

Conference “Social rights in today’s Europe: the role of domestic and European Courts”

Nicosia, 24 February 2017

Opening session (9.30-10 a.m.)

by Ms Stella Kyriakides,
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At the Council of Europe – our “common house” – we share core ethical and legal values built on human rights. We see social rights as human rights: they enable the full enjoyment of civic and political rights. At the inter-parliamentary Conference in Turin last year, we reaffirmed our determination to defend the dignity of people by making the best use of instruments such as the European Social Charter. This is particularly necessary today, because austerity bites all generations and continues to tear at the social fabric of our society.

We have seen a surge in radicalisation, populism and extremism among our population tired of poverty that humiliates and marginalises, tired of cuts in their socio-economic rights. Too many are tired of waiting for “better times”. Politicians need to hear their complaints and ease tensions. As the Secretary General of the Council of Europe has rightly stressed in his opinion on the European Pillar for social rights, we need to consolidate the synergy between standard-setting systems shielding our fundamental social rights across the continent. I should add that we should also build solid bridges between standard-setting, policies and implementation.

Our conference today is meant to look at how the Courts can help in the implementation of social rights in Europe. In the presence of legal experts and judges, we can discuss together what works. We can also check, perhaps even more importantly, what does not work well in the overall system linking legal instruments, social policies and the delivery of social justice on the ground.

From a parliamentary perspective, I would like to highlight some lessons drawn from the past few years. Indeed, the Parliamentary Assembly of the Council of Europe has sought to strengthen links with the European Committee of Social Rights as regards the annual conclusions on the member States’ conformity with the Charter – in terms of legislation and practice. These findings have been extremely useful in channelling the information to national parliaments and in guiding our parliamentary co-operation activities to support the implementation of the Charter. I am certain that a lawyers’ perspective at this conference will help us all identify further gaps and areas where improvements are most necessary, again from the legislative and practical angles.

Through our parliamentary co-operation work so far, we have spotted several difficulties. First of all, there is a problem of opt-outs from the Charter that create a situation of selective screening and application of norms. We have to urge member States to lift their reservations on various provisions of the Charter and to back their oral commitments with the full acceptance of the Charter and relevant protocols.

There is also an issue of time spent to detect problems, evaluate them and propose solutions; often, our “machinery” is slow and late in delivering social justice in a tangible manner to citizens. If we want to go hand in hand with the modern times, the “early warning” approach should be developed further and thus help prevent situations when people are obliged to turn to courts in search of justice.

And last but not least, I would like to invite us all to pay greater attention to the emerging issues that require more open-minded interpretations of the Charter so as to better respond to major changes in the “social landscape”. This is because the legal instruments at our disposal do not always offer obvious solutions or answers to new problems. Hence lawyers – who are in close and real-time contact with people facing problems on the ground – can relay, within the system, the need for adjustments in our social instruments, policies and practice.

To illustrate my words about emerging issues, I could give an example of a growing concern over the impact of psycho-social pressures in the workplace; I mean a trend of blurring lines between private and professional life, which is accompanied by growing stress and even burnouts at work. A number of such phenomena have still to be properly measured and codified through norms.

Another concern we have to face is hearing the voice of NGOs and empowering them to better represent citizens through the collective complaints mechanisms at both national and European levels. I am pleased to see that the President of the Council of Europe’s Conference of INGOs will chair one session today and trust that this will be a good opportunity for discussing how to ensure a better involvement of civil society in delivering social justice.

As the representative of the Parliamentary Assembly of the Council of Europe, I would like to reiterate our commitment to work towards having more countries ratify the Additional Protocol to the Charter providing for the collective complaints system and lift opt-outs on mainstream provisions of the Charter itself. We shall do so through a continued series of parliamentary seminars at both national and European levels. One such seminar is planned for early June in Baku where we hope to discuss specific domestic challenges with multiple local stakeholders. Another seminar will take place in the autumn to consider implications for the national legislative processes on the basis of monitoring conclusions by the European Committee of Social Rights for 2016.

In conclusion, ladies and gentlemen, it is our task today to concentrate on the holes in Europe’s safety net. The European Social Charter is a marvellous instrument in our hands to sustain social rights; but it is not a magic wand. We have to use it wisely to make it a living instrument and serve, as best as possible, the people who have placed their trust in us.

I especially look forward to hearing the insight of legal experts on ways to secure basic social rights (such as health and housing) through positive obligations of the State. Parliamentarians need your advice and recommendations in order to be well equipped to advance the social agenda through the action of national parliaments and European assemblies. They can support your work - notably in courts - through adequate legislation that repairs or eliminates weak links in the overall system. I wish all the participants fruitful work and I promise to share the results of the discussions with fellow parliamentarians in the Parliamentary Assembly of the Council of Europe and my home parliament.