinowski, Head of the Department of the European Social Charter, Council of Europe. The conclusions were presented by Prof. Petros Stangos, member of the European Committee of Social Rights.

The Deputy Secretary General Gabriella Battaini-Dragnoni³³ opened together with the Italian Minister for Equal Opportunities and Family, Elena Bonetti, the **Joint Workshop on family as a hub for social policies**. The event is organised by the Department for Family Policies of the Italian Presidency of the Council of Ministers and the European Social Cohesion Platform (PECS) of the Council of Europe and will take place in Rome on 9 and 10 October.

The joint workshop focused on the main social topics having an impact on both women and men, especially on working mothers and fathers and their children and it was divided into 4 working sessions:

- ▶ Work-life balance and company welfare;
- ▶ Family measures to promote the increase in the birth-rate in Europe;

32. Appendix 14: Call by the representatives of the 15 States Parties to the European Social Charter having accepted the 1995 Additional Protocol and the collective complaints procedure to reinforce social rights protection in Europe

33. Appendix 15: Opening address by Gabriella Battaini-Dragnoni, Deputy Secretary General of the Council of Europe, the Joint Workshop on family as a hub for social policies, 9-10 October 2019, Rome

- ▶ Support services for children witnessing violence and children orphaned by domestic crimes;
- ▶ Eradication of child poverty.

Opening remarks were made by the Minister of Labour and Social Affairs of Armenia, Zaruhi Batoyan, by the Minister of Social Security and Labour of Lithuania, Linas Kukuraitis and by the Minister for the Family, Children’s Rights, and Social Solidarity of Malta, Michael Falzon.

The European Committee of Social Rights participated, on 13 November 2019, in the conference on “Redefining power: Strengthening the rights of the child”, organised by the Children’s Rights Division of the Council of Europe in Strasbourg. Aoife Nolan, member of the European Committee of Social Rights and Professor of International Human Rights Law, presented the report “Protecting the Child from Poverty: The Role of Rights in the Council of Europe”³⁴ via video message. The report explains how the European Social Charter as interpreted by the European Committee of Social Rights can serve as a framework or roadmap for state efforts to combat child poverty. Both, the 1961 European Social Charter and the Revised Charter of 1996 set out a wide range of rights with implications for state efforts to combat child poverty. These include Article 30 on the right to protection from poverty and social exclusion – the only provision under international human rights law that explicitly outlines a right to protection from poverty, but also other child poverty relevant provisions relating to the right to work, the right to protection of health, the right to social security, the right to social and medical assistance, the right to social, legal and economic protection of the family as well as of children and young persons, etc.

The presentation of the report was followed by an intervention by Eliane Chemla³⁵, General Rapporteur of the European Committee of Social Rights, during the session “The power of inclusion: fighting precarity, poverty and exclusion, and promoting equal opportunities for all children”. The objectives of the session were to raise awareness about child poverty across Europe, to draw attention to some of the dramatic situations of children living in extreme poverty on an overall wealthy continent, to discuss how the Council of Europe instruments can contribute to eradicating child poverty, including the European Social Charter and the Council of Europe Strategy for the Rights of the Child. It also aimed to identify legislative and policy measures at national, regional and local level to combat child poverty effectively and illustrate how important early childhood intervention is to prevent and overcome intergenerational cycles of poverty.

34. Report “Protecting the Child from Poverty: The Role of Rights in the Council of Europe” by Aoife Nolan, member of the European Committee of Social Rights and Professor of International Human Rights Law, University of Nottingham, United Kingdom: <http://rm.coe.int/protecting-the-child-from-poverty-the-role-of-rights-in-the-council-of/168098c54c>

35. Appendix 16: Intervention by Eliane Chemla, General Rapporteur of the European Committee of Social Rights at the conference “Redefining power: Strengthening the rights of the child”: <https://rm.coe.int/eliane-chemla-intervention-children-s-rights-conference-13-11-19/16809ea4d7>

10. Appendices

Appendix 1. Signatures and ratifications of the 1961 Charter and its Protocols and of the European Social Charter (revised) at 1 January 2020

Appendix 2. List of the members of the European Committee of Social Rights at 1 January 2020

Appendix 3. List of collective complaints registered in 2019

Appendix 4. Number of decisions adopted by the European Committee of Social Rights 1998 – 2019

Appendix 5. Number of decisions adopted the European Committee of Social Rights by country 1998 – 2019

Appendix 6. Summary of the European Committee of Social Rights Conclusions for 2019

Appendix 7. Number of accepted provisions by year since 1962

Appendix 8. Table of accepted provisions of the European Social Charter (revised)

Appendix 9. Intervention of Giuseppe Palmisano, President of the European Committee of Social Rights before the Committee of Ministers of the Council of Europe, 23 October 2019, Strasbourg

Appendix 10. Address by Giuseppe Palmisano, President of the European Committee of Social Rights on the occasion of the International Day for the Eradication of Poverty 17 October

Appendix 11. Selection of activities organised in 2019

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Appendix 13. Opening address by Gabriella Battaini-Dragoni, at the Expert seminar on reinforcing social rights protection in Europe to achieve greater unity and equality, organised under the auspices of the French Presidency of the Committee of Ministers, 19 September 2019, Strasbourg

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Appendix 17. Selection of judicial decisions from 2016 referring to the European Social Charter

Appendix 18. Bibliography on the European Social Charter (recent publications)

Appendices

Appendix 1

Signatures and ratifications of the 1961 European Social Charter, its Protocols and the European Social Charter (revised) as of 1st January 2020

Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Albania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	21/9/98	14/11/02
Andorra	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/11/00	12/11/04
Armenia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	21/1/04
Austria	22/7/63	29/10/69	4/12/90	—	7/5/92	13/7/95	(2)	(2)	7/5/99	20/5/11
Azerbaijan	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	2/9/04
Belgium	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
Bosnia and Herzegovina	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	11/5/04	7/10/08
Bulgaria	(2)	(2)	(3)	(3)	(2)	(2)	(4)	(4)	21/9/98	7/6/00
Croatia	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
Cyprus	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
Czech Republic	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	4/4/12	4/11/00	—
Denmark	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—

Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/5/98	11/9/00
Finland	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
France	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
Georgia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	30/6/00	22/8/05
Germany	18/10/61	27/1/65	5/5/88	—	—	***	(1)	—	29/6/07	—
Greece	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	18/03/16
Hungary	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
Island	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	26/03/13
Liechtenstein	9/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
Luxembourg	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
Malta	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
Republic of Moldova	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
Monaco	(1)	—	(1)	—	(1)	—	(1)	—	5/10/04	—
Montenegro	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
The Netherlands	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
North Macedonia	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12

Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
Poland	26/11/91	25/6/97	(1)	(1)	18/4/97	25/6/97	(1)	(1)	25/10/05	—
Portugal	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02
Romania	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	(2)	14/5/97	7/5/99
Russian Federation	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	14/9/00	16/10/09
San Marino	(1)	—	(1)	(1)	(1)	(1)	(1)	(1)	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	22/3/05*	14/9/09
Slovak Republic	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
Spain	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	(1)	23/10/00	—
Sweden	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
Switzerland	6/5/76	—	—	—	—	—	—	—	—	—
Turkey	18/10/61	24/11/89	5/5/98	(3)	6/10/04	10/6/09	(2)	(2)	6/10/04	27/6/07
Ukraine	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	(2)	7/5/99	21/12/06
United Kingdom	18/10/61	11/7/62	(1)	(1)	21/10/91	***	(1)	(1)	7/11/97	—

* Date of signature by the Czech and Slovak Federal Republic.

** Date of signature by the State Union of Serbia and Montenegro.

*** State whose ratification is necessary for the entry into force of the protocol.

Appendix 2

European Committee of Social Rights

List of Members as of 1 January 2020 (in order of precedence³⁶)

	Term of Office
Giuseppe PALMISANO, President (Italian)	31/12/2022
Karin LUKAS, Vice-President (Austrian)	31/12/2022
François VANDAMME, Vice-President (Belgian)	31/12/2020
Eliane CHEMLA, General Rapporteur (French)	31/12/2024
Petros STANGOS (Greek)	31/12/2020
József HAJDÚ (Hungarian)	31/12/2024
Krassimira SREDKOVA (Bulgarian)	31/12/2020
Raul CANOSA USERA (Spanish)	31/12/2020
Barbara KRESAL (Slovenian)	31/12/2022
Kristine DUPATE (Latvian)	31/12/2022
Aoife NOLAN (Irish)	31/12/2022
Karin Møhl LARSEN (Danish)	31/12/2020
Yusuf BALCI (Turkish)	31/12/2024
Ekaterina TORKUNOVA (Russian)	31/12/2024
Tatiana PUIU (Moldovan)	31/12/2024

36. According to Article 7 of the Committee's Rules.

Appendix 3

List of collective complaints registered in 2019

In 2019, the Committee registered the following 15 complaints:

Syndicat CGT YTO France v. France

Complaint No. 174/2019

Syndicat CFDT de la métallurgie de la Meuse v. France

Complaint No. 175/2019

Union Syndicale Solidaires SDIS v. France

Complaint No. 176/2019

Associazione Medici Liberi v. Italy

Complaint No. 177/2019

Amnesty International v. Italy

Complaint No. 178/2019

Associação Sindical dos Profissionais da Polícia (ASPP/PSP) v. Portugal

Complaint No. 179/2019

Association of Secondary Teachers Ireland (ASTI) v. Ireland

Complaint No. 180/2019

Syndicat CFDT général des transports et de l'environnement de l'Aube v. France

Complaint No. 181/2019

Syndicat CFDT de la métallurgie de la Meuse v. France

Complaint No. 182/2019

Syndicat CGT YTO France v. France

Complaint No. 183/2019

Syndicat CGT Ford Aquitaine Industrie v. France

Complaint No. 184/2019

European Roma Rights Centre (ERRC) v. Belgium

Complaint No. N° 185/2019

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy

Complaint No. 186/2019

Sindacato autonomo Pensionati Or.S.A. v. Italy

Complaint No. 187/2019

Validity Foundation – Mental Disability Advocacy Centre v. Czech Republic

Complaint No. 188/2019

Appendix 4

Number of decisions adopted by the European Committee of Social Rights 1998 – 2019

Years	Registered complaints	Pending complaints on 1 January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/ Inadmissibility	Total decisions by year
1998	1	0	0	0	0	0	0	0	0
1999	5	1	2	1	0	0	0	0/1	3
2000	4	4	7	5	0	0	0	0	12
2001	1	3	2	3	0	0	0	0	5
2002	2	1	2	1	0	0	0	0	3
2003	10	2	8	2	0	0	0	0	10
2004	5	10	6	10	0	0	0	0	16
2005	4	5	5	4	0	0	0	0/2	9
2006	7	3	5	4	0	0	0	0/1	9
2007	7	5	7	5	0	0	0	0	12
2008	8	7	8	5	0	0	0	1/0	14

Years	Registered complaints	Pending complaints on 1 January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/ Inadmissibility	Total decisions by year
2009	5	9	7	7	0	0	0	0	14
2010	4	7	3	6	0	0	0	0	9
2011	12	5	11	4	0	0	0	0	15
2012	13	13	9	15	0	0	0	0	24
2013	15	11	18	9	4	4	0	0	27
2014	10	17	3	8	0	0	0	1/0	12
2015	6	18	11	5	1	0	1	0	15
2016	21	19	6	8	3	0	0	0/1	11
2017	18	31	31	6	1	0	0	0/1	36
2018	15	42	14	9	0	0	0	0/1	23
2019	15	47	11	20	0	0	3	0/3	31
Total period	188		176	137	9	4	4	2/10	310

Appendix 5

Number of decisions adopted the European Committee of Social Rights by country 1998 – 2019

	Registered complaints	Decisions on admissibility	Admissible	Inadmissible	Decisions on immediate measures / Decisions on admissibility and on immediate measures	Decisions on admissibility and on the merits	Decisions on the merits	Violation	Non violation	Decision to strike out
Belgium	12	11	11	0	1 / 0	1	9	8	1	0
Bulgaria	9	9	9	0	0	0	8	8	0	1
Croatia	4	4	4	0	0	0	4	4	0	0
Cyprus	2	2	2	0	0	0	1	1	0	1
Czech Republic	7	6	6	0	0	0	4	4	0	0
Finland	12	12	11	1	0 / 1	3	10	8	2	0
France	51	45	43	2	0	2	35	26	9	0
Greece	21	21	19	2	0 / 1	0	17	16	1	0

	Registered complaints	Decisions on admissibility	Admissible	Inadmissible	Decisions on immediate measures / Decisions on admissibility and on immediate measures	Decisions on admissibility and on the merits	Decisions on the merits	Violation	Non violation	Decision to strike out
Ireland	12	11	11	0	1 / 0	1	10	8	2	0
Italy	30	28	25	3	0 / 2	1	14	9	5	0
The Netherlands	4	4	4	0	2 / 0	0	4	4	0	0
Norway	4	4	3	1	0	0	3	2	1	0
Portugal	13	12	11	1	0	0	11	5	6	0
Slovenia	3	3	3	0	0	0	3	3	0	0
Sweden	4	4	4	0	0	1	4	2	2	0
Total	188	176	166	10	4 / 4	9	137	108	29	2

Appendix 6

Summary of the European Committee of Social Rights' Conclusions for 2019

European Social Charter Revised

Article	ALB	AND	ARM	AUT	AZE	BEL	BGR	BIH	EST	FIN	FRA	GEO	GRE	HUN	IRL	ITA	LTU	LVA	MDA	MKD	MLT	MNE	POR	ROU	RUS	SRB	SVK	TUR	UKR
Article 7.1	-	+	-	+	-	+	0	-	-	+	+	-	0	-	-	-	-	+	+	+	0	0	0	0	0	0	-	-	-
Article 7.2	-	+	0	+	0	+	+	-	+	+	+	-	0	-	+	-	+	+	+	+	0	-	0	0	0	+	-	-	-
Article 7.3	-	+	-	+	-	+	0	-	-	+	+	-	-	-	-	-	-	+	+	-	-	-	-	-	-	0	-	-	-
Article 7.4	-	+	0	+	0	+	+	-	+	+	+	-	+	-	-	-	+	+	+	+	0	-	-	0	0	0	-	-	0
Article 7.5	-	+	-	+	-	+	-	-	-	+	+	-	-	-	-	-	0	+	+	-	+	+	0	0	0	0	-	-	0
Article 7.6	-	+	0	+	0	+	+	+	+	+	+	0	+	-	-	+	+	+	+	0	+	+	0	0	0	+	+	+	+
Article 7.7	-	+	0	+	-	+	+	+	+	+	+	0	+	-	-	+	+	+	+	0	+	+	0	0	0	+	+	+	+
Article 7.8	-	+	0	+	+	+	+	0	+	+	+	-	+	-	-	+	+	+	+	0	-	+	0	0	0	+	0	+	+
Article 7.9	-	+	0	+	+	+	-	-	+	+	+	-	+	-	+	+	+	+	+	0	0	0	0	0	0	+	+	+	+
Article 7.10	-	+	-	+	-	0	0	-	0	0	0	-	0	-	+	0	0	0	0	0	0	0	0	0	0	0	0	-	-
Article 8.1	-	+	0	+	-	+	+	-	+	+	+	-	-	+	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+
Article 8.2	-	+	0	+	+	+	-	-	+	-	+	-	+	+	-	-	+	+	+	+	+	+	+	+	+	+	+	+	+
Article 8.3	+	+	+	+	+	+	+	+	+	+	-	+	+	+	+	0	+	+	+	+	+	+	+	+	+	+	+	+	+
Article 8.4	+	+	+	+	+	+	+	-	+	+	+	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	0
Article 8.5	+	+	+	+	-	+	0	-	+	+	+	-	+	-	+	+	+	+	+	+	+	+	+	+	+	+	+	-	-
Article 16				-	-	-	-	-	-	+	-	-	-	-	-	-	0	-	-	-	-	-	-	-	-	-	-	-	-
Article 17.1		+	-	-	-	-	-	-	+	+	-	-	-	-	-	0	-	-	0	0	0	0	0	0	0	-	-	-	-

Article	ALB	AND	ARM	AUT	AZE	BEL	BGR	BIH	EST	FIN	FRA	GEO	GRE	HUN	IRL	ITA	LTU	LVA	MDA	MKD	MLT	MNE	POR	ROU	RUS	SRB	SVK	TUR	UKR
Article 17.2				+		0	-	0	+	+	+		0	-	0	-	0	0	0	0	+	+	0	-		0	0	0	0
Article 19.1	0	+	+	0		-			+	0	-		+		+	-	0	+		0			+			0	-	0	0
Article 19.2	+		-	+		+			+	+	+	0	+		+	+			0			0	0		0	0	0	0	0
Article 19.3	-	+	+	+		+			+	+	0	+	+		0	0	+		-			+	+		-	+	+	+	+
Article 19.4	-		-			0			+	+	-	-	0		+	-	+	+					+		+	-	-	-	-
Article 19.5	+	+	+	+		+			+	+	+	+	+		+	+	+	+				+	+		+	+	+	+	+
Article 19.6	-		-	-		-			+	+	-	-	-		-	0	-	-					+			-	-	-	-
Article 19.7	+	+	+	+		+			+	+	+	0	+		+	+	+	+				+	+			+	+	+	+
Article 19.8	+		0			+			+	+	+	+	-		+	0	0	0				0	0		0	0	-	-	-
Article 19.9	+	+	+	+		+			+	+	+	0	+		+	+	+	+				+	+		0	0	0	0	0
Article 19.10	-		-	-		-			+		-	-	-		-	-	0	-					-			-	-	-	-
Article 19.11	0	+	0			+			+	+	+	-	0		+	+	+	+				+	+		0	0	0	0	0
Article 19.12	-	+	+	+		+			+	+	+	0			+	0	0	0				0	0		0	0	0	0	0
Article 27.1			+	+		+			+	+	+	-	+		0	+	+	+				0	+	+	+	+	+	+	+
Article 27.2			-	+		+			+	+	+	-	0		-	+	+	+				-	+	0	0	+	+	+	-
Article 27.3			+						+	-	+	+	0		+	-	+	+				+	+	+	+	+	+	+	+
Article 31.1		+								+	-	-	-		+	-	-	-											-
Article 31.2		-								+	-	-	-			-	-	-											-
Article 31.3										+	-	-	0			-	-	-											-

+	Conformity	-	Non conformity	0	Deferral	Non accepted provision
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European Social Charter of 1961 - Conclusions XXI-4 (2019)

Article	DEU	DNK	ESP	GBR	ISL	LUX	NLDABV	POL
Article 7.1			+			+		
Article 7.2	+		+	+		+		0
Article 7.3	0		0	-		-		
Article 7.4	0		+			+		+
Article 7.5	-		-	-		+		
Article 7.6	+		+	+		+		+
Article 7.7	+		+			+		+
Article 7.8	+		+			+		+
Article 7.9	+		0	+		+		+
Article 7.10	+		0	-		+		0
Article 8.1	+		+	-		+		+
Article 8.2		+	-			+		+
Article 8.3	+		-			+		+
Article 8.4			+					
Article 16	+	0	-	0	+	+	-	-
Article 17	+	-	0	-	+	+		-
Article 19.1	0		+	+		+		0

Article	DEU	DNK	ESP	GBR	ISL	LUX	NLDABV	POL
Article 19.2	+		0	0		-		0
Article 19.3	+		0	0		+		0
Article 19.4	0		-	+		+		+
Article 19.5	+		+	+		0		+
Article 19.6	-		-	-		-		-
Article 19.7	+		+	+		+		+
Article 19.8	0		+	0		-		-
Article 19.9	+		0	0		-		+
Article 19.10	-		-	0		-		-

+ Conformity	- Non conformity	0 Deferral	Non accepted provision
		0	

Reporting procedure: Committee assessments 2008-2019

	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
Examined situations	896	580	486	576	824	724	568	608	950	569	572	425
Conformity	453	276	228	277	452	337	277	277	459	271	281	185
	51%	48%	47%	48%	55%	46%	49%	45%	48%	48%	49%	43%
Non-conformity	289	206	175	204	278	252	181	156	256	184	164	126
	32%	35%	36%	35%	34%	35%	32%	26%	27%	32%	29%	30%
Deferral	154	98	83	95	94	135	110	175	235	114	127	114
	17%	17%	17%	16%	11%	19%	19%	29%	25%	20%	22%	27%

Appendix 7

Number of accepted provisions by year since 1962

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1962	1. United Kingdom	60	60				60
	2. Norway	60	120				120
	3. Sweden	66	186				186
1963			186				186
1964	4. Ireland	63	249				249
1965	5. Germany	67	316				316
	6. Denmark	49	365				365
	7. Italy	76	441				441
1966			441				441
1967			441				441
1968	8. Cyprus	43	484				484
1969	9. Austria	62	546				546
1970			546				546
1971			546				546
1972			546				546

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1973			546				546
1974	10. France	72	618				618
1975			618				618
1976	11. Island	41	659				659
1977			659				659
1978			659				659
1979			659				659
1980	12. Netherlands	75	734				734
	13. Spain	76	810				810
1981			810				810
1982			810				810
1983			810				810
1984	14. Greece	71	881				881
1985			881				881
1986			881				881
1987			881				881
1988	15. Malta	55	936				936
1989	16. Turkey	46	982				982
1990	17. Belgium	72	1054				1054

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1991	18. Finland	66	1120				1120
	19. Portugal	72	1192				1192
	20. Luxembourg	69	1261				1261
1992			1261				1261
1993			1261				1261
1994			1261				1261
1995			1261				1261
1996			1261				1261
1997	21. Poland	58	1319				1319
1998		-66	1253	1. Sweden	83	83	1336
	22. Slovak Republic	64	1317			83	1400
1999		-72	1245	2. France	98	181	1426
		-76	1169	3. Italy	97	278	1567
	23. Hungary	44					
	24. Czech Republic	56	1345	4. Romania	65	343	1688
		-76	1269	5. Slovenia	95	438	1707
2000			1269	6. Bulgaria	61	499	1768
			1269	7. Estonia	79	578	1847
		-43	1226	8. Cyprus	63	641	1867
		-63	1163	9. Ireland	93	734	1897

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
2001		-60	1103	10. Norway	81	815	1918
			1103	11. Lithuania	86	901	2004
			1103	12. Republic of Moldova	63	964	2067
2002		-72	1031	13. Portugal	98	1062	2093
		-66	965	14. Finland	89	1151	2116
	25. Latvia	25	990			1151	2141
2003			990	15. Albania	64	1215	2205
	26. Croatia	43	1033				1033
2004			1033	16. Armenia	67	1282	2315
		-72	961	17. Belgium	87	1369	2330
2005				18. Azerbaijan	47	1416	1416
			961	19. Andorra	75	1491	2452
	27. North Macedonia	41	1002			1491	2493
2006		-55	947	20. Malta	72	1563	2510
				21. Georgia	63	1626	1626
		-75	872	22. Netherlands	97	1723	2595
2007				23. Ukraine	74	1714	1714
		-46	826	24. Turkey	91	1888	2714

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-44	782	25. Hungary	60	1948	2730
				Bulgaria	1	1949	1949
2008				26. Bosnia and Herzegovina	51	2000	2000
2009		-64	718	27. Slovak Republic	86	2086	2804
				28. Serbia	88	2174	2174
				29. Russian Federation	67	2241	2241
2010				30. Montenegro	66	2307	2307
2011		-62	656	31. Austria	76	2383	3039
				Cyprus	9	2392	2392
2012		-41	615	32. North Macedonia	63	2455	3070
				Estonia	8	2463	3078
2013		-25	590	33. Latvia	90	2553	3143
2015				Belgium	4	2557	3147
2016		-71	519	34. Greece	95	2652	3171
2017				Ukraine	76	2654	3173

(*) By order of ratification, States Parties to the Revised Charter (on a grey background with the former States Parties to the ESC in italics), and States Parties to the 1961 Charter (on a white background).

Appendix 8

Acceptance of provisions of the Revised European Social Charter (1996)

Acceptation des dispositions de la Charte sociale européenne révisée (1996)

accepted/ accepté not accepted/ non accepté

Articles 1-4 Para.	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Albania/Albanie																				
Andorra/Andorre																				
Armenia/Arménie																				
Austria/Autriche																				
Azerbaijan/ Azerbaïdjan																				
Belgium/Belgique																				
Bosnia and Herzegovina/ Bosnie-Herzégovine																				
Bulgaria/Bulgarie																				
Cyprus/Chypre																				
Estonia/Estonie																				
Finland/Finlande																				
France																				
Georgia/Géorgie																				
Greece/Grèce																				
Hungary/Hongrie																				
Ireland/Irlande																				
Italy/Italie																				
Latvia/Lettonie																				
Lithuania/Lituanie																				
Malta/Malte																				
Republic of Moldova/ République de Moldova																				
Montenegro/ Monténégro																				

Articles 1-4 Para.	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Netherlands/Pays-Bas ³⁷																				
North Macedonia/ Macédoine du Nord																				
Norway/Norvège																				
Portugal																				
Romania/Roumanie																				
Russian Federation / Fédération de Russie																				
Serbia/Serbie																				
Slovak Republic/ République slovaque																				
Slovenia/Slovénie																				
Sweden/Suède																				
Turkey/Turquie																				
Ukraine																				

Articles 5-9 Para.	Art.	Article 6				Article 7										Article 8					Art.
	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/ Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					

37. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the *Additional Protocol/Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

Articles 5-9 Para.	Art. 5	Article 6				Article 7										Article 8					Art. 9
		1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9
Georgia/Géorgie																					
Greece/Grèce ³⁸																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte																					
Republic of Moldova/ République de Moldova																					
Montenegro/ Monténégro																					
Netherlands/Pays-Bas ³⁹																					
North Macedonia/ Macédoine du Nord																					
Norway/Norvège																					
Portugal																					
Romania/Roumanie																					
Russian Federation / Fédération de Russie																					
Serbia/Serbie																					
Slovak Republic/ République slovaque																					
Slovenia/Slovénie																					
Sweden/Suède																					
Turkey/Turquie																					
Ukraine/Ukraine																					

38. Ratification of Article 6 except for the right to establish and use arbitration mechanisms for the settlement of labour disputes, in particular as regards the right to unilateral access to arbitration in case of collective bargaining failure, as well as the employers' right to collective action, in particular the right to lockouts.

39. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the *Additional Protocol/ Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

40. With the exception of professional military personnel of the *Serbian Army / A l'exception des militaires de carrière de l'Armée serbe.*

Articles 10-15 Para.	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
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France																					
Georgia/Géorgie																					
Greece/Grèce																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte						41					42										
Republic of Moldova/ République de Moldova																					
Montenegro/ Monténégro																					
Netherlands/Pays-Bas																					
North Macedonia/ Macédoine du Nord																					
Norway/Norvège																					
Portugal																					
Romania/Roumanie																					
Russian Federation / Fédération de Russie																					
Serbia/Serbie																					
Slovak Republic/ République slovaque																					
Slovenia/Slovénie																					

41. Sub-paragraphs a. and d. accepted/ *Alinéas a. et d. acceptés.*

42. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

<i>Articles 10-15</i> <i>Para.</i>	Article 10				Article 11			Article 12				Article 13				Art. 14		Article 15				
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3	
	Sweden/Suède																					
Turkey/Turquie																						
Ukraine																						

<i>Articles 16-19</i> <i>Para</i>	Art. 16	Art. 17				Article 18				Article 19												
		1	2	3	4	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12	
Albania/Albanie																						
Andorra/Andorre																						
Armenia/Arménie																						
Austria/Autriche																						
Azerbaijan/Azerbaïdjan																						
Belgium/Belgique																						
Bosnia and Herzegovina/ Bosnie-Herzégovine																						
Bulgaria/Bulgarie																						
Cyprus/Chypre																						
Estonia/Estonie																						
Finland/Finlande																						
France																						
Georgia/Géorgie																						
Greece/Grèce																						
Hungary/Hongrie																						
Ireland/Irlande																						
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Latvia/Lettonie																						
Lithuania/Lituanie																						
Malta/Malte																						
Republic of Moldova/ République de Moldova																						
Montenegro/ Monténégro																						
Netherlands/Pays-Bas																						
North Macedonia/ Macédoine du Nord																						
Norway/Norvège																						
Portugal																						
Romania/Roumanie																						

Articles 16-19 Para	Art. 16		Art. 17				Article 18				Article 19											
	1 2		1 2		3 4		1	2	3	4	5	6	7	8	9	10	11	12				
Russian Federation/ Fédération de Russie																						
Serbia/Serbie		43																				
Slovak Republic/ République slovaque											44											
Slovenia/Slovénie																						
Sweden/Suède																						
Turkey/Turquie																						
Ukraine																						

Articles 20-31 Para.	Art. 20		Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26		Art. 27			Art. 28	Art. 29	Art. 30	Art. 31		
	1 2							1	2	1	2	3				1	2	3
Albania/Albanie																		
Andorra/Andorre																		
Armenia/Arménie																		
Austria/Autriche																		
Azerbaijan/ Azerbaïdjan																		
Belgium/Belgique																		
Bosnia and Herzegovina/ Bosnie-Herzégovine																		
Bulgaria/Bulgarie																		
Cyprus/Chypre			45															
Estonia/Estonie																		
Finland/Finlande																		
France																		
Georgia/Géorgie																		
Greece/Grèce																		
Hungary/Hongrie																		
Ireland/Irlande										46								
Italy/Italie																		
Latvia/Lettonie																		
Lithuania/Lituanie																		

43. Sub-paragraphs 1b and 1c accepted / *Alinéas 1b et 1c acceptés*

44. Sub-paragraphs a. and b. accepted / *Alinéas a. and b. acceptés*

45. Sub-paragraph b. accepted / *Alinéa b. accepté*

46. Sub-paragraphs a. and b. accepted / *Alinéas a. et b. acceptés*

Articles 20-31 Para.	Art. 20		Art. 21		Art. 22		Art. 23		Art. 24		Art. 25		Art. 26		Art. 27			Art. 28		Art. 29		Art. 30		Art. 31				
	1	2	1	2	1	2	1	2	1	2	1	2	1	2	3	1	2	1	2	1	2	1	2	1	2	3		
Malta/Malte																												
Republic of Moldova/ République de Moldova																												
Montenegro/ Monténégro														47														
Netherlands/Pays-Bas																												
North Macedonia/ Macédoine du Nord																												
Norway/Norvège														48														
Portugal																												
Romania/Roumanie																												
Russian Federation/ Fédération de Russie																												
Serbia/Serbie																												
Slovak Republic/ République slovaque																												
Slovenia/Slovénie																												
Sweden/Suède																												
Turkey/Turquie																												
Ukraine																												

47. Sub-paragraph a. accepted / *Alinéa a. accepté*

48. Sub-paragraph c. accepted / *Alinéa c. accepté*

Acceptance of provisions of the 1961 European Social Charter and of the Additional Protocol of 1988
Acceptation des dispositions de la Charte sociale européenne de 1961 et du Protocole additionnel de 1988

accepted/ accepté not accepted/ non accepté

Articles 1-7 Para.	Article 1				Article 2				Article 3			Article 4						Art.					Article 6										Article 7																				
	1	2	3	4	1	2	3	4	1	2	3	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10										
Croatia/Croatie																																																					
Czech Republic/ République tchèque																																																					
Denmark/Danemark																																																					
Germany/Allemagne																																																					
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Luxembourg																																																					
Poland/Pologne																																																					
Spain/Espagne																																																					
United Kingdom/ Royaume-Uni																																																					

<i>Articles 19 Para.</i>	Article 19									
	1	2	3	4	5	6	7	8	9	10
Croatia/Croatie										
Czech Republic/ République tchèque										
Denmark/Danemark										
Germany/Allemagne										
Iceland/Islande										
Luxembourg										
Poland/Pologne										
Spain/Espagne										
United Kingdom/ Royaume-Uni										

<i>Additional Protocol Para.</i>	Additional Protocol/ Protocole additionnel			
	Art.1	Art.2	Art.3	Art.4

Appendix 9

Exchange of views between Giuseppe Palmisano, President of the European Committee of Social Rights, and the Committee of Ministers of the Council of Europe

Strasbourg, 23 October 2019

Mr Chairman,

Permanent Representatives,

Madam Secretary General,

Mr Director General,

Ladies and Gentlemen,

First of all, allow me to thank the Committee of Ministers not only for continuing the practice of an annual exchange of views with the President of the European Committee of Social Rights (ECSR) but also, in particular, for the interest and concern that you have shown over the past two years regarding the protection of social rights and the European Social Charter system.

I am referring first and foremost to your decision to request the Steering Committee for Human Rights (CDDH), and more specifically the Drafting Group on Social Rights (CDDH-SOC), to undertake an analysis of the Council of Europe's instruments governing protection of social rights and to make proposals with a view to improving implementation of those rights. However, I also have in mind the work of the Rapporteur Group on Social and Health Questions (GR-SOC), which in January this year organised an exchange of views with me in order to consider in greater detail certain proposals aimed at simplifying the reporting procedure and encouraging states to participate in the collective complaints procedure, and which yesterday discussed the proposals contained in the CDDH report with a view to adopting a decision that would result in concrete action.

Moreover, the Committee of Ministers' interest in and concern for the Social Charter system was clearly reaffirmed at the session held in Helsinki in May, when the Committee of Ministers invited all the member States concerned to consider signing and ratifying the revised European Social Charter and its Additional Protocol providing for a system of collective complaints. I particularly wish to thank the French Chairmanship of the Committee of Ministers for making the strengthening of the social rights system one of its priorities and, on 19 September, organising a well-attended expert seminar on the specific theme of "reinforcing social rights protection in Europe", at which representatives of fifteen Council of Europe member States having already accepted the collective complaints procedure publicly called on the other states to strengthen protection of social rights by accepting this monitoring procedure.

Indeed, as we all know, paying close attention to social rights and developing a more social Europe have been a real priority for European institutions and national governments in recent years. And at last this concern is beginning to be reflected in real progress. I am referring, for example, to the first stages of the implementation, at EU level, of what is known as the “European Pillar of Social Rights”, and also to positive developments in a number of states in the field of social policy for families. These developments gave rise to an exchange of views and of good practices at the Joint Workshop on the Family as a Hub for Social Policies, organised by the Italian Government in Rome on 9-11 October in connection with the work of the Council of Europe’s European Social Cohesion Platform (PECS).

I would also mention the decision by the Spanish Government and Parliament finally to proceed with ratification of the revised Social Charter, which will take place quite quickly, I hope, once Spain’s parliamentary situation settles down after the forthcoming general election.

The European Committee of Social Rights and the Department of the European Social Charter are mindful that there is a growing awareness of the need to make the social dimension and protection of social rights more effective in Europe; accordingly, over the last two years, they have been fully engaged in fulfilling their institutional role of supervising compliance with the Social Charter by states and within states. This much is clear from our 2018 Activity Report, in which you can find all the facts and figures concerning the reporting procedure, collective complaints and the procedure relating to non-accepted provisions.

But it is precisely the heavy workload required by the Social Charter system, together with the fact that this system is coming to be regarded as the most significant instrument and point of reference in Europe for the protection of social rights, that is engendering a pressing need to improve, update and strengthen the system so that it can face the challenges of effective protection of social rights.

Here I should like to cite two quite mundane examples which illustrate the problems the Committee has recently been encountering. Firstly, in 2018 the Committee was unable – for the very first time, I believe – to adopt its annual conclusions in December, as required by the reporting procedure schedule. In fact, the 2018 conclusions for the “labour rights” thematic group were adopted only in January 2019 and published two months later. And the same thing is going to happen this year for the 2019 conclusions on the “children, families, migrants” thematic group.

Secondly, with regard to the collective complaints procedure, over the past two years, during which the number of complaints registered annually has more than doubled, the average time between registration of a complaint and the decision on its merits has grown considerably. In several cases the decision on the merits has been adopted more than two years after registration of the complaint, whereas in the past this period was usually closer to eighteen months.

In these difficult circumstances the timely work done by the Drafting Group on Social Rights is much appreciated, since this group has produced not only an analysis of the Council of Europe’s instruments governing protection of social rights, but also specific proposals to improve the implementation of the Social Charter monitoring

system. I should like to take this opportunity to thank the Drafting Group on Social Rights for having invited me, through several exchanges of views, to take an active part in this remarkable effort.

Allow me to draw your attention to some of the proposals put forward in the CDDH report and the GR-SOC draft decisions which, in my opinion, could be implemented quite simply and quickly to ensure better operation of the Social Charter system.

Firstly, as far as the reporting procedure is concerned, by focusing on issues of strategic importance for the implementation and protection of social rights it could become much less onerous and cumbersome for state authorities, and at the same time less monotonous and routine and more targeted. This could happen, for instance, if states, instead of reporting generally and comprehensively on all the questions covered by the thematic group of provisions for that year, could submit an annual report confined to strategic issues and the most problematic questions identified year on year – that is one year in advance – by the ECSR. Such a change in the procedure would allow improved consideration of problems deserving priority and would provide states with more effective assistance in adopting the measures required to bring their national situations into conformity with the rights enshrined in the Charter.

Further, I would urge that states having accepted the 1995 Protocol Providing for a System of Collective Complaints, and thus already undergoing monitoring focused on the issues seen as most problematic by civil society and the beneficiaries of social rights, should no longer be subject to the ordinary reporting procedure. It would be enough for these states to submit a single, comprehensive, simplified report every four years, covering all of the Charter's thematic groups. This might also have the positive collateral effect of encouraging states that have not yet accepted the 1995 Protocol to do so, with a view to reducing their reporting and monitoring obligations with regard to the ECSR.

Another improvement that would be quite simple to introduce and would lend the reporting procedure more weight, concerns the third stage of the procedure, when the Committee of Ministers, on the basis of the Governmental Committee's report, adopts a resolution which brings each supervision cycle to a close and may contain individual recommendations to the states concerned, directing them to remedy situations of non-conformity. To date, such recommendations have been very rare in practice. Here it would therefore be enough – but also very useful – for the Governmental Committee and the Committee of Ministers actually to do what is already laid down in the Charter and the 1991 Protocol, that is the Governmental Committee, on the basis of the ECSR's annual conclusions, should regularly submit proposals to the Committee of Ministers regarding certain situations that ought to be the subject of recommendations to the states concerned, and the Committee of Ministers, for its part, should actually vote to adopt recommendations to these states, on the basis of the Governmental Committee's proposals, recommendations which would be set out in the resolution covering the entire supervision cycle.

However, other changes and simplifications of the reporting procedure are also possible, as indicated in the CDDH report and the GR-SOC's draft decisions, in keeping

with the proposals I made to the Committee of Ministers during our exchange of views last year.

This brings me to the collective complaints procedure. Here, rather than making changes, it is a matter of improving the way the procedure works, which is in fact what the ECSR is already in the process of doing.

In particular, it is important that the procedure focus increasingly on the assessment of specific situations, dealt with in sufficient detail, which raise a precise problem relating to the observance of the rights protected by the Social Charter, rather than reviewing the overall situation in a state following general allegations that the situation is not in conformity with the Charter.

An improvement of this sort, which would make the procedure more meaningful and effective, can and must be undertaken by the ECSR, which should exercise closer scrutiny regarding the admissibility of complaints; this is what the Committee has begun to do over the past year, during which it in fact found that certain collective complaints were inadmissible.

In addition, certain improvements in the procedure's functioning could allow the Committee to assess the merits of complaints more effectively, that is by undertaking an assessment on the basis of more detailed knowledge of the relevant state's situation in law and in practice. This could be achieved through an enhanced exchange, among all the parties to the proceedings before the Committee, of written and oral arguments and information, whilst fully respecting the adversarial principle, and also by encouraging the Commissioner for Human Rights, for example, or other competent institutions to submit written observations in connection with collective complaints.

However, if I may say so, the most necessary improvement of the complaints procedure concerns the role played by the Committee of Ministers. To be more precise, the Committee of Ministers should, I believe, take a more active part in the follow-up given to ECSR decisions. In particular, it should be encouraged to make more frequent use, in practice, of its power to make recommendations to states parties concerned by ECSR decisions finding a violation of the Charter, pursuant to Article 9 of the 1995 Additional Protocol.

This is because it can but be noted that some violations of the rights enshrined in the Charter have persisted for years without anything being done to remedy matters; there are deadlock situations which, despite repeated findings of violations, fail to prompt any reaction or remedial measures from the state concerned. In such situations it is absolutely essential to bring more peer pressure to bear on states parties in order to make the system of protection provided for by the Charter more effective. And adoption of a recommendation addressed to the relevant state by the Committee of Ministers, as already provided for by Article 9 of the 1995 Additional Protocol, would be a very important step in this direction.

In conclusion, I should like to highlight another change that might really help to strengthen the entire system of social rights protection laid down in the Charter, a way of improving how the system works that the ECSR has continued to advocate ever since the inaugural conference of the Turin Process, in 2014, and which is also mentioned in the CDDH report.

I am referring to the proposal to increase the number of members of the ECSR (from 15 to 18, for example), given the growing workload involved in the Charter's monitoring mechanism, and in order to ensure a better overall balance within the ECSR between the different legal traditions and social models that exist in Europe. I would add that it would also be very useful and timely – as also mentioned in the GR-SOC draft decisions – to establish criteria and procedures for the election of ECSR members that could better ensure that the Committee is composed of persons with the necessary skills and expertise in the field of European social rights protection.

Mr Chairman, Ladies and Gentlemen, these are some of the ideas that I wanted to share with you. Thank you again for your attention and, above all, for the interest you show in the Social Charter system. I sincerely hope that all this interest will soon be reflected by practical changes that can strengthen the system's effectiveness and improve the protection of social rights in Europe, without the adoption of such changes being delayed for non-essential procedural reasons.

Appendix 10

Address by Giuseppe Palmisano, President of the European Committee of Social Rights on the occasion of the International Day for the Eradication of Poverty

17 October

Palais de l'Europe, Strasbourg

Hello everybody,

It is truly an honour to be here with you today to celebrate the International Day for the Eradication of Poverty, dedicated this year to the “right to decent housing: the voice of children”. But let me say that, for me, this is not just an honour but also a source of sadness.

A source of sadness because if we are gathered here to reaffirm the pressing need to work for the eradication of poverty and in particular to protect children against the abject state of poverty which consists in being homeless, or living in inadequate, unhealthy or unsafe housing in a state of social and material degradation, this means that today, in our wealthy, advanced and supposedly civilised twenty-first century Europe, there are unfortunately a lot of children who are still experiencing this suffering and poverty in reality, and also many children, especially from continents less fortunate than Europe, who are likely to find themselves in such a situation before long. For all of us here today and also for the authorities and civil society throughout Europe, this is a scandal and a disgrace.

I say this because while poverty – and especially the extreme poverty of the homeless and inadequately housed – is always a source of personal suffering, loss of dignity and a terrible social malaise, it is even more terrible and unjust when it affects children: it is not only an offence against innocent beings; it also robs them of their future and condemns them to live without hope.

However, fortunately there is a full consciousness of this situation (or, if you will, an uneasy consciousness arising out of it), as well as a commitment to eradicate it through effective remedies, as reflected in the shared system of legal civilisation which the countries of Europe and the European institutions have chosen to establish, making respect for and the fulfilment of human rights – through civil and political rights but above all through economic, social and cultural rights – a genuine mission and constitution for the Council of Europe and its organs.

And it is precisely the European Social Charter – and especially the revised Charter – that is undoubtedly the most significant outcome of this awareness, of the common determination of Europe's countries and peoples, firstly, to regard poverty and the wretched condition of children living on the street as a serious violation of these children's most fundamental rights and, secondly, to compel states, governments and

public authorities to take action to protect children from such poverty by creating the conditions in which they can live a life worth living.

The revised Charter, and particularly Article 30, obliges states parties to provide effective protection against poverty and social exclusion for individuals and families by taking effectual and co-ordinated measures for the purpose of promoting effective access to, amongst other things, housing and social assistance. But, through Article 31, the revised Charter also obliges states, more specifically, to ensure that all individuals can effectively exercise their right to housing, by taking measures to “prevent and reduce homelessness with a view to its gradual elimination”, “make the price of housing accessible to those without adequate resources” and “promote access to housing of an adequate standard”. It is worth pointing out that, according to the European Committee of Social Rights, “housing of an adequate standard” means safe housing that (1) has all the basic amenities and where certain risk factors are under control, (2) is not overcrowded, that is, a dwelling of a size appropriate to the number of family members and the composition of the household living in it, and (3) offers secure tenure under the law.

And all this – all these commitments – must be viewed and implemented even more carefully and energetically when it is a matter of child poverty and housing for children. In fact, Article 7 of the Social Charter expressly requires states “to ensure special protection against physical and moral dangers to which children and young persons are exposed”. And it is obvious that being homeless or living in rundown, substandard accommodation in itself exposes children to a whole string of physical and moral dangers. States should therefore give special protection to children against the risk, or better still against the fact, of not having decent housing.

However, the Charter goes further than that. Article 17 establishes that “with a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake [...] to take all appropriate and necessary measures” to ensure that children and young persons have the care and assistance they need and “to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family’s support”.

Furthermore, Article 16, which concerns protection of the family, ultimately requires states, with a view to ensuring the necessary conditions for the full development of the family, including first and foremost children, to undertake a policy of providing families, and therefore the children who make up these families, with housing suited to their needs.

All this obviously has the effect of imposing specific obligations on states, which ought to ensure that all children can effectively exercise the right to housing – and adequate housing. The fact that states permit children to exist in such a state of poverty that they cannot have such housing and have to live on the street, without any immediate, effective steps being taken by states to remedy this situation, clearly constitutes a violation of the Social Charter, a serious failure to comply with the obligations that the Charter lays down and which the states themselves have accepted.

Therefore, if states took the Social Charter seriously and put into practice the precepts that they themselves have set out in the Charter, the terrible problem of children on the street, or living in unacceptable housing, ought to disappear or at least be considerably lessened.

But, sadly, this is far from being the case. The European Committee of Social Rights, which has the task of monitoring states' compliance with the Social Charter and encouraging states to meet their commitments in the field of social rights, has unfortunately found that in a number of states there are children who are homeless or living in unacceptable housing conditions and that states are not taking appropriate steps to protect them. And, as demonstrated by the examination of certain collective complaints, this especially concerns children belonging to particularly vulnerable groups or categories of people, such as unaccompanied minors, asylum seekers, and some ethnic minorities known to suffer social exclusion, such as Roma.

This state of affairs is, I repeat, particularly sad, since it reflects a failure not only in putting the Social Charter into practice but also, above all, in fulfilling the absolute legal and moral obligation that states have towards European civilisation and the whole of humanity.

For this reason, I believe it is really necessary for the European Committee of Social Rights to continue to monitor application of the Social Charter meticulously and urge states to put the Charter's precepts into practice by ensuring that all children, without discrimination, can be protected against poverty, enjoy appropriate housing and lead a life of dignity.

We owe them that, not only because of the values of solidarity and civilisation enshrined in the Social Charter and the Statute of the Council of Europe, but above all to honour and protect the lives and dignity of many real-life children, many young human beings, all with their own names, their own faces and their own dreams, who are all suffering unjustly because of poverty and neglect.

Let me spare a thought in particular for all the children who are at present in Rojava, who are seeing not only their homes but also their lives being destroyed and laid waste by the mounting violence in the region. I appeal to all Council of Europe member States to do everything in their power to avoid an escalation.

Appendix 11

Selection of activities organised in 2019

The European Committee of Social Rights and the Secretariat of the European Social Charter organised and participated in a number of activities in 2019. A selection of those is presented below:

- ▶ Kyiv (Ukraine), 16-17 January 2019
Stakeholders Conference “Framing cooperation for social rights development in Ukraine”
B. KRESAL, L. LEPPIK, C. POIREL, M. GALSTYAN, T. MONTANARI

- ▶ Strasbourg, (France), 17 January 2019
Exchange of views between the GR-SOC and the President of the ECSR
G. PALMISANO

- ▶ Strasbourg (France), 17 January 2019
Inter-Secretariat meeting working group meeting on children’s rights
O. KUMBARO BIANKU

- ▶ Strasbourg (France), 4 February 2019
7th meeting with Presidents of the monitoring and advisory bodies of the Council of Europe organised by the Secretary General
G. PALMISANO

- ▶ Strasbourg (France), 12 March 2019
Inter-Secretariat meeting on Roma and Travellers
A. UBEDA DE TORRES

- ▶ Strasbourg (France), 20 March 2019
Meeting of the Bureau of the Governmental Committee
P. CAROTENUTO

- ▶ Strasbourg (France), 21 March 2019
Joint meeting of the Bureau of the Governmental Committee and the Bureau of the ECSR
Bureau members, J. MALINOWSKI, H. KRISTENSEN, P. CAROTENUTO

- ▶ Strasbourg (France), 21 March 2019
Study visit, University of Navarra, Master on Human Rights
R. CANOSA USERA, A. UBEDA DE TORRES

- ▶ Brussels (Belgium), 25 March 2019
Press conference on Conclusions 2018
G. PALMISANO, E. CHEMLA, F. VANDAMME, H. KRISTENSEN, N. CASEY

- ▶ Strasbourg (France), 25 March 2019
Meeting with a representative of the Ministry of Social Affairs and Integration of the State of Baden-Württemberg on the European Pillar of Social Rights
O. KUMBARO-BIANKU, D. BALANESCU, A. UBEDA DE TORRES

- ▶ Strasbourg (France), 3 April 2019
Conference on human rights effect, University Autonoma of Madrid
A. UBEDA DE TORRES

- ▶ Athens (Greece), 10 April 2019
8th Meeting of the COE-FRA-ENNHRI-EQUINET Platform on Social and Economic Rights
D. WISNIEWSKA CAZALS, T. MONTANARI, D. GERDIJAN

- ▶ Vienna (Austria), 11 April 2019
Exchange with the FRA staff on the possible use of the data produced by the FRA in the work on conclusions and collective complains
E. MALAGONI, D. BALANESCU, A. UBEDA DE TORRES, L. VIOTTI, A. KUZNETSOVA

- ▶ Strasbourg (France), 13-17 May 2019
139th Meeting of the Governmental Committee
J. MALINOWSKI, P. CAROTENUTO

- ▶ Strasbourg (France), 27 June 2019
MISSCEO meeting
S. HIRSCHINGER, O. KUMBARO-BIANKU

- ▶ Strasbourg (France), 1 July 2019
Meeting with the Secretary General of the Council of Europe and the Permanent Representative of France on the occasion of 20th anniversary of the entry into force of the Revised Charter
G. PALMISANO, J. MALINOWSKI

- ▶ Strasbourg (France), 16-20 September 2019
140th Meeting of the Governmental Committee
J. MALINOWSKI, H. KRISTENSEN, P. CAROTENUTO, N. CASEY

- ▶ Strasbourg (France), 19 September 2019
Seminar “Reinforcing social rights protection in Europe to achieve greater unity and equality” under the auspices of the French Presidency of the Committee of Ministers of the Council of Europe
G. PALMISANO, E. CHEMLA, L. JIMENA QUESADA, J. MALINOWSKI, H. KRISTENSEN, A. UBEDA DE TORRES, P. CAROTENUTO, D. GERDIJAN

- ▶ Madrid (Spain), 3-4 October 2019
“Implementing social rights: lessons learned”, first dialogue between the European Committee of Social Rights and the Inter-American Court of Human Rights
G. PALMISANO, K. LUKAS, R. CANOSA USERA, L. JIMENA QUESADA, J. MALINOWSKI, A. UBEDA DE TORRES, D. GERDIJAN, K. OKO GAKOSSO

- ▶ Rome (Italy), 9-10 October 2019
Joint Workshop on Family as a Hub for Social Policies
G. BATTAINI DRAGONI, J. MALINOWSKI, M. GALSTYAN, T. MONTANARI, C.LAVOUE

- ▶ Rome (Italy), 9-11 October 2019
4th meeting of the European Social Cohesion Platform
G. PALMISANO, J. MALINOWSKI, M. GALSTYAN, T. MONTANARI, C.LAVOUE

- ▶ Tbilisi (Georgia), 10-11 October 2019
Round Table “Access to integration related services for refugees and stateless persons, in view of facilitating their naturalization in Armenia, Azerbaijan and Georgia”, co-organised with the UNHCR
K.M. LARSEN, O. KUMBARO-BIANKU

- ▶ Strasbourg (France), 13-14 November 2019
High level children conference Redefining Power: “Strengthening the rights of the child as the key to a future-proof Europe”
E. CHEMLA, A. NOLAN (video presentation), J. MALINOWSKI, O. KUMBARO-BIANKU

- ▶ Strasbourg (France), 15 November 2019
Joint meeting of the PACE Sub-Committee on the rights of children and the Sub-Committee on the European Social Charter
E. CHEMLA, O. KUMBARO-BIANKU

- ▶ Strasbourg (France), 28 November 2019
9th meeting of CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights
J. MALINOWSKI, H. KRISTENSEN, T. MONTANARI, L. PODTYKAN

- ▶ Rome (Italy), 19-20 December 2019
Meetings in the Italian Ministry of Labour to discuss the possible acceptance and ratification by Italy of Article 25 of the Charter
G. PALMISANO, P. CAROTENUTO

In addition, several meetings on non-accepted provisions have been organised in the course of the year:

- ▶ Tirana (Albania), 25-26 March 2019
J. HAJDÚ, B. KRESAL, J. MALINOWSKI, N. CHITASHVILI, E. MALAGONI

- ▶ Bucarest (Roumania), 7 November 2019
J. HAJDÚ, F. VANDAMME, L. LEPPIK, N. CHITASHVILI, M. GALSTYAN,

- ▶ Andorra, 14 November 2019
G. PALMISANO, R. CANOSA USERA, A. UBEDA DE TORRES, L. ATZENI

- ▶ Belgrade (Serbia), 22 November 2019
J. HAJDÚ, Y. BALCI, L. LEPPIK, H. KRISTENSEN, O. KUMBARO-BIANKU

Appendix 12

Expert seminar on reinforcing social rights protection in Europe to achieve greater unity and equality

*Organised by the Secretariat of the European Social Charter of the
Council of Europe under the auspices of the French Presidency of the
Committee of Ministers*

19 September 2019 – Agora, Room G03

Opening address by Jean-Baptiste Mattéi, Ambassador of France to the Council of Europe

Deputy Secretary General,

Excellencies,

Mr President of the European Committee of Social Rights,

Mr Chairman of the Governmental Committee,

Dear experts and representatives of different international organisations,

Professors,

Ladies and Gentlemen,

I am very pleased to join you this morning at the opening of this seminar on the subject of reinforcing social rights protection in Europe.

In Helsinki, in May, the Committee of Ministers unequivocally reaffirmed its commitment to social rights throughout Europe and invited member States which had not already done so to sign and ratify the Revised European Social Charter and its Additional Protocol providing for a system of collective complaints.

The French Chairmanship of the Committee of Ministers of the Council of Europe has made reinforcing social rights in Europe one of its priorities.

Traditionally, as you know, France sets great store by the idea of a social Europe. Along with Portugal, it is the state that is the most committed to the European social rights protection system: it has ratified all the paragraphs of the Revised European Social Charter and the Additional Protocol of 1995 providing for a system of collective complaints.

A Chairmanship of the Committee of Ministers of the Council of Europe only lasts six months so we decided not to waste time and to work as quickly as possible towards modernising the mechanisms for monitoring and supervising the effectiveness of social rights in Europe.

To be efficient, this strategy will have to be a long-term one and I earnestly hope that the Chairmanships that come after us will be able to continue this work.

The aim of this expert seminar is to encourage discussion on ways of bringing about concrete improvements in existing procedures and dialogue between member States and the European Committee of Social Rights.

Everyone must do their part.

In France, at national level, we have reviewed our working and operating methods to ensure that all the ministries concerned are involved, and we promise to deal promptly and concretely with the criticism that is sometimes levelled at us.

At the Council of Europe, we intend to improve the functioning of the ECSR so as to produce reports and decisions of the highest quality.

We welcome the reform proposals in the report adopted by the Steering Committee for Human Rights in June. We have worked with the Chair of GR-SOC to ensure that the report was approved by the Committee of Ministers in July and that the Department of the European Social Charter was tasked with making specific reform proposals at the end of September. We hope that they will be ambitious.

Without prejudging these proposals, we consider that thorough application of the admissibility criteria for collective complaints, improvements to the national reporting mechanism and the establishment of a panel to give an opinion on the applications for membership of the European Committee of Social Rights, similar to the system for selecting the judges of the European Court of Human Rights, are possible lines of enquiry, although there will undoubtedly be other suggestions.

What should motivate us is the fact that although there has been progress, only 15 states have ratified the Additional Protocol of 1995 on collective complaints. The last ratification dates back to 2012.

The insufficient number of accessions by Council of Europe member States should encourage us more than ever to be a force for ideas and progress.

In this connection I welcome the call made this week by the Delegates of the 15 member States of the Governmental Committee that have accepted the Additional Protocol of 1995 for as many countries as possible to ratify the existing mechanisms and to support the Turin Process launched in 2014.

I would like to make one last point: I think that it is very important for the Council of Europe and the European Union to work together as closely as possible on the basis of the Turin Process and, if possible, to see to it that the European Social Charter is regarded as Europe's Social Constitution.

I know that the dialogue between the two organisations is at a very advanced stage, and France, as a member of both, will do everything possible to be involved in this dialogue and to strengthen it even further.

Thank you.

Appendix 13

Expert seminar on reinforcing social rights protection in Europe to achieve greater unity and equality

*Held by the Secretariat of the European Social Charter of the Council
of Europe under the auspices of the French Chairmanship of the
Committee of Ministers*

19 September 2019 – Agora, Room G03

Opening address by Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe

Check against delivery

A warm welcome to everyone,

Before I begin, I would like to say how delighted I am to be with you this morning for the opening of this seminar.

Ambassador Mattéi, I would be most grateful if you could pass on my thanks to the French Chairmanship of the Committee of Ministers of the Council of Europe, for having decided, through this conference, to focus on a key topic for our member States and the citizens of Europe.

More generally, I wish to congratulate the Chairmanship for including the Social Charter in its priorities, as an integral component of the European human rights protection system.

Reinforcing social rights protection means protecting “human rights on a daily basis” – which is at the heart of building a progressive Europe which, let us not forget, is a model for all the people around the world who demand their most basic rights.

As you are aware, this year we are celebrating the Council of Europe’s 70th anniversary.

What could be a better occasion to remember that the Preamble to the Statute of our Organisation defines social and economic progress – in that order – as a means of achieving “closer unity” between its member States.

The instrument which makes it possible to fulfil this shared commitment is, of course, the European Social Charter.

It is hardly necessary to reiterate that the principles and rights that it enshrines include, housing, health, education and training, the free movement of people, non-discrimination, legal and social protection, protection against poverty and exclusion, and also employment, safety in the workplace and equality at work, including equal pay.

These are fundamental rights, which everyone should be able to enjoy.

Over the years, the States Parties to the Social Charter have made noteworthy progress in these areas to comply with their European commitments.

But in order to sustain this progress and take it even further in the interests of our fellow citizens, we have to tackle the sadly many and serious challenges facing us today – such as growing inequality, which I will come back to, and changes in the world of work.

These problems are not new and this conference is not the first to address them.

Without going back to the beginning, I would like to remind you that Thorbjørn Jagland, the outgoing Secretary General, launched in the middle of the economic crisis, a political process, the “Turin Process”, which aims to reinforce the Charter system to make it better equipped to meet these challenges.

There were already many questions being asked at that time, but it is now that we have at our disposal a number of well-thought out and convincing analyses and proposals, thanks to the work carried out by the CDDH, all of which are consistent, complete and promising.

Please allow me to take this opportunity to thank the CDDH for its excellent work which not only provides a solid analysis of our current legal framework for the protection of social rights, but also suggests possible improvements to the way they can be implemented.

The first strand of this work rightly points out the difficult context which has prevailed for more than a decade.

The austerity measures taken to address the economic crisis have led, in some member States, to rising unemployment and greater job insecurity, along with cuts in social security and benefits systems.

The gap between the richest and the poorest has widened in Europe, increasing mistrust and mutual disdain, and this, as the outgoing Secretary General has said on many occasions, weakens our societies and feeds populism.

It is by ensuring that social rights regain their rightful place and by no longer considering them to be secondary that we will be able to address these problems. The strongest societies are the ones that promote social cohesion, based on the genuine enjoyment of social rights and on social justice.

The Social Charter gives us the tools to work that end, by focusing on human dignity and by defining what “living in dignity” means and how it can be achieved.

The Charter is not the limit, but the basis for building a democratic Europe in which human rights – encompassing civil, political and social rights – is its foundation.

We must therefore see the Social Charter and its monitoring mechanisms not as a system designed to create a straitjacket for states, but as a driving force for progress for everyone.

That is why in Helsinki in May, as the Chairman of the Ministers’ Deputies reminded us a moment ago, our Ministers of Foreign Affairs reaffirmed the importance of social rights across the continent, and called on those member States that had not yet done

so to consider signing and/or ratifying the revised European Social Charter and its Additional Protocol providing for a system of collective complaints.

It is also in that spirit that, at the instigation of the French Chairmanship of the Committee of Ministers, the Ministers' Deputies have already begun their deliberations on the possible measures to be taken, based on the CDDH report, for improving the protection of social rights in Europe and the way in which the Charter system functions.

France and Portugal, which I understand may soon be joined by two other member States, led the way by accepting all the provisions of the Revised Charter.

We must continue along these lines:

By accepting more widely the collective complaints procedure which makes it possible to protect everyone's rights more effectively, by emphasising shared responsibility with social partners and civil society, in order to rectify the pernicious effects of crises and inequalities.

But also, by working on a more effective and consistent implementation of social rights.

More effective implementation is the focus of your second round table which will be looking at three issues which seem absolutely vital to me: the training of judges; improving the Charter monitoring mechanism; and lastly, national authorities taking ownership of the Charter. On this last point, the European Court of Human Rights refers to "bringing the Convention home"; here we could say "bringing the Charter home".

A more consistent implementation: this is about our relationship with other international organisations, and in particular with the European Union, whose European Pillar of Social Rights must be implemented in the light of the Charter. I am happy that this issue is also on the agenda of this seminar, in the third round table.

Ladies and Gentlemen,

I would like to end on a note of optimism.

Let us not forget that the best practices developed in one country, may, as indicated in the CDDH report, be a source of inspiration for others.

There are many good examples.

Of particular note are the measures taken in some member States to improve the conditions for taking in foreign unaccompanied minors and the way they are treated by the legal system.

There are also the reforms undertaken to make it easier to recognise the change in the civil status of transsexual people.

And thirdly, there is the constitutional courts' use of the Charter to set aside legislation which is in breach of social rights.

These are success stories which can inspire us all to implement social rights more effectively, to achieve greater unity and equality in our societies.

This is a goal which transcends national borders and divisions along party lines.

My sincere thanks to all of you for having accepted the invitation to take part in this conference, to ensure that this goal becomes a reality.

I wish you a successful and productive seminar.

Appendix 14

Call by the representatives of the 15 States Parties to the European Social Charter having accepted the 1995 Additional Protocol and the collective complaints procedure to reinforce social rights protection in Europe

We, the delegates on the Council of Europe's Governmental Committee of the European Social Charter and the European Code of Social Security representing the 15 States Parties to the European Social Charter having accepted the 1995 Additional Protocol and the collective complaints procedure, namely Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, Norway, Netherlands, Portugal, Slovenia and Sweden:

Considering that, for 70 years, the Council of Europe has been the leading organisation protecting human rights, democracy and the rule of law in Europe;

Considering that the European Social Charter adopted in 1961 and revised in 1996 is the legal instrument that provides the most extensive and complete protection in the area of economic and social rights, thereby enabling Europeans to lead decent and dignified lives;

Noting that fundamental rights are crucial components of a modern, inclusive and social Europe;

Stressing that these rights should be fully implemented;

Stressing the need to maintain enhanced and regular dialogue between European states to seek best practices in view of the above;

On the occasion of the seminar held in Strasbourg on 19 September 2019 by the French Presidency of the Committee of Ministers of the Council of Europe on the topic *Reinforcing social rights protection in Europe to achieve greater unity and equality*,

1. Call on European states to ratify the European Social Charter, which is currently in force in 43 of the Council of Europe's 47 member States;
2. Call on European states to ratify the revised European Social Charter, which is currently in force in 34 of the Council of Europe's 47 member States;
3. Call on European states to accept the 1995 Additional Protocol providing for a system of collective complaints, while taking note of the on-going work for the necessary reform of the monitoring and reporting system.

Appendix 15

Joint Workshop on Family as a Hub for Social Policies

9 -11 October 2019, Rome

Organised by the Department for Family Policies of the Italian Presidency of the Council of Ministers and the European Social Cohesion Platform of the Council of Europe (PECS)

Opening address by Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe

Check against delivery

Ministers,

Distinguished guests,

Ladies and gentlemen,

I begin by thanking you, Ms Bonetti, not only for the insights that you have just provided but also for the Italian government's central role in organising this important event and the fourth annual meeting of the European Social Cohesion Platform.

At a time of uncertainty, fracture and strain in Europe, it is all the more important that countries work together to shape more cohesive and inclusive societies.

The role of the family is central to this.

Families have always come in different shapes and sizes, but it is fair to say that in today's world, the diversity of family life has increased.

One parent families and two parent families; parents and step-parents; single-sex parents and mixed-sex parents – and so on, and so forth.

The strength and stability of these families varies in light of many different factors.

But what is certain is that the circumstances into which we born and the way in which we are raised have an enormous impact on the life that we will go on to live –

Our health, our education, our professional prospects.

The implications of this are real both for the individual and for society.

So it is in everyone's interests that families have the opportunity to be strong, supportive units in which every member can flourish.

Seventy years ago, the Statute of the Council of Europe was signed in London.

It declared that the aim of our Organisation is to achieve greater unity between its member States for the purpose, in part, of facilitating their economic and social progress.

To achieve this goal, the Council of Europe bases its work on the human rights set out in its two major legal instruments: the European Convention on Human Rights and the European Social Charter.

Both are relevant to our subject today, but the Social Charter is of particular importance here.

It guarantees Europeans the opportunity of a decent and dignified life with the right to housing, health care, education, work...and family life.

The European Convention and the Social Charter have been followed by a range of conventions, recommendations and initiatives that apply our human rights to specific challenges.

This is true for the subject of each of the four sessions that you will hold at this Joint Workshop.

Let me provide some short examples.

When it comes to work-life balance and company welfare, the Social Charter is of direct relevance.

It makes clear that all workers have the rights to just, safe and healthy working conditions; to equal opportunities and equal treatment; and to the fair pay that is required for a decent standard of living.

Specifically, Article 2 guarantees employees the rights to reasonable limits on working hours; to weekly rest periods; and to paid annual and public holidays.

This about ensuring that people have the income, the security and the time required to look after themselves and their dependents.

And this is surely one of the factors underlying the theme of today's second session: family measures to promote the increase in the birth rate in Europe.

It is not of course for the Council of Europe to tell people how many children they should have.

But it is right to ensure the social conditions in which people feel able to have and support children.

This is particularly important at a time when many European countries have a low birth rate and an ageing population.

Here too, the Social Charter is important, protecting the rights of workers with family responsibilities.

Article 8 stipulates the right to paid maternity leave of at least 14 weeks, guaranteed by law.

During that leave, the individual must continue to receive their salary, or social security benefits or benefits from public funds.

And it must be unlawful to dismiss an employee from the time that she notifies her employer that she is pregnant until the end of her maternity leave.

The Charter is also clear that States Parties must provide the possibility for either parent to have parental leave and to develop and promote child day care services and other childcare arrangements, making them available and accessible to those with family responsibilities.

National governments are of course free to go further still.

But these measures are designed to create the flexibility and affordability that makes parenting easier in today's world.

Aside from the Social Charter, the Council of Europe has taken a range of actions to tackle the heart-breaking reality of children witnessing violence.

Regarding the children themselves, our Committee of Ministers has issued a recommendation to member States to promote positive, non-violent parenting.

And it has produced another calling for the adaptation of social services to the specific needs and interests of children, ensuring the protection of children from all forms of neglect, abuse, violence and exploitation.

This should be done by preventive measure and direct interventions, and based on the best interests of the child –

A principle that also inspires our current, cross-departmental work on situations involving parental separation and child-care proceedings, which aims to shield children from the negative impact of parental conflict.

In addition, our Lanzarote Convention on the Protection of Children against Sexual Exploitation and Abuse asks States Parties to take measures that tackle such crime, especially within the child's immediate environment or "circle of trust".

Equally, it is vital to ensure that parents are not subject to violence – whether children witness it or not.

For this, our Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence is particularly relevant.

The most important, legal treaty in this area, it takes a holistic approach, requiring action for the prevention of crime, the protection of victims and the prosecution of perpetrators.

This involves reconceptualising such violence – understanding that is not a private matter, but a serious crime for which there should be no impunity.

Lastly, I know that you will address tomorrow the challenge of eradicating child poverty.

This noble and important aim is also a key part of the Council of Europe's current Strategy for the Rights of the Child, which runs until 2021.

The Strategy guides member States to follow up on the conclusions and decisions of the European Committee of Social Rights and to fulfil the Committee of Ministers recommendation on the access of young people from disadvantaged neighbourhoods to social rights.

In many European countries, inequality is rising, and child poverty remains stubbornly high, sometimes as a consequence of austerity policies.

So the time for action is now.

Ladies and gentlemen, these are just some of the activities that my Organisation has undertaken - but problems remain.

That is why we are here today.

Our member States can do more to support the family, and I would urge them all to make use of the tools at their disposal - ratification of the Social Charter and the Istanbul Convention, for example.

In this respect I am very happy to say that our Committee of Ministers is currently considering additional measures to improve the protection of social rights in Europe.

But I think we all know this alone is not enough.

We need a greater understanding of the problems faced by modern families, and the ways in which these can be tackled.

This involves learning from one another's experience and coming together to produce new ideas too.

I hope that this Conference will provide the opportunity to do that, and I look forward to the debate.

Thank you.

Appendix 16

International conference on the rights of the child “Strengthening the rights of the child as the key to a future-proof Europe”

13-14 November 2019
Strasbourg

Power Talk 2: The power of inclusion

Address by Eliane Chemla,
General rapporteur of the European Committee of Social Rights

I would like to say at the outset that it is a little painful for me to talk to you today about child poverty in Europe, which can be seen even in the wealthiest countries of this continent. It is a little painful for me, who have been involved in the work of the ECSR for about 7 years, because over the years and in the reports on the application of the Social Charter, although – fortunately – we have witnessed improvements during each monitoring session regarding compliance with the relevant articles of the Charter, as Aoife has just mentioned, we are also obliged to note the slow pace of this progress, and sometimes even some backward steps. In the case of children, who are the future and whose well-being and decent living conditions must be a primary concern, it is hoped that they at least will be effectively protected against overly serious difficulties in growing up and developing in appropriate conditions, especially in states where the overall standard of living is satisfactory. However, this is not necessarily the case.

I cannot but agree with the statement made by our [former] Secretary General, Mr Jagland, in his last report that “the [European Committee of Social Rights](#) has insisted over the past years through its monitoring procedure that austerity measures have exacerbated the already severe human consequences of the economic crisis marked by record levels of unemployment, discrimination, social exclusion and poverty, including child deprivation.”

Today, we all know that 25 million children in the European Union live in low-income households where living conditions are unacceptable and hunger is common. This is the latest information revealed by the European Union Agency for Fundamental Rights in its most recent report “Combating child poverty: an issue of fundamental rights”.

But deep down, what is poverty? There is no mystery about how the “poverty line” is defined, the ECSR, like other international bodies, has adopted the prevailing definition of the minimum level of resources needed to stay above this line, and of course it uses this definition in carrying out its work.

But what does “living in poverty” mean for a child in particular, in everyday life, and for his or her future?

For many children in the 47 member States of the Council of Europe, what is most visible, what is most routine, is being excluded from the “normal” things that make up the lives of other children, such as having three good meals a day, appropriate clothing, activities outside school, birthday parties etc.

The European Committee of Social Rights has stated that while generally speaking living in a situation of poverty and social exclusion violates the dignity of human beings, it has also stressed that for children, being deprived of the legal and social protection to which they should all have access not only results in a less comfortable life, but also in obstacles to accessing high-quality educational facilities, health care and decent accommodation.

Such a situation of poverty also often means that they have to work to support the family, with the risk of growing up without having the chance to play and learn at school, and having been exposed to various risks relating either to their participation in dangerous or tiring work, or to the exploitation and dangers they may face if they live on the streets, as is the plight of far too many of them, or even, and this can have a detrimental impact on their future lives, to inadequate health care.

I will not repeat how the ECSR examines the articles relating to these rights and difficulties, except to remind you that at European level, the European Social Charter is the only legally binding instrument that requires states to take positive measures to protect children from poverty and to guarantee their rights.

In particular, it requires states to ensure access to high-quality services in education, health care and housing and to adopt measures to protect families.

The ECSR’s primary task is not to award good and bad points in terms of respect for the rights protected by the Charter; above all, its task is to assist member States in applying the articles of the Charter relating to these rights, and in particular the rights of children. And for that reason, the Committee has identified some essential points that I would like to highlight, because they can really help to reduce poverty and especially poverty that is transmitted through the generations, not least because children are in no way immune to this.

- ▶ First, each state must have a clear understanding of the situation, through the continuous production over long periods of relevant indicators and statistics, relating for example to the distribution of income among the population, living conditions - especially those of adolescents, the homeless and all vulnerable groups, such as migrant families or single-parent families, or families and individuals belonging to vulnerable or discriminated minorities. Such statistics should be primarily intended for decision-makers to guide them in drawing up their strategic objectives.
- ▶ Second, they must put in place sustainable social transfers that rectify the distribution of income to assist the most vulnerable and help to reduce poverty. In particular, this means choices in terms of public spending, a significant proportion of which should be devoted to social welfare. And if this social welfare is to have a real impact against poverty, it must include the functioning of high-quality services in the field of those fundamental rights without which no progress is sustainable: health, education and training, and housing.

- ▶ In a period such as the present, when poverty is increasing, it seems advisable in parallel for there to be an increase in social welfare expenditure as a percentage of GDP over a sufficiently long period, such as that covered by national poverty reduction plans, which many member States have adopted.
- ▶ In such plans, it is essential to develop, as a number of member States are already doing, detailed and sustainable consultation procedures with various civil society organisations, research institutions, professional organisations, local authorities and the social partners.
- ▶ In order to improve monitoring of the situation, it is helpful for states to set up national instruments or institutions to monitor and assess poverty, which can, where necessary, send warning signals to the authorities.

The Committee has been pleased to note that when such measures are taken, they have a positive impact on improving access to fundamental social rights for the whole population, including the poorest sections.

There are still the basic problems that the Committee is working to resolve: First, too many countries have not adopted all the relevant articles of the Charter, including Article 30, which deals with all aspects of the fight against poverty. However, while in order to adopt the Charter, at least one set of specific articles must be adopted, Article 30 is not one of these articles. Helping countries that have not yet adopted it to do so is at the heart of the Committee's special relationship with member States.

In the same spirit, the Committee is committed to ensuring that more member States adopt the system of collective complaints, which has enabled significant progress to be made in the 15 states that have already adopted it. This system, which allows a number of NGOs and trade unions to raise particular difficulties before the Committee, and thereby discuss them with the state concerned, is a very relevant alarm system for identifying points that pose a problem in the application of the Charter. In the Committee's view, this system has the very useful effect not of singling out who is good and who is bad, but of preventing possible national disputes by drawing states' attention to sensitive points in advance. This is why the wish to extend the application of this procedure to more states is also at the heart of its work.

As you can see, we are making progress, but there is still work to be done, and the Committee is not faltering in its determination to do so. Working days like this one make an effective contribution to the hoped-for progress and for this reason I would like to extend a sincere thank you to the organisers, and to all those who have gathered here today.

Thank you.

Appendix 17

Selection of judicial decisions from 2019 referring to the European Social Charter

BELGIUM

CC n° 136/2019, 17 October 2019: the Constitutional Court considers that it appears from the declaration of the Kingdom of Belgium contained in the instrument of ratification of this Charter, as it was deposited on March 2, 2004 to the Secretary General of the Council of Europe (Belgian Official Gazette, May 10, 2004, pp. 37424 and 37430), as well as of the notification filed on June 10, 2015 with the same authority (Belgian Official Journal, June 29, 2015, p. 37198), that the Belgian State does not consider itself bound by Article 31 of Part II of this Charter. The Court therefore finds that a plea alleging violation of this provision of the Charter, read in conjunction with Articles 10 and 11 of the Constitution, was inadmissible.

BULGARIA

Decision No 7241 of 2019 (case No 10508 of 2018) of the Administrative Court of Sofia. Art. 29 European Social Charter is mentioned in the complaint. The Court, however, did not deal with this article in its decision.

FRANCE

- ▶ Article 5 ESC: Council of State, 6th and 5th chambers joint session, 30/01/2019, 401681, *Inédit au recueil Lebon*
- ▶ Article 6 ESC : CE, 01/04/2019, 417652, *Inédit au recueil Lebon : en suspens (« à l'appui » du moyen de contrariété avec l'article 11 CEDH idem article 28 CDFUE)*
- ▶ Article 17§1 ESC: *Cass. Civ. 1st*, 21 November 2019, n° 19-15890: lack of direct effect of Article 17§1 CSE
- ▶ Article 24 ESC: Administrative Court of Appeal of Marseille, 2nd chamber, 05/12/2019, n° 18MA02797: control of conventionality of a dismissal in the light of article 24 CSE
- ▶ Article 24 ESC and litigation of Ordinance n° 2017-1387 of September 22, 2017 relating to the predictability and security of employment relationships ("Macron" Ordinance setting up the scale of redundancy payments)

Recognition of the direct effect of Article 24 ESC:

- ▶ CPH Troyes, 13 December 2018, n° 18/00418; CPH Amiens, 19 December 2018, n° 18/00040; CPH Lyon, 21 December 2018, decision n° 18/01238; CPH Angers, 17 January 2019, n° 18/00046; CPH, Longjumeau, 14 June 2019, n° 18/00391.
- ▶ CPH Grenoble, *départage*, 22 July 2019, n° 18/00267; CPH Nevers, 26 July 2019, n° 18/00050; CPH Troyes, *départage*, 29 July 2019, n° 18/00169; CPH Le Havre, 10 September 2019, n°18/00413
- ▶ Paris Court of Appeal, 18 September 2019, n°17/06676
- ▶ Reims Court of Appeal, ESC, 25 September. 2019, n° 19/00003: direct effect of Article 24 (but conventionality of the Ordinance)

No direct effect of article 24:

- ▶ *Conseil de prud'hommes* of Mans, 26 September 2018, n° 18/00109.
- ▶ Cass., plenary for opinion, 17 July 2019, opinion n°15012 et n°15013: Article 24 of the revised European Social Charter has no direct effect in domestic law in a dispute between individuals.
- ▶ Paris Court of Appeal 30 October 2019, n° RG 16/05602: no direct effect of Article 24 of the ESC.

LATVIA

Decision of the Senate of the Supreme Court Administrative Department adopted in case No.SKA-1481-19 from 18 December 2019 ECLI:LV:AT:2019:1218.A420271718.12.L

Available in Latvian at <https://manas.tiesas.lv/eTiesasMvc/nolemumi/pdf/398211.pdf>

The decision refers extensively on Article 12(1) of ESC regarding minimum amount of statutory old-age pension and finds that amount old-age pension of around 47% of recipients falls below 50 % median equalized income as for 2018. Due to this the Senate decided to refer to the Constitutional Court on compatibility of legal regulation on the minimum amount of the old-age pension with Article 109 of the Constitution providing the right to social security, including social protection in old-age. Currently the case is pending before the Constitutional Court. According to the constitutional law doctrine and Article 89 of the Constitution all human rights provided by the Constitution must be interpreted in accordance with the international agreements binding to Latvia, i.e., in this case with Revised European Social Charter.

POLAND

- ▶ Constitutional Court, SK 31/16, 25.09.2019 – reference to the Article 12 of the Charter (rules for granting the right to payment of benefits from the social insurance fund).
- ▶ Constitutional Court OTK-B 2019/266, Tw 4/19, 2.09.2019 – Article 4§2 of the Charter reference to Article 4§2 of the Charter as in conformity with the Border Guard Act: the provisions challenged by the applicant (the Main Board of the Independent Self-Governing Trade Union of Border Guards) relate to the benefits which Border Guard officers are entitled when performing duties above the norm.
- ▶ Provincial Administrative Court in Poznań, II SA/Po 844/18, 10.07.2019 – reference to the Article 13 of the Charter (deprivation of the right to social assistance benefits of a person serving a prison sentence).
- ▶ Supreme Court, I UK 416/17, 30.01.2019 – Article 4§2 of the Charter (the final decision on the basis for the assessment of sickness benefit, that the amount of remuneration for work is contrary to the principles of social coexistence, is not enough to state that the recipient knowingly misled the disability authority in order to obtain sickness benefit in an undue amount).

ROMANIA

I. Constitutional Court, Decision 62/22 January 2019. The Court makes reference to Art. 5 ESC (first sentence) in order to point out that, in the national legislative context, Art. 5 conditions are met even when the Romanian law requires the double condition of a minimum number of 15 workers in the same company in order to set up a trade union. The restrictions to the right to organise are interpreted by the Court in the light of ECtHR case law.

II. Other courts' decisions, presented on the basis of the Articles of the ESC that are referred to, in the decreasing order of the number of references:

1) Art. 4 (Right to a fair remuneration) (cases regarding correct determination of the salary rights for civil servants or for public sector employees):

- ▶ Tribunal of Bucharest: decisions nr. 293, 1126, 1321, 1995, 4104, 5265/2019
- ▶ Tribunal of Alba: decisions 537, 1047/2019
- ▶ Tribunal of Braşov: decisions 233, 330/2019
- ▶ Tribunal of Cluj: decisions 1377, 1996/2019
- ▶ Tribunal of Dolj: decisions 375, 839, 1112, 1781-1786/2019
- ▶ Tribunal of Maramureş: decision 700/2019
- ▶ Tribunal of Olt: decision 102/2019
- ▶ Tribunal of Prahova: decision 1504/2019
- ▶ Tribunal of Vaslui: decisions 38, 137/2019
- ▶ Bucharest Court of Appeal: decisions 171, 499, 503, 1463, 1719, 2756/2019
- ▶ Alba Iulia Court of Appeal: decisions 1003, 1027/2019
- ▶ Braşov Court of Appeal: decision 927/2019
- ▶ Cluj Court of Appeal: decisions 870, 1016, 1435, 1732/2019
- ▶ Craiova Court of Appeal: decisions 844, 1639, 1652, 1726/2019
- ▶ Piteşti Court of Appeal: decisions 2959, 3964/2019
- ▶ Ploieşti Court of Appeal: decisions 1620, 2288/2019
- ▶ Suceava Court of Appeal: decisions 480, 481, 492, 493/2019
- ▶ Timişoara Court of Appeal: decisions 167, 707/2019

Some of these decisions refer specifically to Art. 4.3 of the Revised Charter, while others are mentioning also Art. 1.2 or Art. 1.2 and 4 (the right to work), or Art. 20 of the Revised Charter.

2) Art. 15 (The rights of persons with disabilities) (cases regarding the correct assessment of disability benefits, or other rights provided for persons with disabilities):

- ▶ Tribunal of Braşov: decisions 32, 47, 52, 74, 77, 101, 128, 133, 135, 177, 201, 220, 307, 387, 399, 400, 424, 488, 489, 492, 899, 901, 1077, 1162, 1164, 1297, 1340/2019
- ▶ Tribunal of Constanţa: decisions 611, 1467/2019
- ▶ Tribunal of Covasna: decisions 117, 1109, 1124, 1258/2019
- ▶ Tribunal of Iaşi: decisions 284, 815/2019

- ▶ Tribunal of Mureș: decision 211, 454/2019
- ▶ Tribunal of Olt: decision 739/2019
- ▶ Tribunal of Teleorman: decisions 23, 157, 183, 409, 412,414,419, 450, 473, 481, 502,560,592, 622,623/2019
- ▶ Alba Iulia Court of Appeal: decision 39/2019
- ▶ Brașov Court of Appeal: decisions 76, 333, 421, 713/2019
- ▶ Cluj Court of Appeal: decision 451/2019
- ▶ Constanța Court of Appeal: decisions 345, 667/2019
- ▶ Craiova Court of Appeal: decision 2221/2019
- ▶ Ploiești Court of Appeal: decisions 1708/2019

3) Art. 1 (Right to work) (in most of the cases, Art. 1 is cited by the courts in the context of confirming the sanctions applied by labour inspectors for those employers who accept workers without employment contract - undeclared work):

- ▶ Courthouse („Judecătoria”) of Arad: decisions 3589, 4357, 5362/2019
- ▶ Courthouse of Brașov: decision 12328/2019
- ▶ Courthouse of Brezoi: decision 621/2019
- ▶ Courthouse of Făgăraș: decision 759/2019
- ▶ Courthouse of Gura Honț: decision 504/2019
- ▶ Courthouse of Râmnicu Vâlcea: decisions 2605, 2113, 3603/2019
- ▶ Tribunal of Arad: decision 477/2019
- ▶ Tribunal of Vâlcea: decision 339/2019
- ▶ Tribunal of Vaslui: decisions 1600, 1711/2019
- ▶ Tribunal of Gorj: decision 1208/2019 (in the context of employer’s failure to pay overtime)

4) Art. 24 lett. a) ESCr (The right to protection in cases of termination of employment):

- ▶ Tribunal of Bucharest: decision nr. 4038/2019
- ▶ Tribunal of Argeș: decisions 3053, 4194/2019
- ▶ Tribunal of Galați: decision 1415/2019
- ▶ Tribunal of Iași: decision 1040/2019
- ▶ Alba Iulia Court of Appeal: decision 747/2019
- ▶ Craiova Court of Appeal: decision 2740/2019
- ▶ Iași Court of Appeal: decision 309/2019
- ▶ Oradea Court of Appeal: decision 268/2019
- ▶ Pitești Court of Appeal: decisions 2279, 4637/2019
- ▶ Ploiești Court of Appeal: decisions 592, 1037/2019

5) Other articles:

Art. 12§1 (The right to social security) (wrong calculation of pension entitlements)

- ▶ Tribunal of Alba: decisions 8, 51, 67, 331, 334, 468, 534, 663, 686, 875/2019 (Art. 12§1)

Art. 21 and/or 29 of the Revised Charter (The right to information and consultation)

- ▶ Tribunal of Bucharest: decisions nr. 97, 636/2019
- ▶ Bucharest Court of Appeal: decision 5150/2019
- ▶ Craiova Court of Appeal: decision 985/2019

Art. V (Part. E) of the Revised Charter:

- ▶ Tribunal of Braşov: decision 1332/2019 (in the context of contesting the refusal to award damages to the victims of the former communist regime)
- ▶ Tribunal of Giurgiu: decision 364/2019 (in the context of contesting the refusal to grant the survivor's pension)
- ▶ Bucharest Court of Appeal: decision 1425/2019; Alba Iulia Court of Appeal: decision 1428/2019 (claim regarding the rights deriving from working in difficult conditions)
- ▶ Timișoara Court of Appeal, decision 1044/2019 (wrong calculation of pension entitlements)

Art. 31§§1,2 of the Revised Charter (The right to housing):

- ▶ Tribunal of Bucharest: decision 1722/2019 (in the context of contesting the refusal of housing assignment based on the National Program on housing for young people)

Art. 13 (The right to social and medical assistance), Art. 14 (The right to benefit from social welfare services), Art. 30 (The right to protection against poverty and social exclusion)

- ▶ Tribunal of Hunedoara: decision 855/2019 (in the context of contesting the refusal to grant the survivor's pension)

Art. 26 (The right to dignity at work):

- ▶ Bucharest Court of Appeal: decision 4532/2019 (unfair dismissal)

SLOVENIA

- ▶ Constitutional Court of the Republic of Slovenia, No Up-672/16, 13.3.2019, ECLI:SI:USRS:2019:Up.672.16 – Referred to Article 12§4 (right to social security, equal treatment of foreigners in respect of the right to disability allowance), <https://www.us-rs.si/odlocitve/?id=113261>
- ▶ Supreme Court of the Republic of Slovenia, No VIII Ips 186/2018, 10.9.2019, ECLI:SI:VSRS:2019:VIII.IPS.186.2018 – Referred to Article 4§2 of the Charter and made an assessment whether situation is in conformity with the Charter (deputy director, overtime work; situation in conformity with the Charter which allows certain exceptions to the right to increased rate of remuneration for overtime work), <http://sodisce.si/vdss/odlocitve/2015081111434432/>
- ▶ Higher Labour and Social Court, No Pdp 961/2018, 7.5.2019, ECLI:SI:VDSS:2019:PDP.961.2018 and Higher Labour and Social Court, No Pdp 874/2018, 31.1.2019, ECLI:SI:VDSS:2019:PDP.874.2018 – Referred to Article 4§2 of the Charter and made an assessment whether situation is in conformity with the Charter (overtime work; mixed system under which an employee is

either entitled to overtime pay at a higher rate (130%) or she/he is granted leave of equal length together with a supplement payment (30%) is in line with the Charter), <http://sodisce.si/vdss/odlocitve/2015081111431974/> and <http://sodisce.si/vdss/odlocitve/2015081111432004/>

SPAIN

- ▶ Judgment of the Superior Court of Justice Canary / Las Palmas de Gran Canaria of March 12, 2019. Arts. 8.3 and 16 European Social Charter, family legal protection. Reduction (duration / new arrangement) working day.
- ▶ Judgment of the Superior Court of Justice in Galicia 26 April 2019, Rec. 4258/2018, art. 4.4 European Social Charter and the duration of the trial period.
- ▶ Judgment of the Superior Court of Justice Canary / Las Palmas de Gran Canaria 2 July 2019, Rec. 369/2019, art. 3 European Social Charter.
- ▶ Social Justice No. 1 and No. 2 Palma de Mallorca July 26, 2019 November 6, 2019, arts. 8.3 and 16 European Social Charter.
- ▶ Judgment of the Superior Court of Justice Canary / Las Palmas de Gran Canaria August 27, 2019, Rec. 533/2019, arts. 8.3 and 16 European Social Charter.

EUROPEAN COURT OF HUMAN RIGHTS

- ▶ Case Stoian v. Romania (Application No. 289/14), Judgment of 25 June 2019
- ▶ Case Kavala v. Turkey (Application No. 28749/18), Judgment of 10 December 2019

Appendix 18

Publications referring to the European Social Charter in 2019

Periodicals and Reports

“End of Mission Statement by The Special Rapporteur on the right to adequate housing presents her preliminary findings after her visit to the Republic of France, conducted on 2 – 11 April 2019”, UNHCR

Eminent Jurists’ Call to Action “Strengthening Social Rights in a Time of Crisis: Rebuilding trust in the European Project”, Brussels, 9 May 2019

“The European Pillar of Social Rights and the role of the European Social Charter in the European Union legal order”, Olivier De Schutter, Council of Europe Publishing, July 2019

“How can (I)NGOs engage with the European Committee of Social Rights under the monitoring procedures of the European Social Charter”, Claire Lougarre, Council of Europe Publishing, October 2019

“Protecting the Child from Poverty: The Role of Rights in the Council of Europe”, Aoife Nolan, Council of Europe Publishing, November 2019

Articles and communications

BRACK J.

“Opinion: The critical finding of the Carrickmines inquest was not emphasised by media enough”

the Journal.ie, 30 January 2019 (European Roma Right Centre (ERRC) v. Ireland, Complaint No. 100/2013)

DESMET E.

“Rights of unaccompanied minors in Belgium” *“Mensenrechten Van Niet-Begeleide Minderjarige Vreemdelingen”, (2019), Rechten van niet-begeleide minderjarige vreemdelingen in België, die Keure, 35-63.*

JIMENA QUESADA J.

“Retrospective of the Turin Process: origin and preparatory works of the European Social Charter”

Revista del Ministerio de Trabajo, Migraciones y Seguridad Social, No. 137/2018

MALINOWSKI J.

“Minimum income - human dignity by right, not gratuity” Caritas.eu, 20 February 2019

MIJATOVIC D.

“Living in a clean environment: a neglected human rights concern for all of us”

Council of Europe Commissioner for Human Rights, 4 June 2019

MOLE N.

“Children – Our Primary Consideration”

Our World, 15 January 2019

PAPADOPOULOS N. A.

“Austerity Measures in Greece and Social Rights Protection under the European Social Charter”

Comments on GSEE v. Greece, Complaint No. 111/2014, Maastricht University, European Labour Laws Journal, 13 January 2019

SCHLACHTER M.

“Drittwirkung von Grundrechten der EU-Grundrechtecharta” Zesar, Zeitschrift für europäisches Sozial- und Arbeitsrecht, February 2019

Gerechte und angemessene Arbeitsbedingungen? – Die Europäische Sozialcharta als Mittel zur Auslegung von Grundrechten der Europäischen Union

STANGOS P.

“Synergies between the European Union and the European Social Charter, at the time of the European Pillar of Social Rights”

Revista del Ministerio de Trabajo, Migraciones y Seguridad Social, No. 137/2018

Website

▶ www.coe.int/socialcharter

The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



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