

***Mr Luis Jimena Quesada, Opening Speech***  
***Seminar of experts, organised in co-operation with the International***  
***Institute of Human Rights***  
***“Reflecting on the caselaw of the European Social Charter***  
***9 May 2011, Strasbourg (France)***

Ladies and Gentlemen,

It is a great honour for me to take part in this Seminar at the International Institute of Human Rights (IIHR). I really consider myself at home. I sincerely do not exaggerate if I say that all my background as well as my vocation and commitment in the field of human rights, including my present position as Member of the European Committee of Social Rights (ECSR), have been possible thanks to the permanent training, experience and support received from the IIHR since my first visit in 1992. In this sense, let me just remember and mention in a particular and special way Prof. Jean-François Flauss, whose legacy at the IIHR during this last decade has been of enormous value. The IIHR has always been a source of lawyers and other actors involved in the promotion and protection of human rights who have become judges, civil servants, representatives or experts within NGOs, international and national institutions.

Having said this, I would like to introduce a short reference to the initiative to organise this seminar, the topic, the date and the final purpose.

First of all, I want to express my gratitude to both the President as well as to the Secretary General of the IIHR, Mr. Waline and Mr. Touzé, for opening the doors of the Institute to my Colleagues of the ECSR and of the Department of the ESC, as well as to all the other participants. This seminar provides an excellent opportunity to reinforce and to improve the collaboration which has always existed between the IIHR and the Council of Europe. In fact, when René Cassin was awarded the Nobel Prize in 1968 he was just at the end of his mandate as President of the European Court of Human Rights and at that time he founded the IIHR. It was from these origins that the IIHR emerged. There has always been a spirit of feedback between the IIHR and the Council of Europe with the IIHR training future lawyers at the Council of Europe and the Council of Europe simultaneously collaborating in the teaching provided by the Institute.

Secondly, the topic of our seminar, “Reflections on the case law of the European Social Charter”, helps increase the visibility of the 50<sup>th</sup> anniversary of the Charter. From this perspective, on the one hand, the IIHR, when organising its annual study session every year in July takes into account the complementary character of the Charter with regard to the ECHR in the framework of the fundamental courses on the European system for the protection of Human Rights. For the next annual study session, next July 2011, and upon the proposal made by Prof. Flauss before leaving us last December, the IIHR has reserved a special place for the Charter. This will include specific thematic lectures which will also draw attention to the 50<sup>th</sup> anniversary of the

Charter in the context of the general theme: "The effectiveness of the international protection of social rights". On the other hand, in 2001 (more precisely on 19<sup>th</sup> October), on the occasion of the 40<sup>th</sup> anniversary of the Charter, the IHR also organised a seminar on the Charter under the title: « Les droits sociaux fondamentaux dans le cadre du droit européen – Bilan et prospective de la protection normative ».

As far as the structure of the seminar is concerned, four aspects have been taken into consideration:

**1. Involvement and assistance of the University in promoting the Charter as well as in improving its control mechanism and effectiveness.**

Both Professors Jean-François Akandji-Kombé, coordinator of the ESC Academic Network and Carole Nivard, an expert on issues concerning the Charter, such as the so called justiciability of social rights, are well versed in this subject.

**2. Synergy with the European Court of Human Rights.** From this point of view, President Costa will focus on the links between the European Court of Human Rights and the ECSR in the context of the interaction between human rights international instruments, which is an important current issue (in fact, this was the topic dealt with in the seminar organized by the European Court last January in the framework of the opening of the judicial year 2011, more precisely: "What are the limits to the evolutive interpretation of the Convention?"); for his part, Professor Flauss has always emphasized this comparative approach and, in effect, in that seminar held to celebrate the 40<sup>th</sup> anniversary of the Charter he spoke of « Les interactions normatives entre les instruments européens relatifs à la protection des droits sociaux ».

**3. Opening of the ECSR to the reflection and discussion with other experts in the field of social rights, including the actors directly intervening in the procedure of collective complaints.** In this case, together with the IHR we have selected three important topics in the case law of the ECSR, to be presented by three of my Colleagues of the Committee: non-discrimination issues (by Mr. Colm O’Cinneide), migrants’ rights (by Mr. Petros Stangos) and housing rights (by Ms. Csilla Kollonay). We consider that this exchanges of views with representatives of Governments, NGOs, social partners and other experts and actors belonging to the European Court or to national supreme jurisdictions is very useful for the ECSR.

**4. Important role of national jurisdictions in the effectiveness of the Charter at the domestic level, including the highest national courts.**

I would like to thank Mr. Michel Blatman (Conseiller à la Chambre sociale de la Cour de cassation) for his participation.

The two first aspects will be dealt with in the first part of the Seminar, with Mr. Jean-Michel Belorgey (General Rapporteur of the ECSR) as Chairman. The third aspect will be tackled in the second part of the Seminar, with Mr. Michele De Salvia as Chairman. The fourth aspect will be discussed in the conclusions of the Seminar.

I would like to say a word on the date we have chosen for our seminar: Today is Europe Day. An alternative date might have been the 10<sup>th</sup> of December, which marks the international vocation of René Cassin as one of the main drafters of the Universal Declaration, another extremely appropriate event. But we chose the 9<sup>th</sup> of May as in this case, our Seminar underlines the idea of “Social Europe” or, more specifically, the social profiles of the three pillars of the Council of Europe: human rights/social rights, democracy/social democracy and rule of Law/social State.

And lastly, I come to the final purpose, in the light of this symbolic day: We, the participants in this Seminar, all know that indivisibility is already a kind of irreversible “acquis”, *va de soi*, and from this standpoint, we must move forward from the *flag of indivisibility* to taking *real positive steps towards improving the effective realisation of social rights*. I am sure that all of us adhere to this purpose and we will do our best in the context of the 50<sup>th</sup> anniversary of the Charter.

Thank you very much for your attention.