

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



Designing effective tools for the promotion and protection of social and economic rights

2nd Meeting

of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform

on Social and Economic Rights

28 January 2016

Strasbourg, Council of Europe, Agora Building, Room G05

MEETING REPORT

1. Introduction

The Collaborative Platform on Economic and Social Rights (ESR Platform), between the Council of Europe (CoE), 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), first met in Strasbourg on 15 October 2015. The second ESR Platform meeting, held in Strasbourg on 28 January 2016, aimed at increasing mutual awareness and knowledge between partners, with a focus on the clarification and definition of the Platform's objectives as well as ways of achieving them. It contributed to the identification of substantive areas, proposed a selection of priorities to be considered by the Platform and discussed how the activities could develop over time. This was also an opportunity to reaffirm the commitment of all partners for priority actions in 2016.

2. Overview of the launching meeting

Karl-Friedrich Bopp from the Department of the European Social Charter, Council of Europe, provided summary conclusions of the Platform launching meeting on 15 October 2015. On the first meeting, it was agreed that specific objectives and activities for the Platform were:

- Creating a Platform website in order to host relevant information (Legal instruments on ESR, Good practices, National case law,...)
- Training on ESR and methodologies, to develop a culture of empowerment (the "Turin process" for the European Social Charter (ESC), human rights and equality impact assessments, monitoring and indicators,...)
- Awareness raising through workshops and seminars at the national level, possibly with common agendas, in order to support advocacy on ESR, encouraging state action for ratification and implementation of ESR instruments.

3. Equinet Perspective: "Equality Bodies contributing to the Protection, Respect and Fulfilment of Economic and Social Rights"

Katrine Steinfeld from Equinet presented the findings of Equinet's [study](#) on economic and social rights. The study compiles the experiences of national equality bodies in handling discrimination cases concerning access to social and economic rights, as well as their work in promoting respect and fulfilment of such rights.

The study shed light on the work of equality bodies in the particular context of the economic crisis and austerity measures, which led to:

- An increased demand on services of equality bodies, but also reduced its resources;
- An increase in individual case work in some instances, yet also under-reporting highlighted in certain cases;
- Diminishing political traction for economic and social rights.

Equality Bodies' mandate is rooted in the EU Equal Treatment Directives, which stipulates that equality bodies shall provide independent assistance to victims of discrimination, publish reports and surveys concerning discrimination, provide recommendations on discrimination issues and exchange information with European bodies. Moreover, Equality Bodies also have functions of awareness raising and promotion of good practices.

Through their mandate, to promote equality and combat discrimination, Equality Bodies can provide a unique contribution to the fulfilment of ESR. The main contributions can be summed up as follows:

- Provide a legal non-discrimination foundation to ESR based on equality legislation;
- Contribute to a diversity perspective to ESR by bringing in a group dimension and making ESR visible to the general public;
- Drawing in partners to pursue ESR;
- Infusing ESR with an ambition for equality (through the ambition to achieve full equality in practice).

Equality Bodies can contribute to making access to social and economic rights justiciable for citizens, through a focus on non-discrimination and equal access to such rights for all groups.

4. The “Turin process” for the European Social Charter and its relevance for the Platform

Manuel Paolillo from the Department of the European Social Charter, Council of Europe, provided an overview of the [“Turin process” for the European Social Charter](#) and the specific synergies that can be created with the ESR Platform partners.

The “Turin process” started in 2014 with the aim of reinforcing the ESC in times of economic crisis. Moreover, the “Turin process” also aims at ensuring consistency of the protection of ESR in the European and international framework, as well as at involving national Parliaments in protecting the rights guaranteed by the ESC.

The “Turin process” is the result of the Turin Conference organised in October 2014 by the Italian presidency of the Council of the European Union (EU), which identified six priorities:

1. Ratification of the revised ESC and the Protocol on collective complaints by all member states of the Council of Europe and the European Union;
2. Strengthening the collective complaints procedure, which provides the opportunity for the direct involvement of the social partners and civil society in activities for monitoring the implementation of the ESC;
3. Strengthening the position, status and composition of the European Committee of Social Rights (ECSR) within the Council of Europe, in particular through the election of its members by the Parliamentary Assembly;
4. Strengthening the position and status of the administrative departments assisting the ECSR within the Council of Europe;

5. Stepping up the dialogue and exchanges which the “Turin process” has already made possible with the relevant bodies of the European Union;

6. Implementation by the Secretary General of the Council of Europe of a communication policy that would send a clear message with regard to the legal nature of the Charter and the impact of the decisions taken by the ECSR.

The Turin Conference was followed by the Brussels Conference in February 2015, which reiterated the need to:

- Protecting social rights in times of crisis;
- Ensuring the consistency of the protection of fundamental social rights;
- Enhancing the effectiveness of the ESC;
- Maximising the potential synergies between the Council of Europe and the EU in the area of social rights.

In particular, various examples were identified as good practices to enhance the effectiveness of the ESC:

- Uniform application throughout the regional space of the Council of Europe:
 - All States should ratify the revised ESC;
 - Compliance with all articles and at least of those provisions that form the core;
 - Ratification of the Collective Complaints Protocol, including the right of national NGOs to lodge complaints.
- Promotion of the role of the national institutions:
 - Training of judges, lawmakers, administrative authorities;
 - Structured exchange of good practices;
 - Translation of the decisions of the ECSR in the language of the State concerned.
- Practical ways to resolve the contradictions between the ESC and the EU law:
 - Recommendation by the European Commission to the Member States to ratify the revised ESC (to accept a number of provisions of it, due to their specific relevance to the EU law);
 - The European Commission could seek to systematically take into account the ESC in the design of the secondary legislation and the Memoranda of Understanding;
 - Establishment of a joint working group by the Council of Europe and the EU on the legal and technical issues raised by the accession of the EU to the ESC.

In the past 18 months, the Turin process has already produced some positive results, including:

- The revised ESC was ratified by Greece (14 January 2016);
- New provisions were accepted by Belgium;
- Establishment of synergies with the EU:
 - Contact points between the EU and the Council of Europe to strengthen the synergy between the Charter and EU legislation;
 - EU priorities for cooperation with the Council of Europe (Doc.5339/16-COSCE 1);
 - European Parliament resolution on the situation of fundamental rights in the European Union (<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0286+0+DOC+XML+V0//EN>)

- Publication of the European Parliament [study](#) on the role of the ESC in the implementation of the EU Charter;
- Discussions on the EU Pillar of social rights.
- PACE Report on the Turin Process
- Increase of 15% in the budget of the ESC Department
- Establishment of the European Platform of Social Cohesion
- Turin 2 Conference on 17 and 18 March 2016
- Communication
 - [New website](#);
 - Social media @social_charter.

5. How NHRIs could be involved in the “Turin Process” for the European Social Charter

Julie Lejeune from ENNHRI provided an overview of the synergies existing between the implementation of NHRIs mandate in the field of ESR and the Council of Europe’s priorities under the Turin Action Plan. The ESC is not the only international human rights instrument that NHRIs use to promote and protect ESR. However, NHRI’s participation in the implementation of the “Turin process” and their involvement in the Turin Action Plan are fully in line with their mandates. NHRI’s are actually contributing to the “Turin process” through their daily, regular action in the field of ESR. In addition, the setting of priorities under the “Turin process” comes as a support to the fulfilment of NHRI’s mandate.

Another positive consequence of this synergy is the reinforcement of the normative system of the ECS within the Council of Europe and in its relationship with the EU law.

Taking into account national specificities which condition the room for manoeuvre of each individual NHRI, ENNHRI members can participate in the implementation of the Turin Action Plan through:

- Reinforcement of the ESC by awareness raising and probably even more by promoting the ratification of the ESC;
- Better implementation of the ESC through fully operating their mandate to advise government and through developing the best possible use of the existing advisory bodies on the interpretation of the ESC;
- Develop the use of Collective Complaints Procedure;
- Enhance the Synergy between the ESC and EU law.

In conclusion: reflecting on the “Turin process” we should not forget that what are at stake are the effectiveness and the position of ESR in Europe, more than the legal instruments. Protecting and promoting ESR according to the priorities set by the Turin Action Plan is fully in line with the scope of NHRIs’ mandate. The complementarity of the “Turin process” with existing tools already used by the NHRIs on ESR is obvious and should be considered as an added value. NHRIs currently have some needs for training or capacity building that can be identified and then targeted. National specificities regarding both ratification and implementation of existing legal instruments are of course to be duly taken into account. In addition, ENNHRI plans to issue a statement in support of the “Turin process”.

6. FRA Contribution: understanding of synergies and EU approach

Matylda Pogorzelska presented an update on the work of FRA and the EU on ESC. Specifically, in the past months:

- Following the President of the European Commission's speech in the state of the union, the European Pillar of Social Rights was launched and it is foreseen in the European Commission's work for 2016;
- The European Parliament published a [report](#) on the ESC in the context of the implementation of the EU Charter of Fundamental Rights;
- FRA is currently developing indicators on all the rights enshrined in the EU Charter, including ESR
- In June 2015, FRA published the report "[Severe labour exploitation: workers moving within or into the European Union](#)," whose specific country data are available [here](#).
- In September 2015, FRA published the report "Cost of exclusion from healthcare – The case of migrants in an irregular situation", findings are available [here](#).

7. Recapitulation of the monitoring mechanism of the ESC

Lauri Leppik, General Rapporteur of the ECSR, provided an overview of the monitoring mechanism of the ESC, particularly in relation to the collective complaints procedure. Specifically, the ESC mechanism can be reinforced through:

- Referencing to ECSR conclusions and decisions when developing arguments at the national level to make the ESC more visible, but also make the argument stronger;
- Third-parties bringing issues raised by the ECSR to national agendas;
- Promoting ratification of the revised ESC;
- Seeking advisory assistance from the ECSR for those organisations which are competent to introduce collective complaints;
- Third-party intervention as indicated in Rule 32A of the ECSR's Rules on Request for observation: "Upon a proposal by the Rapporteur, the President may invite any organisation, institution or person to submit observations. Any observation received by the Committee in application of paragraph 1 above shall be transmitted to the respondent State and to the organisation that lodged the complaint."

Participants from the floor also intervened with questions. Specifically, it was confirmed that discussions on the possibility of having a structure similar to the execution of judgements of the ECHR were not being considered at the moment.

8. Clarification of the objectives and actions of the Platform

After the small group discussions in the morning, participants reported back to the plenary.

Group One identified the need for a clearer system to exchange information and build capacity among partners, particularly in relation to policy analysis, data and research provision. It also stressed the importance of ESR beyond the economic crisis and austerity, and its link to the current migration situation.

Group Two reported the need for the exchange of information and collection of best practices, as well as the connection of ESR with measurement and monitoring tools. Within Group Two, the Serbian Equality Body also expressed the interest in supporting an event with the help of the Platform on the link between anti-discrimination and ESR with decision-making.

Group Three discussed the resources available at the national level and the specificities of national contexts. This was identified as a challenge for some NHRIs and Equality Bodies, as it influences the methods to address issues. In this regard, the group identified the need to receive support in defining the “human rights and equality impact assessment” scope on ESR, as well as training on how to better understand and analyse economic policies and how these are implemented with IFIs’ involvement.

Group Four agreed that there is a need to develop a collective research system for the Platform, where best practices and leading case-law could be presented. Additionally, the Platform should have a way of working together and communicating outside the regular meetings in order to build capacity among partners. Moreover, the group discussed the need to encourage ratification of the European Social Charter (revised) and adherence to the collective complaints mechanism. Considering the various ways in which the Platform partners can cooperate, Group Four identified key working areas, namely training, advocacy and awareness-raising to underline the importance of the ESR, human rights impact assessment, the implementation of the decisions and conclusions of the ECSR, collaboration with the OPRE Platform on Roma and interaction with EU structures.

9. Conclusions

Participants agreed that the objectives of the second Platform meeting had been met. They were better informed about each Platform partner, and they measured the potential of working together as a collaborative platform. The participants reviewed the activities of each partner and the platform as a whole. They found that the Platform differs from other working groups on economic and social rights and they used this specificity as a basis to identify their objectives and priorities for future work.

Four clear objectives were identified for the Collaborative Platform, namely:

1. Facilitate the exchange of information between partners and national bodies;
2. Provide training for national bodies working on ESR;
3. Raise awareness of the ESC; and
4. Develop tools for more effective work on ESR.

It was recognised that a step-by-step approach would be required to achieve these goals.

1. The criteria, modalities and timeline for the exchange of information should be further developed. It was suggested that a website hosts the exchange of information, particularly on Human Rights Impact Assessment (HRIA), economic analysis and research to support the implementation of ESR;
2. The subject matter of the training should be defined, which could be done through the exchange of information. The Council of Europe and FRA offered their support for training initiatives;
3. The Serbian Equality Commission offered to host an awareness raising event in October, when the Platform would meet again, and invited European as well as national stakeholders; and
4. The development of tools to assist in effective working on ESR would take time, and would necessarily follow the first three activities.

APPENDIX I – AGENDA

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OBJECTIVES

The second Meeting of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights aims at increasing mutual awareness and knowledge between partners, with a focus on the clarification and definition of the Platform's objectives as well as ways of achieving them. It will identify substantive areas, propose a selection of priorities to be considered by the Platform and discuss how the activities could develop over time. This is an opportunity to reaffirm the commitment of all partners for priority actions in 2016.

FORMAT / WORKING LANGUAGE(S)

The one-day event will be held in plenary and in small groups. During the first session devoted to specific questions related to the operation of the Platform, the participants will be split into 4 working groups of approximately 6 people. As the interpretation will not be provided, the composition of the working groups will take into account language requirements.

11.40 – 13.00 “Turin process” for the European Social Charter and its relevance for the Platform – presentation by Manuel Paolillo, Programme Adviser for the “Turin process”, Department of the European Social Charter, Council of Europe

➤ ENNHRI contribution: how NHRIs could be involved in the “Turin process” for the European Social Charter - presentation by Julie Lejeune, ENNHRI, with additional input from Equinet where the situation of Equality Bodies differs

➤ FRA contribution: understanding of synergies and EU approach / FRA’s possible action – presentation by a Representative of FRA

Discussion

13.00 - 14.30 *Lunch break*

Moderators: Katrine Steinfeld and Tamas Kadar, EQUINET

14.30 – 15.00 Recapitulation of the monitoring mechanism of the European Social Charter, in particular the collective complaints procedure by Lauri Leppik, General Rapporteur of the European Committee of Social Rights

Exchange of views on the role of partners in realising social and economic rights, including the implementation and monitoring mechanisms of the European Social Charter

For instance, engaging in strategic litigation to identify gaps between national legal norms and international standards of social rights to influence amendments of the legislation or policies or practice in conflict with these standards, and raising awareness of social rights; acting as amici curiae to the European Committee of Social Rights, other possibilities.

- 15.00 – 15.45 Clarifying objectives and action of the Platform
- Brief overview of actions agreed at last meeting, follow-up required
- Possible contribution to the Platform from other Council of Europe sectors
- Registry of the European Court of Human Rights, Office of the Commissioner for Human Rights, PACE, CCJE, ECRI, OPRE Platform...*
- 15.45 – 16.00 *Coffee break*
- 16.00 – 16.45 Specific questions related to the operation of the Platform
- Identification of common goals for partner institutions and ways to reach them. Identification of concrete cooperation activities, including training, to address current challenges in raising awareness on the indivisibility of human rights as well as promoting and protecting fundamental social rights*
- Collecting information (which may be on the website) in relation to the human rights instruments, good practice and national case law
 - Developing approaches / tools on monitoring and indicating economic and social rights, HR/EIA, collective complaints / interventions...
 - Training on the new approaches / tools above
 - Awareness raising and advocacy to help create a culture of rights, and to address opposition (governments/others), as well as encouraging ratification of relevant instruments
- 16.45 – 17.00 Conclusions and proposed follow-up by **Debbie Kohner, Secretary General, Permanent Secretariat, ENNHRI**

APPENDIX II – LIST OF PARTICIPANTS

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