



**Welcome address by Maud de Boer-Buquicchio,
Deputy Secretary General of the Council of Europe**

**Seminar on the Reform of the European Social Charter
Tuesday, 8 February 2011, 9.30 a.m.**

Madam President,

Ladies and Gentlemen,

The European Social Charter will be 50 in 2011 and it is my privilege to open the first of several events leading up to the anniversary on 18 October 2011.

The drafters of the Charter, taking the Universal Declaration of Human Rights as their point of departure, ambitiously set out to create a fully-fledged counterpart to the European Convention on Human Rights. However, when the Charter was finally adopted in 1961 after a decade of difficult negotiations, it consecrated a split between civil and political rights on the one hand and economic and social rights on the other. The treaty adopted was only a faint shadow of the Convention, with “à la carte” acceptance of provisions, restrictions on the personal scope and a rather weak supervisory mechanism.

In its first incarnation, the Charter was thus the proverbial “sleeping beauty”, having little impact on the law and practice of the States Parties and even less visibility for the public at large. It was only after 1989 following the revolutions in Eastern Europe that a political consensus to elevate the status of social rights finally emerged; a consensus which made possible the adoption of the Revised Charter and a strengthening of the supervisory mechanism, notably through the collective complaints procedure. As a result of these reforms, the Charter in the

1990s began to emerge as a real counterpart to the Convention and as an instrument with the capacity to advance social justice even in times of profound economic change.

The fact that the reform of the Charter has been a success in many respects, that it is today an effective pan-European human rights mechanism, should not give us cause to rest on our laurels. Much lip service is being paid to the principle of the indivisibility of human rights, but its implementation in practice is still a distant prospect. While the Revised Charter and the collective complaints procedure represent milestones in the protection of social rights, there is still much work to be done before the enforcement of these rights can even begin to compare with that provided in respect of civil and political rights.

The foundational values of the Charter, such as human dignity and solidarity, non-discrimination and participation, imply that as part of a community we owe more to each other than just 'not to interfere'. In other words, we have positive obligations to secure education, just working conditions and fair remuneration for all, to provide social and medical assistance to those who need it, to guarantee affordable housing, to eradicate all forms of discrimination in the enjoyment of social rights, and so on. Only by meeting these basic Charter obligations can we bring about "deep" security throughout Europe. That is the message that must be taken on board by European political leaders.

With this in mind, I am particularly pleased that the Finnish Government has taken the initiative to mark the Charter anniversary, merely not through ceremonial incantations of past achievements, but by launching a necessary reflection on how we can strengthen the impact of this treaty which is of paramount importance to Europe. In particular, the aim would be to consider institutional and procedural innovations that could receive the rapid and unanimous support of the States Parties, if possible without the need for actual

treaty amendments, and ideally so that the Committee of Ministers could take the requisite decisions already this year.

I would like to thank President Halonen and Ambassador Ertman for their personal involvement and commitment in making this event happen and I look forward to hearing the ideas and proposals of the distinguished keynote speakers today. However, if you don't mind, I will "abuse" my position to briefly share with you some suggestions on how to make the Charter more politically relevant – in line with the reform objectives of the Council of Europe, and more visible to the citizens of Europe:

- The collective complaints procedure must be promoted further: acceptance of this procedure, which is so intimately linked to democracy and the rule of law should be regarded as a priority by any European democracy. The procedure has not only opened up for a much more active involvement of the social partners and civil society in general, it has also profoundly changed the role of the European Committee of Social Rights. The Committee now acts as a quasi-judicial body judging the conformity of national law and practice, using increasingly judicial methods and demonstrating that social rights can be justifiable. In this respect it might, by the way, be appropriate to implement the only provision of the Turin Protocol that is still not being applied in practice, namely election of Committee members by the Parliamentary Assembly. That would further accentuate the status and visibility of the Committee.

Moreover, this mechanism has proven particularly useful to seek remedies to the violations of the rights of vulnerable people such as children, migrants, Roma or people with disabilities.

Finally, although perhaps an accessory argument, it should not be ignored

that the collective complaints procedure has potential to alleviate Court's case load by resolving difficult social issues of a general or systemic nature (before they become the topic of countless individual cases before the Court).

So clearly, the collective complaints procedure is an absolute priority. I am however confident that the time will come to seriously consider the possibility of allowing individuals to lodge complaints against violations of their economic and social rights. This is already the case at the UN level, thanks to the introduction of an individual procedure through the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.

- The reporting procedure with its continuous and systematic monitoring of national situations has shown its worth, especially since the early 1990s, and its combination with the collective complaints procedure makes the Charter mechanism truly unique in international law. Nevertheless, there is a need to strengthen the impact and political relevance of the Committee's annual conclusions and not least to ensure a wider dissemination of these conclusions at the national level. Adapting the existing methods of examining national reports might be a means to achieve the necessary progress in this respect.

More specifically, it could be envisaged that the ECSR concentrate its examination on situations of major significance, either because they raise manifest problems of conformity or because they relate to important evolutions in the way social rights are applied in the countries concerned. It seems to me that vesting in the European Committee of Social Rights the responsibility for a more selective and targeted approach would make for politically more incisive conclusions and for a more rational use of the limited resources of the Committee and its Secretariat.

I am fully aware that these suggestions only scratch the surface, that they are perhaps not all equally realistic, at least within a 2011 time frame, and that there may be more than a few other proposals which are deserving of our attention. However, it is essential that we arrive - and that we arrive soon - at a political upgrade of the Charter so as to place social rights not only at the heart of the Council of Europe's mission, but also at the heart of the ongoing reform of this Organisation. That is yet another reason why I have high expectations for our discussions at this conference. I consider it crucial that already today we succeed in laying the groundwork for a new Charter reform process - it therefore goes without saying that I wish this conference all possible success.

Thank you for your attention.