



CDDH-SOC(2018)01

08/01/2018

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

**Extract of the terms of reference given by the Committee of Ministers to the CDDH
regarding the work of the CDDH-SOC during the 2018-2019 biennium**

(as adopted by the Committee of Ministers at its 1300th meeting, 21-23 November 2017)

and relevant extracts of the CDDH meeting reports

Extract of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the CDDH-SOC during the 2018-2019 biennium

(as adopted by the Committee of Ministers at its 1300th meeting, 21-23 November 2017)

Social rights

"On the basis of the analysis of the legal framework of the Council of Europe for the protection of social rights in Europe, identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights and to facilitate in particular the relationship between the Council of Europe instruments with other instruments for the protection of social rights (deadline: 31 December 2019)."

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Extract of the report of the 87th CDDH meeting

(6-9 June 2017, document CDDH(2017)R87)

4.1 Social Rights (CDDH-SOC)

31. The Chair of the CDDH drafting Group on social rights (CDDH-SOC), Mr Vít A. SCHORM (Czech Republic) presented the work of the 1st meeting of the Group (19-21 April 2017).

32. It is recalled that the mandate of the Group is the following:

- (i) Undertake an analysis of the legal framework of the Council of Europe for the protection of social rights in Europe, in particular the jurisprudence of the European Court of Human Rights as well as other relevant sources e.g. reports and decisions of those Council of Europe bodies having a mandate relating to social rights and their implications for the respective States Parties (deadline: 31 December 2016);
- (ii) On this basis, identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights and to facilitate in particular the relationship between the various European instruments for the protection of social rights.

33. The Chair of the Group noted that the meeting was dedicated to an exchange of views and a first reading of the report on legal protection of the social rights within the Council of Europe, prepared by the Rapporteur Ms Chantal GALLANT (Belgium). Once finalised, this text will become the legal analysis mentioned in the mandate and, on this basis, detailed follow-up proposals will be made subsequently in view of fulfilling the second part of the mandate. Ms Gallant explained in detail the general approach followed as well as the various sections of the draft text and the possible avenues that appear in the draft.

34. The CDDH thanked the Chair of the Group for his presentation and the Rapporteur of CDDH-SOC for the very important and useful work performed.

35. During the exchange of views that followed:

- (i) certain experts echoed the already made observations within the drafting Group as to the necessity to better reflect, in the draft report, the diversity of national viewpoints existing with respect to the action and to the mechanisms of the Council of Europe with regard to the protection of social rights; they also stressed the need that the text limits itself to a legal analysis of the existing protection arrangements without pleading in favour of changes about which there was a manifest lack of consensus among the States;
- (ii) a number of speakers also voiced an interest of having a more concise text, which where appropriate, would referred to more technical matters, in the appendixes.

36. At the end of this exchange and with a view to ensuring a better reflection in the draft report of the existing diverse approaches, the CDDH reached the conclusion that the draft analysis should be split in two, so that the proposals for future activity be removed from the present document and considered later. It also invited the participants to the CDDH and to the CDDH-SOC who wished so, to provide the Secretariat their observations in written, which should not contain general considerations in connection to social rights, but concrete proposals of deletion or redrafting so that these could be integrated in the existing text. On that basis, the Rapporteur will consolidate the draft project which will be subsequently submitted to the CDDH-SOC for examination and adoption during its 2nd meeting (6-8 November 2017) in view of its adoption by the Group and its transmission to the CDDH for adoption in December 2017.

37. The drafting proposals expected from the participants should be as specific as possible and enter in one of the below categories (deadline for submissions by Friday, **1 September 2017** at 18:00, addressed to alfonso.desalas@coe.int; see table of deadlines, **Error! Reference source not found.** hereafter):

- (i) words/sentences/number of paragraphs deemed incorrect and which, according to the expert, should be removed or amended (in which case the expert is invited to submit his/her concrete proposals of removal / amendment);
- (ii) words/sentences/number of paragraphs to be added or modified in order to reflect well the national approach (in this case, the expert is invited to submit his/her concrete proposals of adding/amending);
- (iii) words/sentences /paragraphs deemed superfluous and which, according to the expert, should be deleted;

38. The CDDH also noted that the CDDH-SOC elaborated a questionnaire aimed at identifying good practice and difficulties encountered in the member States as well as their suggestions to improving the system of protection of social rights. The Group considered that this questionnaire should be directed not to the CDDH members, but to those of the governmental Committee of the European Social Charter. Accordingly, it had been sent solely to the latter ones, with a deadline for responses set for Friday, **1 September 2017** at 18:00, addressed to alfonso.desalas@coe.int.

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Extract of the report of the 88th CDDH meeting

(5-7 December 2017, document CDDH(2017)R87)

4.1 Social Rights (CDDH-SOC)

14. The Chair of the Drafting Group on social rights (CDDH-SOC), Mr Vít A. SCHORM (Czech Republic), as well as the Secretariat, informed the CDDH of the state of preparation of the 2nd meeting of the Group. Initially foreseen from 6 to 8 November 2017, this meeting has been postponed for budgetary reasons to spring 2018. Wishing its Rapporteur Ms Chantal GALLANT (Belgium) much success in her new activities, it took note of the current work by the Secretariat to complete the first draft report which will be examined by the CDDH-SOC in spring 2018¹, in particular the draft table of contents as it appears in Appendix IV below. It agreed that focus should be put on the state of play in the Council of Europe (parts I and II of the draft table of contents), even though it agreed that it is also useful to outline, in a succinct manner and for the purpose of comparison, the situation in other fora² (part III).

15. Furthermore, the CDDH took note of the large number of replies sent by the members of the Governmental Committee of the European Social Charter further to questionnaire [CDDH-SOC\(2017\)R1](#) on the good practices on the implementation of social rights at national level. A compilation of the 31 replies received appears in document [CDDH-SOC\(2017\)04](#) and will be subject to an analysis by the Secretariat in view of the 2nd meeting of the CDDH-SOC in spring 2018.

Appendix IV

Preparation of a draft CDDH report on the legal framework of the Council of Europe for the legal protection of social rights

Possible table of contents prepared by the Secretariat for discussion at the 2nd meeting of the CDDH-SOC (spring 2018)

(as taken note of by the CDDH at its 88th meeting, 5-7 December 2017)

Summary

Introduction

1. Terms of reference received and methodology followed (Background of the work of the CDDH-SOC)
2. Review of the background
 - a. Indivisibility and interdependence of human rights
 - b. Social rights and socio-economic changes

¹ Concerning the working methods of the Group, the CDDH recalled that it wished to receive two consecutive documents, namely a first descriptive report, and on this basis, a prospective report.

² In particular the European Union, the International Labour Organization (ILO) and in the framework of international organisations of employers and workers.

c. Social rights, Council of Europe and the European Union

I. THE LEGAL FRAMEWORK OF THE COUNCIL OF EUROPE FOR THE LEGAL PROTECTION OF SOCIAL RIGHTS

1. The European Convention on Human Rights

- (a) Relevant norms
 - Direct protection of certain social rights
 - Prohibition of slavery and forced labour (Article 4 of the ECHR)
 - Freedom of assembly and association (Article 11 of the ECHR)
 - Right to education (Article 2 Protocol No.1 of the ECHR)
 - Indirect protection of a number of other social rights
 - Right to life (Article 2 of the ECHR)
 - Prohibition of torture or inhuman or degrading treatment (Article 3 of the ECHR)
 - Right to a fair trial (Article 6 of the ECHR)
 - Right to respect for private and family life (Article 8 of the ECHR)
 - Freedom of thought, conscience and religion (Article 9 of the ECHR)
 - Freedom of expression (Article 10 of the ECHR)
 - Prohibition of discrimination (article 14 of the ECHR)
 - Protection of property (article 1 Protocol No.1 of the ECHR)
 - General prohibition of discrimination (Protocol No.12 of the ECHR)
- (b) Case law of the European Court of Human Rights
- (c) Execution of the judgments of the Court

2. The European Social Charter

- State of signatures, ratifications and number of provisions accepted
- (a) Norms and mechanisms
 - The European Committee of Social Rights (ECSR)
 - Conclusions and decisions
 - State reporting procedure
 - Collective complaints procedure
- (b) Interpretation and implementation of the Charter by the ECSR
 - The ECSR and the case law of the Court and other international instruments
 - Taking into account the European Union law
 - Collective complaints submitted so far
- (c) National implementation
 - The Charter's applicability by national courts
 - Internal reforms further to ECSR decisions/or conclusions
 - Training and awareness-raising on the Charter
- (d) The European Union law and the Charter

II. COUNCIL OF EUROPE ACTIONS FOR SOCIAL RIGHTS

1. The Committee of Ministers

2. The Secretary General

- The "Turin I" Conference (October 2014)
- The Brussels Conference (February 2015)
- The "Turin II" Conference (March 2016)

The Nicosia Conference (February 2017)
The current status in terms of follow-up to the “Turin Process”

3. The Parliamentary Assembly

4. The Congress of Local and Regional Authorities

5. The Commissioner for Human Rights

6. The Conference of INGOs

III. ACTIONS OUTSIDE THE COUNCIL OF EUROPE³

- 1. European Union**
- 2. International fora⁴**
- 3. Civil society⁵**

Conclusions

Appendices

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³ For the purpose of comparison with the situation within the Council of Europe.

⁴ In particular, the International Labour Organization (ILO).

⁵ In particular, International Organisations of employers and workers.