



Strasbourg, 2 December 2016

**Opinion of the Secretary General of the Council of Europe  
on the European Union initiative to establish a  
European Pillar of Social Rights**

## OPINION

Building a Europe more readily supported by its citizens, better attuned to their everyday needs and able to promote shared, sustainable growth is one of the major challenges of our time. To meet this challenge effectively, it is necessary to consolidate the synergy between standard-setting systems protecting fundamental social rights across the continent. The establishment of a European Pillar of Social Rights by the European Union is a step in this direction.

### *An opportunity for Europe*

By establishing the Pillar, the European Union intends to make social rights central to its functioning, its institutions, its policies and its commitments.

The Council of Europe welcomes this development, which, if carried out in an appropriate way, will help to rebuild the social Europe that has recently seemed to be lacking. Strengthening the social dimension of the European Union will be a crucial step in restoring trust between the institution and the citizens of its Member States. The Council of Europe will also benefit from this development. In this way, the whole of Europe will emerge strengthened and more cohesive.

The world's biggest economic bloc will thus be supported by a social pillar when pursuing and developing economic growth and trade both within the European Union and beyond.

The European Union will retain its force of attraction in respect of neighbouring states, which are member states of the Council of Europe.

The Council of Europe is resolved to work with states wishing to join the European Union, as it has done in the past, so as to make it easier for them to adopt EU norms and the EU *acquis*, particularly in the social field.

A European Union pillar of social rights will be an unrivalled tool to this end if it gives practical effect to social rights within the European Union in a manner consistent with the key texts of the Council of Europe.

### *Social Europe: points of convergence and coherence*

This synergy must be underpinned by co-operation between the Council of Europe and the European Union that takes due account of comparative advantages and avoids duplication. Our two organisations have already based their co-operation on preserving the cohesion of the human rights protection system in Europe. The European Union regards the Council of Europe as the Europe-wide reference source for these rights and cites the relevant Council of Europe norms in its documents.<sup>1</sup>

As recognised by the Turin Process, which I launched in 2014,<sup>2</sup> the European Social Charter of the Council of Europe represents an essential component of the continent's architecture of fundamental rights and is therefore seen as the Social Constitution of Europe. The fact that all

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<sup>1</sup> Memorandum of Understanding between the Council of Europe and the European Union, Strasbourg, 11 May 2007 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680597b32>

<sup>2</sup> The Turin Process for the European Social Charter: <http://www.coe.int/en/web/turin-european-social-charter/turin-process>

Member States of the European Union are parties to the treaty system of the European Social Charter<sup>3</sup> shows that, despite their different degrees of commitment, this treaty system provides extensive and comprehensive guarantees for social rights and these guarantees now form part of the European *acquis* in the field of human rights.

As far as European Union law is concerned, in addition to the express reference to the European Social Charter in the Treaty on European Union and the Treaty on the Functioning of the European Union, a number of the rights guaranteed by this charter are reflected in the corresponding norms of the Charter of Fundamental Rights of the European Union. This important legal instrument, of equal value to the above-mentioned treaties, applies to European Union Member States when they implement EU legislation. The table appended to this opinion gives an overview of the situation, showing the provisions of the Revised European Social Charter and the corresponding guarantees in primary and secondary EU legislation where they exist.

However, while the standard-setting systems of the European Union and Council of Europe constitute a comprehensive and structured whole, the persisting inconsistencies between them could jeopardise effective enforcement of the rights that they guarantee. In advanced economies, economic performance and social performance are two sides of the same coin. Respect for social rights is not only an ethical imperative and a legal obligation; it is also an economic necessity.

The effectiveness of labour markets and welfare systems that the initiative for a European Pillar of Social Rights seeks to promote is, together with enjoyment of other social rights, a fundamental requirement for sustainable growth that benefits everyone. Growth that benefited only a minority would create numerous obstacles to European integration and also weaken our continent's social cohesion and democratic security. The *social question* and the *democratic question* are in fact closely connected. The construction of Europe, whatever the substance of the economic policies implemented, must always concern itself with the realisation of fundamental rights that meet citizens' everyday needs. Disregarding them means creating fertile ground for anti-social, anti-political, anti-European and racist movements, or movements based simply on political exploitation of social egoism. Such attitudes could imperil the pillars of democracy, the rule of law and fundamental rights, which the Council of Europe has never ceased to champion and promote and which underpin European integration.

The strongest societies are those that are able to make the most of people's talents and maintain strong social cohesion: inclusive democracies based not only on civil and political freedoms but also on social rights. Respect for social rights enables our societies to remain united and overcome their problems, whether social or economic; such respect restores and strengthens the public's trust in their institutions and political leaders, both nationally and at European level. It is a means of combating social exclusion and poverty by enforcing the principle of the interdependence of human rights, which commands an international consensus; it plays a part in the social reintegration of the most vulnerable persons in society and people who, for various reasons, have become marginalised. Clearly, respect for social rights is even more necessary in times of crisis and economic hardship than in normal times.

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<sup>3</sup> Council of Europe web page on the European Social Charter treaty system: [www.coe.int/socialcharter](http://www.coe.int/socialcharter)

### *The European Social Charter as a frame of reference*

The European Social Charter constitutes a genuine standard-setting asset, which, when applied at national level, contributes to the reduction of tensions and promotes political consensus, thereby helping to ensure that any reforms to be adopted are supported by the public.

Making the European Social Charter central to the European Pillar of Social Rights will help initiate a virtuous circle of shared and sustainable growth, while preventing the vicious circle of social dumping. The outcome will indeed be a Europe that is not only more prosperous but also more united and based on greater solidarity.

**If this opportunity is to be realised, it is necessary – with due regard for the competences and applicable law of the European Union – that:**

1. **the provisions of the European Social Charter (Revised)<sup>4</sup> should be formally incorporated into the European Pillar of Social Rights as a common benchmark for states in guaranteeing these rights;**
2. **the collective complaints procedure, based on the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints,<sup>5</sup> should be acknowledged by the European Pillar of Social Rights for the contribution it has made to the effective realisation of the rights established in the Charter and to the strengthening of inclusive and participatory democracies.**

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<sup>4</sup> Council of Europe Treaty Series No. 163:  
<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163>

<sup>5</sup> Council of Europe Treaty Series No. 158:  
<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158>

## EXPLANATORY MEMORANDUM

### I. Introduction

1. This opinion forms part of the consultation process launched by the European Commission on 8 March 2016. It has been drafted on the basis of the Communication from the Commission, *Launching a consultation on a European Pillar of Social Rights*, and its annex, *First preliminary outline of a European Pillar of Social Rights*.<sup>6</sup>
2. Its main aim is to ensure that, once established, the European Pillar of Social Rights will help enhance the synergy between the systems protecting social rights in Europe with a view to inclusive growth that will thereby promote democratic values and European integration.
3. The above-mentioned Communication from the Commission outlines "a way forward for the European Pillar of Social Rights". It sets out "the rationale behind the initiative, discusses its role, scope and nature, and launches a broad consultation aimed at gathering feedback". It also points out that "the establishment of the Pillar is an opportunity to steer the thinking on existing social rights".<sup>7</sup>
4. The Pillar initiative was presented by the European Commission<sup>8</sup> at the Turin Forum on Social Rights in Europe organised by the Council of Europe in Turin on 18 March 2016.<sup>9</sup> In that context, with reference to the State of the Union address delivered before the European Parliament by the President of the European Commission on 9 September 2015, it was confirmed that the Commission intends to present a pillar of social rights "to strengthen the social dimension of the European Union" and particularly the euro area. However, "the initiative will be open to other interested EU Member States".
5. As noted by the President of the European Commission, the aim is to take account of the changing realities of Europe's societies and the world of work by addressing the increasing divergences within European countries, especially in the euro area, and between members of the euro area. The conclusion is that the Pillar should "serve as a compass for renewed convergence within the euro area". At the Turin Forum it was also emphasised that the Pillar should complement what has already been achieved in the field of social rights and that the Commission would include in it the international legal instruments on social rights.
6. It was stated that the Council of Europe would be directly involved in the consultation on the Pillar, which has three aims: to make an assessment of the EU's social *acquis*,

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<sup>6</sup> Communication of 8 March 2016 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Launching a consultation on a European Pillar of Social Rights* (COM(2016) 127 final).

<sup>7</sup> A first preliminary outline of the Pillar is annexed to the Communication to facilitate discussion. The Communication is also accompanied by two Staff Working Documents: the first describes the key economic, labour market and societal trends on which the Pillar builds and which it should contribute to address, and the second sets out the relevant legal "*acquis*" at EU level.

<sup>8</sup> The European Commission was represented at this forum by Mr Rudi Delarue from the Directorate-General for Employment, Social Affairs and Inclusion.

<sup>9</sup> The Turin Forum on Social Rights in Europe, Turin, 18 March 2016: an event organised by the Council of Europe as part of the Turin Process for the European Social Charter in association with the Italian Chamber of Deputies and the City of Turin. For further information on this subject, see the Council of Europe web page: <http://www.coe.int/en/web/turin-european-social-charter/turin-forum-on-social-rights-in-europe>

reflect on new trends in work patterns and societies, and gather feedback on the preliminary outline of the Pillar. The consultation is expected to last until the end of 2016.

7. The Commission emphasised in Turin that "there is co-operation between the European Commission and the Council of Europe on the European Social Charter". This had been recognised by the Commissioner for Employment, Social Affairs and Inclusion in 2015, and, more recently, the first Vice-President of the Commission and the Secretary-General of the Council of Europe had agreed to establish focal points for co-operation. It was underlined in this connection that the European Commission took this matter very seriously and looked forward to co-operating with the Council of Europe on the European Pillar of Social Rights.
8. As part of the consultation launched by the Commission, on 1 June 2016 representatives of the Secretariat General of the Council of Europe<sup>10</sup> spoke at a round table organised in Brussels by the Commission's Directorate-General for Employment, Social Affairs and Inclusion on the preliminary outline of the Pillar. More specifically, the theme addressed was "Stocktaking of the EU social *acquis*: is it still relevant and up to date?" A summary of the comments made by the Council of Europe representatives at this meeting is to be found in the document prepared by the above Directorate-General.<sup>11</sup>

## **II. The Council of Europe, the European Union and fundamental rights: a reinforced co-operation framework**

9. This opinion is based on the *Memorandum of Understanding between the Council of Europe and the European Union* signed in Strasbourg on 11 May 2007, which governs the terms of co-operation between the two organisations.
10. Generally speaking, this co-operation takes account of the comparative advantages, the respective competences and expertise of the Council of Europe and the European Union – avoiding duplication and fostering synergy. It pursues added value and better use of existing resources. The Council of Europe and the European Union consequently acknowledge each other's experience and standard-setting work in their respective activities.
11. Concerning human rights and fundamental freedoms – of which social rights are an integral part – the Memorandum of Understanding establishes, amongst other things, that the Council of Europe and the European Union will base their co-operation on the principles of indivisibility and universality of human rights, respect for the standards set in this field by the fundamental texts of the United Nations and the Council of Europe and preservation of the cohesion of the human rights protection system in Europe.

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<sup>10</sup> Mr Christos Giakoumopoulos, Head, Human Rights Directorate / DGI; Mr Régis Brillat, Head, European Social Charter Department / DGI; Mr Riccardo Priore, Co-ordinator, Turin Process for the European Social Charter / DGI (the latter two as focal points for co-operation on the European Social Charter between the Council of Europe and the European Commission).

<sup>11</sup> Document dated 10 June 2016, prepared by Mr Jordi Curell, Head, Labour Mobility Directorate. Extract: "*Furthermore, the link was made with the larger context in which the EU operates, in particular commitments taken by the EU and its Member States in other fora, such as the ILO or the Council of Europe's European Social Charter. Participants underlined that EU policies could be more inclusive with respect to international commitments taken, not least because EU legislation – in particular in the economic field – might sometimes be outright contradictory with such commitments.*"

12. In this respect the European Union has undertaken to regard the Council of Europe as the Europe-wide reference source for human rights and to cite the relevant Council of Europe norms in its documents. The decisions and conclusions of its monitoring structures will be taken into account by the European Union institutions where relevant.
13. It is also stated that, when preparing new initiatives in the field of human rights and fundamental freedoms, the Council of Europe and the European Union institutions will draw on their respective expertise as appropriate through consultations and that, in this field, coherence of Community and European Union law with the relevant conventions of the Council of Europe will be ensured.

### **III. Standard-setting systems of the Council of Europe and the European Union: state of play**

14. As noted in the Communication from the Commission, under the rules established by the applicable treaties of the European Union, "Member States are primarily competent for the definition of their employment and social policies. This includes labour law and the organisation of welfare systems."
15. In view of this competence, over the years the Member States of the European Union have all acceded to the treaty system of the Council of Europe's European Social Charter, ratifying either the original 1961 version or the revised 1996 version, albeit with differing degrees of commitment.
16. That all Member States of the European Union are parties to the above treaty system is a testimony to the fact that no other legal system provides such extensive and comprehensive guarantees for social rights in Europe, based on tangible commitments freely entered into by European democracies. This is why the system served as the point of reference for development of the European Union's social legislation. By comparison with the original 1961 text, the Revised Charter contains amendments that take account of the development of EU law since 1961 and which influence the way in which the parties implement the instrument.<sup>12</sup>
17. Under the international commitments entered into by Member States of the European Union through the instruments of the European Social Charter, these states have undertaken to consider themselves bound, in accordance with the applicable provisions of the instrument that they have ratified (1961 Charter or Revised Charter), by obligations arising out of a given number of its articles and paragraphs. In addition, they accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the rights and principles set out in Part I of the instrument that they have ratified (1961 Charter or Revised Charter) may be effectively realised. Further information on this subject is available on the Council of Europe web page on the European Social Charter treaty system ([www.coe.int/socialcharter](http://www.coe.int/socialcharter)).

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<sup>12</sup> This applies, in particular, to the amendments to women's rights to ensure full gender equality (with the sole exception of maternity protection), to the minimum age of admission to employment for certain occupations regarded as dangerous or unhealthy, and to the right of workers' representatives to be informed and consulted by employers prior to collective redundancy procedures.

18. As for the European Union, in addition to references to the European Social Charter in the Treaty on European Union<sup>13</sup> and the Treaty on the Functioning of the European Union,<sup>14</sup> a number of rights guaranteed by the Revised Charter are matched by corresponding norms in the Charter of Fundamental Rights of the European Union. Other than for institutions of the European Union, the latter Charter, which has the same force as the above-mentioned European Union treaties, applies to its Member States only when they implement its legislation. As for the rights safeguarded, the EU Charter of Fundamental Rights remains selective in its inclusion of social rights.
19. Although a number of its provisions are modelled directly on the Revised European Social Charter, these provisions do not have to be read in terms of the interpretation that the European Committee of Social Rights gives to the equivalent provisions of the European Social Charter. In this respect, and despite the principle of the indivisibility of fundamental rights, the contrast with the status accorded to the European Convention on Human Rights under Article 52.3 of the EU Charter of Fundamental Rights is striking.
20. This difference in treatment could be partly offset by Article 53 of the EU Charter of Fundamental Rights, which provides that nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms (including social rights) as recognised, in their respective fields of application, by, for instance, international agreements to which all Member States of the European Union are party. Clearly, one of these agreements is the European Social Charter.
21. The European Social Charter has been acknowledged in the Turin Process<sup>15</sup> as the *Social Constitution of Europe* and represents an essential component of the continent's human rights architecture.

#### **IV. The challenges to be overcome in the fields of law, democracy, growth and European integration**

*The search for effective synergy between standard-setting systems protecting social rights in Europe*

22. With regard to the standards described above, eight European Union Member States are bound by the 1961 Charter (including three by the 1988 Protocol as well) and 20 by the Revised Charter. Apart from two states that have accepted all the paragraphs of the Revised Charter, all the other states have accepted a varying number of provisions in the Charter's original or revised version. Fourteen European Union Member States have also accepted the 1995 Protocol providing for a system of collective complaints. A range

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<sup>13</sup> See Title I (Articles 2-6) in particular.

<sup>14</sup> See, in particular, Title I of Part One (Articles 2, 4, 5, 9 and 10) and Title IX 'Employment' and Title X 'Social policy' of Part Three.

<sup>15</sup> The Turin Process was launched by the Secretary General of the Council of Europe at the High-Level Conference on the European Social Charter. This Conference was organised in Turin on 17 and 18 October 2014 by the Council of Europe in association with the Italian Presidency of the Council of the European Union and the City of Turin. The launch took place shortly after the Secretary General had established the priority of strengthening the Charter system to highlight the impact and specific nature of the Council of Europe's work. The Turin Process aims to strengthen the treaty system of the European Social Charter within the Council of Europe and in its relationship with European Union law. Its key objective is to improve implementation of social and economic rights across the continent, alongside the civil and political rights guaranteed by the European Convention on Human Rights. The Turin Process is based on the idea that upholding social rights in Europe is an essential contribution to realising the principles of rule of law, democracy and human rights promoted by the Council of Europe. Accordingly, one of its main aims is ratification of the Revised European Social Charter and acceptance of the collective complaints procedure by all member states. <http://www.coe.int/en/web/turin-european-social-charter/turin-process>



of obligations has therefore been entered into, including ones relating to the implementation monitoring systems. The appended table gives an overview of the situation and, more specifically, concerning the provisions of the Revised European Social Charter, of the corresponding guarantees in EU law where they exist.

23. There is a clear lack of uniformity in acceptance of European Social Charter provisions by EU Member States. This is the result of the choices made by each State Party when expressing its sovereign will on the basis of the acceptance system laid down in the Charter. While not amounting to an anomaly in itself, with regard to the relationship between European standard-setting systems this lack of uniformity sometimes reveals a lack of consistency. Some states have chosen not to enter into any commitments under the Charter; yet, pursuant to EU law, they have adopted legal instruments or measures providing equal or greater protection than that guaranteed in the Charter provision(s) that they have not accepted (in either the original 1961 version or the Revised Charter). In other words, whilst applying binding European Union standards in an area covered by the instruments of the European Social Charter, some states have not accepted the Charter provisions establishing legally equivalent guarantees.
24. Faced with this situation, the Court of Justice of the European Union seems to be hesitating to include the fundamental rights enshrined in the instruments of the European Social Charter – and their interpretation by the European Committee of Social Rights – in the general principles of European Union law. This creates a worrying paradox: given that the European Social Charter is currently not in practice received into the EU Charter of Fundamental Rights and Article 53 does not apply to it, the European Committee of Social Rights cannot assume that measures taken by Member States of the European Union in order to comply with obligations arising out of EU law are automatically consistent with the European Social Charter provisions.<sup>16</sup>
25. This situation risks jeopardising states' consistent application of existing norms, whether they form part of the European Union system or the Council of Europe one. This can lead to divergences or conflicts between the two systems,<sup>17</sup> which has already happened and which is in the interests of neither the states nor the European institutions concerned. In the long term, conflicts may result in a weakening of systems protecting social rights and also directly or indirectly undermine their growth targets.
26. The diverse objectives of the standard-setting systems of the European Union and the Council of Europe may also unintentionally provide fertile ground for the emergence of these conflicts. The European Social Charter treaty system, whose content is precise and limited, is confined to fundamental values of constitutional relevance, whereas the European Union's standard-setting system, which is wider and more complex, pursues not only these values but also, as we know, objectives in various fields such as economic freedoms, the single market, competition and financial equilibrium.
27. In these circumstances it must be ensured that, firstly, the provisions adopted by Member States of the European Union under its legislation are fully compatible with the social rights safeguarded by the instruments of the European Social Charter and, secondly, that the whole of Europe, and not just the European Union, is able to benefit

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<sup>16</sup> European Committee of Social Rights, *Confédération générale du travail (CGT) v. France*, Complaint No. 55/2009, decision on the merits of 23 June 2010.

<sup>17</sup> European Committee of Social Rights, *Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden*, Complaint No. 85/2012, decision on admissibility and the merits of 3 July 2013.

from the latter's major achievements in the field of fundamental rights. This could be achieved if the relevant European Union institutions made more explicit and systematic references to the European Social Charter and the decisions of the European Committee of Social Rights, which, in any case, are ready to be supplemented and enriched through such advances.

28. In other words, the many points in common that exist between the two standard-setting systems must be promoted and highlighted by reinforcing the existing dialogue between the relevant bodies of the European Union and the Council of Europe. Beyond the Pillar's direct contribution to this process of convergence, the European Union could also contribute to the protection of fundamental social rights in Europe by directly promoting ratification of the Revised European Social Charter by those member states that have not yet done so – or, for those that have, acceptance of a greater number of its provisions – and/or acceptance of the Protocol on collective complaints.

#### *Towards shared, sustainable growth*

29. In advanced economies, economic performance and social performance are two sides of the same coin. Respect for social rights is not only an ethical imperative and a legal obligation; it is also an economic necessity. The growth rate in itself says little about people's situation or respect for their fundamental rights and their dignity. In other words, the objective should not be *growth* alone; it is also necessary to pursue the highest possible degree of universal *well-being*. This entails enforcing social rights. If Europe is capable of promoting well-being through these rights, it will also be able to ensure sustainable growth. Like enjoyment of many other fundamental social rights, the effectiveness of national labour markets and welfare systems is a key requirement for growth that is socially sustainable and more inclusive. Growth that benefited only a minority would undermine states' social cohesion and democratic security.
30. As emphasised in the report *Completing Europe's Economic and Monetary Union* cited by the Commission's Communication on the Pillar, "Europe's ambition should be to earn a 'social triple A'"; the report also stresses that "for EMU to succeed, labour markets and welfare systems need to function well and in a fair manner in all euro area Member States".<sup>18</sup> Whilst pointing out that there is no 'one-size-fits-all' template, the report notes that "the challenges are often similar across Member States". It also calls for "a greater focus on employment and social performance" as part of a broader process of upward convergence towards more resilient economic structures within the euro area. This approach would gain weight and become more relevant if measurement of social performance also encompassed respect for fundamental rights such as the right to work, the right to education, the right to housing and the right to health and welfare.
31. From this angle the Commission is right to point out in its Communication that the importance attached to social policy by states is directly proportional to their level of economic performance. To boost productivity, compete globally, strengthen social cohesion and keep raising the living standards of all its citizens, Europe must be able to deliver not only fair and properly functioning labour markets and welfare systems, but also access to and enjoyment of all the other fundamental social rights.

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<sup>18</sup> *Completing Europe's Economic and Monetary Union*, Report by Jean-Claude Juncker, in co-operation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz, June 2015.

32. Investment in human capital is therefore an important transmission mechanism connecting long-term growth, equality and social progress. In this connection, the Communication rightly states that social policy must build on this type of investment "based on equal opportunities, the prevention of and protection against social risks, the existence of effective safety nets and incentives to access the labour market, so as to enable people to live a decent life, change personal and professional statuses over the lifetime and make the most of their talent".
33. It is clear that the affirmation of social rights can help to mitigate or cancel out the damaging effects of the crisis, going further into the question of the balance between the requirements of economic recovery and those of social justice. Too great a disparity in social and economic conditions among citizens could well foster economic instability. Combating inequality is conducive to economic development: the *productivity of social justice* exists.
34. In this respect, the European Social Charter constitutes a standard-setting asset already accepted by all the Member States of the European Union, the application of which contributes to effective national labour markets and welfare systems for the purpose of socially sustainable and inclusive economic growth.

*Social rights: an essential component of social cohesion and democratic security in Europe*

35. Proper management of a democracy is management that implies a constant quest for compromises to ensure that people are as equal as possible in the face of what the future holds. As Jean-Paul Fitoussi said at the Turin Forum on Social Rights in Europe, "You could either have a situation in which wealth was concentrated in the hands of a small number of people or you could have democracy, but you could not have both at once."<sup>19</sup> The impoverishment of the middle class, democracy's mainstay, compromises our societies' democratic security. The rise in extremism and radicalisation among the most vulnerable and marginalised individuals in society is a worrying sign in this respect.
36. Retrenching fundamental social rights entails serious losses in terms of human and social capital as well as, ultimately, support for democracy and for the European integration project. Given these risks, it is essential to put an end to the idea that social rights are solely the *rights of the poor* or *poor rights*, as they are universal rights pertaining to the fullness, that is, the *richness* of human life.
37. For this we need a *new European social contract* modelled on best practice in our member states. Social rights should be protected by all European states, without exception, as a *constitutional duty*, rather than being the sole preserve of a government minority or majority. A democratic order cannot claim to be such unless it generates a model of society capable, through wise and balanced apportionment of the available resources, of addressing people's basic needs with due regard for their dignity and with a view to more inclusive growth.
38. The *social question* and the *democratic question* are therefore closely connected. The construction of Europe, whatever the nature of the economic policies implemented, must

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<sup>19</sup> For Professor Jean-Paul Fitoussi's keynote speech at the Turin Forum on Social Rights in Europe, see: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680644aa3>  
For further information on the Forum, see the Council of Europe web page: <http://www.coe.int/en/web/turin-european-social-charter/turin-forum-on-social-rights-in-europe>

always concern itself with the realisation of fundamental rights pertaining to citizens' everyday needs in order to prevent anti-social, anti-political, anti-European and racist movements, or movements based simply on political exploitation of social egoism, from shaking the pillars of democracy, the rule of law and fundamental rights – values that the Council of Europe has never ceased to champion and promote.

39. Respect for social rights is the antidote, enabling our societies to remain united and overcome their problems, whether social or economic; such respect restores and increases public trust in political leaders, both nationally and at European level. It is a means of combating social exclusion and poverty by enforcing the principle of the interdependence of human rights, which commands an international consensus;<sup>20</sup> it plays a part in the social reintegration of the most vulnerable persons in society and people who, for various reasons, have become marginalised. Respect for social rights is even more necessary in times of crisis and economic hardship than in normal times. The strongest societies are those that are able to make the most of people's talents and maintain strong social cohesion: inclusive democracies based not only on civil and political freedoms but also on social rights.
40. The European Social Charter constitutes a standard-setting asset whose application contributes to a reduction of tensions and promotes political consensus, thereby helping to ensure that any reforms to be adopted are supported by the public.
41. Making the European Social Charter central to the European Pillar of Social Rights will make it possible to eliminate inconsistencies and ensure the effective realisation of these fundamental rights in Europe. This synergy will help initiate a virtuous circle with a view to shared and sustainable growth within states. Strengthened in this way, social rights will help garner public support for the values of democracy and provide the basis for a Europe that will be not only more prosperous but will also show greater solidarity and be more united.

## **V. How the European Pillar of Social Rights can help to build a Europe that will be more prosperous, more social and more united**

42. The establishment of a European Pillar of Social Rights by the European Union can help consolidate the synergy between the standard-setting systems that protect these fundamental rights across the continent to ensure that they are effectively implemented by the states concerned. Given the challenges to be overcome, this synergy will contribute to the construction of a Europe more readily supported by its citizens because it will be better able to guarantee their fundamental social rights and, on this basis, shared and sustainable growth.
43. In this respect, it is undoubtedly a positive factor that the Pillar seeks to enlarge the European Union's social *acquis*, is intended to "modernise, broaden and deepen social rights, at work and in society, by facilitating their actual take-up and by promoting practices that can be beneficial from an individual, firms and societal point of view" and should "become a reference framework to screen the employment and social performance of participating member states [and] drive reforms at national level".

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<sup>20</sup> *Guiding Principles on Extreme Poverty and Human Rights*, adopted by the UN Human Rights Council on 27 September 2012.

44. It is equally positive that with "principles tak[ing] as a starting point a number of rights already inscribed in EU and other relevant sources of law", the Pillar will be able to "build on the common values and principles shared at [...] European and international levels" and that "the Social Charter adopted by the Council of Europe" is expressly referred to here.
45. In the light of these factors and the challenges mentioned, the European Pillar of Social Rights is an opportunity to
- a) strengthen consistency and synergy between European Union law and the European Social Charter treaty system;
  - b) thereby ensure that the realisation of social rights contributes to:
    - i. shared and sustainable growth in the EU Member States concerned;
    - ii. strengthening of social cohesion and democratic security in these states and, more generally, fresh impetus for the project of European integration.
46. Accordingly, if this opportunity is to be realised, **it is necessary – with due regard for the and applicable law of the European Union – that:**
- A) **the provisions of the European Social Charter (Revised)**<sup>21</sup> **should be formally incorporated in the European Pillar of Social Rights as a common benchmark for states in guaranteeing these rights;** this will make it possible to include in the Pillar the rights that are already part of the European Union's social *acquis* together with the rights guaranteed, at least formally, by its Member States under the European Social Charter treaty system, which could be included, with the necessary gradation, in this *acquis*.

Incorporating the provisions of the Revised European Social Charter in the Pillar will be a political means of promoting:

- i. An EU social strand firmly linked to an extensive and comprehensive European treaty entirely devoted to social rights, in force in all of its Member States; this linkage will foster social cohesion, socially sustainable growth and, on this basis, stronger public support within the European Union for the process of European integration;
- ii. Ratification of the Revised Charter, or acceptance of more of its provisions, by the European Union Member States concerned, at least for the rights that they already have to guarantee under the European Union's primary and secondary legislation;
- iii. Possible incorporation in the European Union's standard-setting system and its *acquis of new rights* that European Union Member States have already undertaken to uphold under the European Social Charter treaty system.

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<sup>21</sup> Council of Europe Treaty Series No. 163: <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163>

- B) **the collective complaints procedure**, based on the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints,<sup>22</sup> should be acknowledged by the European Pillar of Social Rights for the contribution that it makes to the effective realisation of the rights established in the Charter and to the strengthening of inclusive and participatory social democracies. Collective complaints and the associated procedure make it possible to assess protection needs promptly and objectively and to identify non-compliance risks likely to jeopardise the coherence of the EU social *acquis* and the long-term sustainability of our societies' growth and cohesion. In the final analysis, collective complaints help to implement the European project and maintain democratic security on the continent.

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<sup>22</sup> Council of Europe Treaty Series No. 158: <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158>

## APPENDIX

