

Conference on “The future of Social Rights in Europe” (Brussels, 12-13 February 2015)

**“Prospects raised by the Turin’s process”**

By M. Nicoletti, Vice-President of the Parliamentary Assembly of the Council of Europe, General Rapporteur of the Turin Conference

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Vice-Prime Minister Peeters,  
Your Excellencies,  
Ladies and Gentlemen

It is a great pleasure to take the floor in the final Session of the first major event contributing to the ‘Turin process’, launched – as you know - by the Secretary General of the Council of Europe at the High-Level Conference on the European Social Charter, held in Turin, in last October.

Let me start by expressing my sincere gratitude to the Belgian Chairmanship of the Council of Europe for inviting me today and making this event possible. Following the objectives outlined in the background paper of the Conference, the debates here in Brussels provide the ‘Turin process’ with ideas, reflections and further proposals which will allow the competent bodies to adopt necessary political decisions in view of the reinforcement of the normative system of the Charter within the Council of Europe and in its relationship with the law of the European Union.

This reinforcement, which has never before been fully achieved, is now a real priority, for two main reasons:

The first is that in spite of the solemn affirmation of the principles of the indivisibility, interdependence and interrelation of fundamental rights, the conception which views social rights as holding a position of inferiority vis-à-vis civil and political rights is still reflected within the Council of Europe with regard to the monitoring systems of these rights.

The second reason is connected to the serious challenges that Europe must face today. The far-reaching socio-economic crisis is having a dramatic impact on the meeting of people’s everyday needs and on the realisation of their fundamental social rights. The crisis has revealed the gaps in States’ legal arsenal for the protection of fundamental rights. The crisis made evident, in case that was necessary, the fundamental relevance of social rights.

The negative effects of the crisis provoked inter alia a growing loss of confidence in the European project, which is leading to a withdrawal into nationalism and, in some cases, the development of a belief that rights and values would be better upheld if this took place at national level rather than at European level.

This trend is even more pronounced in the social sphere, insofar as it is held in many quarters that the social dimension is merely an economic adjustment variable.

However, the risk entailed by the lack of confidence in the European project cannot be undermined. As every political community is based on a relationship between protection

and compliance, if the protection of social rights is entirely ensured by the national authorities and the European dimension is perceived as a purely normative level, reduced to an ensemble of laws and restrictions, then it will be difficult to develop the sense of loyalty, belonging and solidarity within the European community. Therefore it is of utmost importance to strengthen the European protection of social rights. This will not only support our citizens, but will also be beneficial at the national and subnational level as it was said in Turin, an adequate welfare system at national or subnational level cannot be guaranteed today without a stronger integration at European level.

In the present context, social rights are doubly undermined: firstly, because of the impact of the crisis, which is leading to restrictions of rights or the dismantling of the policies designed for their concrete implementation and, secondly, because of the institutional disequilibrium between the monitoring systems of fundamental rights within the Council of Europe.

The 'Turin process' is based on the idea that the respect for fundamental social rights constitutes the best way forward to increase citizens' participation in democratic processes, reinforce their trust in European construction and combat fundamentalism and radicalisation by promoting inclusion and social cohesion.

In this perspective, the 'Turin process' promotes the idea that the "social question" and the "democratic question" are closely connected, and that European construction, whatever the content of the social and economic policies adopted, must always and in all circumstances concern itself with the fulfilment of the rights linked with fundamental social needs, thereby helping to prevent movements of an antisocial, anti-political, anti-European or racist nature, or those simply founded on political exploitation of social egoism, from imperilling the pillars of democracy - the rule of law and fundamental rights - values which have been ever championed and promoted by the Council of Europe. A democratic order cannot claim to be such unless it generates a model of society capable, through proper apportionment of the available resources, of addressing people's basic needs with due respect for their dignity.

From this point of view, the 'Turin process' can be regarded as a vital step towards a fresh restart for the whole process of uniting Europe, given that it is essential for Europe to be based on the fundamental values around which its task is to bring states and their citizens together, and especially on the values of the Charter, which is "Europe's social constitution".

Taking into account the challenges of globalisation, the rights of the Charter must be applied in a rapidly changing international scenario. In this respect, we should be aware that the relationship between economy, labour and society in Europe changed because the world changed. For this reason, the relaunch of social rights promoted by the 'Turin process' must be achieved bearing in mind that Europe does not exist within its own "bubble": It is essential to fight for the universality of fundamental rights, making sure that the measures adopted for their affirmation in Europe are accompanied by ineluctable progress as regards their observance at world level.

On the basis of these general considerations and objectives, the 'Turin process' has the ambition of promoting progress with respect to three specific subjects: social rights and economic crisis, the relationship between EU law and the Charter, and the collective complaints procedure.

As regards economic crisis, the process promotes the idea that within an advanced democracy, ensuring that social rights are fully realised is not a prerogative of the “Right” or “Left”, but is a constitutional task of the state governed by the rule of law. The process offers the opportunity to discuss how the affirmation of these rights can contribute to reducing or neutralising the damaging effects of the crisis, giving consideration to the question of the balance between the requirements of economic recovery and social justice. In that context, the European Social Charter must be considered a system of safeguards, the application of which can help to reduce tensions, foster political consensus and possibly, on that basis, facilitate the adoption of reforms. The Charter, therefore, is an instrument at the service of socially sustainable economic development.

As regards the changing relationship between EU and Charter law, the objective of the ‘Turin process’ is to ensure that the fundamental rights enshrined in the Charter are fully respected by decisions of the States Parties resulting directly or indirectly from changes in EU law. To that effect, the process will be an opportunity to reinforcing co-operation between the European Committee of Social Rights and competent EU bodies. The proposal that the European Union and the Council of Europe elaborate a common document identifying the legal and technical obstacles to the accession of the EU to the Charter could be also discussed in the framework of the process. In this context, the recent Opinion of the Court of Justice of the EU on the Union's accession to the European Convention on Human Rights must be taken in due account.

As regards the improvement of the supervisory mechanism for the application of the Charter on the basis of collective complaints, the ‘Turin process’ promotes that idea that this mechanism allows the direct involvement of social partners and civil society in monitoring activities regarding the application of the Charter and represents in this sense a more transparent, open and democratic system as compared to the one on national reports.

If the collective complaints procedure was accepted by more states (Only 15 accepted the relevant Protocol so far), this could help to reduce the number of pending cases before the European Court of Human Rights. Compared with applications before the Court, complaints before the European Committee of Social Rights are processed more quickly, can be lodged by subjects who are not necessarily victims of the alleged violation, and without the obligation of exhausting domestic judicial remedies.

Broader acceptance of the procedure would also have the advantage of reducing the workload of the national administrative departments involved in the Charter's reporting procedure, by focusing on specific issues.

As Vice-President of the Parliamentary Assembly, I conceive the ‘Turin process’ as an essential framework for the initiatives that States will decide to take, singly or collectively – in the latter case through the competent bodies of the Council of Europe and the European Union – to consolidate and enhance the normative system of the Charter.

In this light, the ‘Turin process’ represents an opportunity to turn declarations of principle, at the national and European level, into targeted political actions. Such actions must contribute, with the necessary coherence, courage and determination, to finally filling the gap which exists between civil and political rights on the one hand, and social and economic rights on the other, within, first of all, the Council of Europe.

The general report of the Turin Conference – which you have had distributed to you yesterday - and the document which will be issued at the end of this Conference will constitute an essential driving force for the ‘Turin process’.

In the general report of the Turin Conference, I included an Action Plan in which the ideas and proposals put forward during the sessions are combined in the form of a list of priority measures, divided according to their objectives, the responsible actors and the timetable for their implementation.

In this framework, I deem that there are 6 sectors in which it must be a priority to take measures:

- a) The ratification of the Revised European Social Charter and the Protocol on Collective Complaints by all member States of the Council of Europe and the European Union, as is the case for the European Convention on Human Rights with the protocol allowing direct applications;
- b) The enhancement of the collective complaints procedure, which allows the direct involvement of social partners and civil society in monitoring activities regarding the application of the Charter and represents in this sense a more transparent, open and democratic system as compared to the one on national reports;
- c) Strengthening the position, status and composition of the European Committee of Social Rights within the Council of Europe, also through the election of its members by the Parliamentary Assembly;
- d) Strengthening the position and status of the administrative services who assist the European Committee of Social Rights within the Council of Europe.
- e) Reinforcing dialogue and exchanges which the Turin Process has already made possible with competent bodies of the European Union – in particular the Parliament, the Commission, the Court of Justice, the Economic and Social Committee and the Fundamental Rights Agency – and to do so in view of the full consideration of the Charter and case law of the European Committee of Social Rights within European Union law;
- f) Implementation by the Secretary General of the Council of Europe of a communication policy capable of sending a clear message on the legal nature of the Charter and on the scope of the decisions. Such communication should be regular, systematic and, especially, proportional to the importance of the rights guaranteed in the Charter. An increased parallelism between the Charter and the European Convention on Human Rights in communication policies within the Organisation would also help to enhance the Council of Europe’s role as the guardian of all fundamental rights at the continental level.

The Brussels Conference represents a crucial contribution for the achievement of these objectives. In this respect, I am confident that the process of strengthening the European Social Charter launched in Turin will be enhanced and consolidated by the ‘Brussels document’.

We must hope that in the future, other States – as did Italy within the European Union, and Belgium within the Council of Europe – will take over the torch of the ‘Turin Process’ so that the normative system of the Charter can be strengthened and finally express its full

potential alongside the European Convention of Human Rights and the Charter of fundamental rights of the European Union, in the name of the principles of the indivisibility, interdependence and interrelation of fundamental rights.