



Intervention at Council of Europe Conference on the Future of the Protection of Social Rights in Europe, 12-13 February 2015

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Read also Mr. Baussand's [Editorial after the Conference](#) (also pasted below)

Round table 1 with the social partners and political players (*key intervention as a panellist*)

1. **The impact of the crisis on fundamental rights:** Have fundamental social rights suffered erosion as a result of the responses of European states to the financial and economic crisis and to the public debt crisis?
2. **Have the EU been able to mitigate the effects of the crisis with existing mechanisms, if not why:** Have the mechanisms for the protection of fundamental social rights been able to guide the responses of the States, in order to ensure that the impact remains limited to the minimum necessary, and if not, what improvements could be considered?
3. **What the role of CSO has been:** What have been the respective roles of the governments, social partners and civil society organizations in the identification of the responses to the crisis. Have fundamental social rights guided the actions of these various players?

OUR ANSWER IN SHORT

- 1) **Yes** the crisis has had a detrimental impact on fundamental social rights
- 2) **No**, the EU has not been able to mitigate these effects with its existing mechanisms.
- 3) Social Platform has long been trying to convince decision-makers that their strategy is not the right way to go; instead we have proposed tools we believe can help Europe out of the crisis and strengthen people's social rights, dignity and agency to have the (equal) opportunities and means to contribute to society.

Therefore, I will present three of our proposed tools to strengthen social rights in the EU:

1. Develop an EU Internal Strategy to Promote Human Rights - for coherence and cooperation between the EU and Council of Europe
2. Improve access to services – for all people living in the EU
3. Establish social standards for the EU

1. Develop an EU Internal Strategy to Promote Human Rights - for coherence and cooperation between the EU and Council of Europe

We propose a **Strategy** to integrate human rights – **including social rights** - instruments and obligations in all EU competences (whether exclusive, shared, supportive or coordinating), to be used to implement each of the human rights ratified by the EU. This strategy should be accompanied by an **Action Plan** with concrete actions on how the EU will deliver human rights and who will be responsible for their coordination and delivery.

A Strategy would complement and strengthen other rights-specific EU frameworks and strategies¹, and would **enhance coordination with the Council of Europe**. As a part of this we:

- Encourage member states to adhere to human rights instruments and mechanisms of the **Council of Europe** and the UN, particularly the [European Social Charter](#) and Collective Complaints procedures (utilised by our members including IPPF-EN, FEANTSA, Autism Europe and ATD Quart Monde, [See Annex](#)).
- Call on the EU to maximise the use of existing resources, knowledge and expertise through regular and structured dialogue with the **Council of Europe**, the Fundamental Rights Agency, the Office of the UN High Commissioner for Human Rights and civil society organisations.

2. Improve access to services – for all people living in the EU

Three concrete ways to improve access to services:

1. Adopt the **Equal Treatment Directive** that will guarantee protection on all six grounds of discrimination in access to goods and services
2. Ensure that **TTIP and TiSA** exempt social, health and education services to ensure the EU and national provisions that guarantee universal access to these services
3. Revise the **Facilitation Directive** so member states no longer can punish those who provide humanitarian assistance to undocumented migrants in the EU

Context

- Access to services (such as social services, hospitals, transport, energy etc.) is a social right recognised by the Charter of Fundamental Rights (Art 29, 34-36); many member states recognise access to some services as constitutional rights.
- Many member states have implemented austerity measures which drastically targeted expenditure in social and health services, social protection and education – especially in countries where the social and economic situation is among the EU's worst. This has contributed to an increase of poverty and social exclusion, inequalities and unemployment in the EU.
- Our members have previously witnessed downsizing or closure of services, service providers being obliged to refuse users, a decrease in quality of services and increased costs for users. For example, in the **UK** there has been a hardening of attitudes towards people claiming long-term Incapacity Benefit. In **Italy**, budget cuts have particularly affected people with disabilities and mental health problems. In **France**, homeless migrants and asylum seekers have had difficulties in accessing emergency services.

3. Establish social standards for the EU

EU social standards can protect people from unbalanced economic policies, and help to develop a more social and democratic Europe. Member states with good social protection systems are among the most competitive and prosperous, and better resisted the negative impacts of the crisis, both in social and economic terms.

Three components of social standards:

1. **Adopt an EU Framework Directive on Adequate Minimum Income Schemes** –enabling people to get out of poverty and continue to participate in society
2. **Establish minimum wages in all member states**, for all workers
3. **Establish an EU common Unemployment Benefit Scheme** – as an E(M)U-wide automatic stabiliser to support member states during the crisis

¹ Such as: An EU Agenda on the rights of the child, an EU Roadmap for LGBT equality, an EU Strategy for Equality between Women and Men, and an EU Framework for National Strategies to combat specific forms of racism

I don't want to just go back to our social rights of 2007

The economic crisis has eroded our social rights, but was the situation so good before the crisis? This was my key concern during a conference on the "Future of the Protection of Social Rights in Europe", at which I spoke last Thursday. Being asked about the crisis led me to thinking: while people in vulnerable situations are worse of today, were they truly enjoying their social rights before the crisis? In 2008 there were some 81 million people living in Europe at risk of poverty. Homeless people were still fighting to have a roof above their head. After centuries of a medical approach, people with disabilities were finally witnessing the entry into force of the UN convention of the rights of people with disabilities.

So going back to the state of play of 2007 is not the answer. It will not fundamentally change the situation of the ones most in need of the social rights enshrined in the Revised Social Charter and in the European Charter of Fundamental Rights. The crisis should be the catalyst for our decision-makers to realise that these rights cannot remain mere words: they need to be given life. As I once heard from a French professor of law, "la lettre tue et l'esprit vivifie", or "the word kills, but the spirit gives life". There are three main issues we need to change about the pre-2007 situation in order to have a better future and enjoyment of social rights.

Firstly, we need to pressure more EU member states to ratify the Additional Protocol to the European Social Charter Providing for a Collective Complaints Procedure. Put simply, it would allow NGOs like Social Platform's 48 members to apply for the right to lodge a complaint against member states contravening social rights obligations: these could include the right to education (raised by our member Autism Europe), the right to housing (FEANTSA and ATD Quart Monde) or the right to health (IPPF-EN). Our members have been successful in ensuring that the people they represent actually enjoy their social rights, but their work would be hugely complemented by the ratification of the Additional Protocol. (For further information about the complaints raised by the above mentioned members, please click [here](#)).

But this alone is not enough. Secondly, we need a radical shift in the way we address social rights in general. What we have seen over the last 30 years is a burden on the person whose rights are being violated to carry out the cumbersome task of the complaints procedure to redress their situation. This has to change. I want to see public authorities take on the positive duty of taking all necessary measures to ensure that people may enjoy their social rights. The UN Convention on the Rights of People with Disabilities illustrates this point; it does not lay out new rights, but it does establish measures to guarantee that people with disabilities enjoy the same rights as others. Accessibility of schools, public buildings and places of employment is not a new right – it is a measure to ensure access to the rights linked to them (work, education, social security).

Thirdly, social rights should not be dealt with by those working in the human rights field only. We must combine all EU policies that lead to concrete proposals that can strengthen social rights: this includes economic governance (social impact assessments of austerity measures), the internal market (the Accessibility Act), or trade agreements (exclusion of health, education and social services from trade agreements like the EU-US Transatlantic Trade and Investment Partnership). We call for supportive measures such as the recognition of social standards (such as minimum income, minimum wage and social services) to

make sure that all resources possible are aimed at protecting and promoting social rights. We are also advocating for this paradigm shift in our approach to social rights by calling for an EU internal Strategy to Promote Human Rights with an action plan that brings together all the issues affected and the actors responsible for making a change.

If we continue to focus on the effects of the crisis, I am afraid we will miss the target of tackling violations of social rights pre-existing the crisis. The economic situation alone is not the cause of the social rights emergency we are faced with today. It has certainly exacerbated the problem, but we need to acknowledge that many problems are rooted in structured inequalities in society. Until we see a real commitment by decision makers to prioritise social rights, we will remain in our social rights rut. We at Social Platform are ready to lead the charge.