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CONTRIBUTION TO THE HIGH-LEVEL CONFERENCE OF THE EUROPEAN SOCIAL CHARTER, 3-4 JULY 2024, VILNIUS, LITHUANIA

Submission by Amnesty International

March 2024

INTRODUCTION

Amnesty International wishes to make the following submission to contribute to discussions ahead of the High-Level Conference on the European Social Charter to be held on 3-4 July 2024 in Vilnius, Lithuania.

The organisation strongly supports the European Social Charter and the work of the European Committee of Social Rights (Committee) as a key cornerstone for securing the progressive enjoyment of social and economic rights in Europe whilst ensuring greater accountability for violations.

Amnesty International has been directly involved in the work of the Council of Europe (CoE) for many years, both in Strasbourg and through its 28 national Sections in Europe. It has contributed to CoE standard setting including the drafting of various human rights instruments, such as the Istanbul Convention, and as an observer to the Steering Committee for Human Rights (CDDH) amongst other intergovernmental working groups. Amnesty International regularly submits third party interventions to the European Court of Human Rights (Court), rule 9 (2) submissions to the Committee of Ministers (CM) on implementation of Court judgments, and it has to date filed three collective complaints to the European Committee of Social Rights.

Our recommendations are based on our longstanding and considerable experience with the Council of Europe and on our monitoring and reporting on human rights in Europe.

Whilst noting the continued highly positive impact of the Social Charter (1961 Charter and Revised Social Charter) and its collective complaints mechanism, Amnesty wishes to highlight a number of outstanding issues that require the attention of the High-Level Conference. It does this with the aim of helping to strengthen the Social Charter and the collective complaints mechanism and make them more effective and coherent for the protection of social rights in Europe. In so doing we particularly wish to contribute to the aims of maximising acceptance of Charter provisions, improving the enforcement of the social rights guaranteed by the Charter including with respect to immediate measures under the collective complaints mechanism, whilst also strengthening the participation of civil society.

As a general point of principle, Amnesty International would strongly urge that any further reforms are victim-oriented bearing in mind that the lack of acceptance of the Charter's provisions or any procedural delays in securing redress are likely to both increase the number of victims and deepen the impact upon them.

RESPONSE TO SPECIFIC OBJECTIVES

- 1. Promoting acceptance by member states of further commitments under the Charter where possible. In this respect, a treaty event is envisaged where Council of Europe member states can undertake or pledge additional commitments under the Charter, including acceptance of provisions and, for those that have not yet done so, ratification of the revised Charter and acceptance of the collective complaints procedure.**
- 2. Encouraging ratification of the Revised Charter by the seven States that are still bound by the 1961 Charter as being of particular importance in order for the Council of Europe to show unity in its mission to defend social rights and to reduce the (treaty law) complexity that arises from the existence of two social charters.**

As a first step, at the High-Level Conference all CoE member states should recommit to the fundamental importance of social rights and to the Social Charter as the primary pan-European normative framework for their protection.

On the 75th anniversary of the Statute of the CoE, all CoE member states should address any gaps in their own obligations in order to fulfil the statutory aim of the CoE, by achieving “a greater unity between the CoE members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress,” through the “maintenance and further realisation of human rights and fundamental freedoms.”¹ In this respect, regular high level meetings on the Social Charter should take place to review and encourage states to progressively accept more provisions to maximise protection of social rights in Europe.

Amnesty supports the maximum acceptance by all states of human rights treaty obligations. This includes the ratification by all Council of Europe member states of the Revised Charter, together with acceptance of all of its provisions and the collective complaints procedure. It is unacceptable that four member states, Liechtenstein, Monaco, San Marino and Switzerland, have still not done so, despite having signed the Charter.² States seeking to join the Council of Europe should also be asked to ratify the Revised Social Charter as a pre-condition.

It can be argued that the menu approach under the Charter may have been intended to facilitate more states to initially, and then progressively, ratify the treaty, in some cases after having the opportunity to enshrine those rights in their national legal orders. Yet, this has also led to an incoherent and contrasting protection of social rights throughout Europe, with some states arguably cherry picking which rights’ obligations they prefer, and others none at all. Such an approach only seeks to reinforce the perceived lesser status of social rights in Europe as an unfinished project after more than 60 years, contrary to the principles of universality, indivisibility, and interdependence of all human rights.

Consequently, it is time for states to seriously consider accepting all provisions of the Charter upon ratification (with any reservations or derogations being strictly applied and reviewed on a regular basis). This is the case with respect to other human rights treaties including the European Convention on Human Rights (with the exception of some of its Protocols). It would therefore be preferable for any states that have yet to ratify the revised Charter to be strongly encouraged to accept all of its provisions.

At the same time, more member states should be actively encouraged to accept the collective complaints mechanism. To date, only 16 so far have accepted the Additional Protocol, which is less than 40% of those

¹ Article 1 of the Statute of the Council of Europe, 5 May 1949. Link: <https://rm.coe.int/1680306052>

² For signatures and ratifications, see here: <https://www.coe.int/en/web/european-social-charter/signatures-ratifications>

eligible to do so. The result leaves a significant accountability gap for most of Europe's population in terms of securing collective redress for social rights violations.

To this end, we would support initiatives that can effectively contribute to achieving these aims including the proposed dedicated treaty pledging event which should be open to civil society participation. Such initiatives should also include active promotion of the benefits of Charter ratification including expert scrutiny and recommendations by the Committee to ensure improved implementation of social rights by national authorities, thereby enhancing the well-being of their populations.

The High-Level Conference should further encourage state parties to recognise, under Article 2 of the Additional Protocol, the right of national NGOs to lodge collective complaints. To date only Finland has done so. The current situation reinforces a two-tier system whereby the NGOs that are often best placed to provide relevant evidence concerning potential human rights violations in their own countries and represent the interests of victims are unable to do so unless they can collaborate with International NGOs, Trade Unions and others that have the status to bring complaints.

Amnesty recommends that all member states which have accepted the collective complaints mechanism are strongly encouraged to accept, under Article 2 of the Additional Protocol, that national NGOs have the right to bring complaints on the same terms as INGOs.

3. Taking stock of the implementation of the Committee of Ministers' decisions on the reform of the European Social Charter system and considering whether additional measures are needed to achieve the objective of strengthening the implementation of social rights in Europe.

3.1. Ensuring faster processing of the collective complaints, from submission to publication

One obstacle to the effectiveness of the Collective Complaints' mechanism is the delay between the date the collective complaint is decided by the European Committee of Social Rights and the subsequent date it is published following its adoption by the Committee of Ministers. **Amnesty International would propose automatic publication of the decision of the European Committee of Social Rights following its adoption.** This would help generate timely publicity of the decision and a corresponding national public debate, including with the legislator and the national authorities to kick start its implementation. Instead, the current process, as well as lacking transparency and visibility, leads to considerable delay with decisions being usually published many months after adoption. Such delays undermine the urgency that the victims of the violations expect from any redress mechanism as well as again creating a two-tier system compared with the European Court of Human Rights.

3.2. Implementation of the decisions of the European Committee of Social Rights: the role of civil society

Clearly, effective implementation of the Social Charter and of the conclusions and decisions of the European Committee of Social Rights, as well as related decisions of the Committee of Ministers, is key to securing greater social justice through the Charter system.

The recognition of the role of civil society in the Social Charter system, notably through the collective complaints mechanism, but also with the possibility for submitting information to the Committee's regular monitoring, has been critical for the development of the jurisprudence of the Committee and therefore to the realisation of social rights across Europe. It has also contributed to the strengthening of civil society itself working on social rights at the national and regional levels.

Amnesty believes, based on its own experience and that of partners, that civil society has a further significant role to play in this process particularly with respect to the implementation of the Committee's decisions, including collective complaints that have been filed by NGOs.

To ensure better effectiveness and transparency of the Collective Complaints Procedure, NGOs should be allowed to communicate with the Committee of Ministers and comment on the efficiency of the measures proposed by the responding government to address the violation, in similar terms as with the supervision of the execution of judgments of the European Court of Human Rights, in line with rule 9 (2) of the Rules of Procedure of the Committee of Ministers on the supervision of the execution of judgments.³ This would enhance the effectiveness of the Social Charter.

3.3. Enhance public discussion with national stakeholders

The monitoring process should be an opportunity to publicise and ensure discussion at the national level and in Strasbourg of the measures needed to enforce the decisions of the Committee and to fulfil the Charter. The key role of parliaments, regional and local authorities in the implementation of such measures is an essential factor for their effectiveness and also needs to be discussed by the High-Level Conference.

3.4. The execution of immediate measures

It is welcome that the Committee has the power to request immediate measures, on its own initiative, as well at the request of the complainant, in order to prevent the continuation of an alleged violation of the Charter. However, it remains very unclear what are the consequences of non-action by states regarding the non-execution of these measures.

Amnesty would request that more clarity and transparency is provided about the immediate measures process and how states are encouraged to execute them.

4. Emphasising that social rights are human rights and as such universal, indivisible, interdependent and interrelated, and expressing support for them. Also, reaffirming the Council of Europe's Summit statement that social justice is crucial for democratic stability and security and drawing the necessary consequences therefrom.

Better promotion of social rights

Amnesty welcomes the reaffirmation of the indivisibility, interdependence and interrelatedness of all human rights, together with the crucial role that social justice can play in advancing democratic stability and security given that the latter can be undermined by increasing socio-economic inequality. Yet, the realisation of social rights is still not a reality but merely an abstract concept for many across Europe as testified by the Committee's decisions but also by the many reports of the Commissioner for Human Rights. This is the result of both non-compliance by member states with their obligations and/or their non-commitment to the Social Charter by opting out of relevant provisions.

It is high time for this undermining of social rights to come to an end. Instead, greater parity between the Social Charter and European Convention on Human Rights systems must be ensured. This should be done by not just strengthening the justiciability of social rights via the collective complaints mechanism and increased acceptance of the Charter, but also by emphasising the significance of relevant rulings of the

³ [Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, rule 9\(2\).](#)

European Court of Human Rights with implications for social rights such as the right not to be discriminated against or the consequences of the right to a private life to the rights to housing or access to health care.⁴

5. *Considering contemporary challenges with respect to social rights and the required responses from a Charter perspective having regard to the Council of Europe's human rights architecture.*

Amnesty International believes it is important to recognise the capacity constraints of civil society and take that into account in Charter processes. This is especially the case where research leading to a collective complaint is conducted on often complex structural issues such as discrimination against vulnerable minorities including the Roma or migrants, in particular when impacted by local and municipal authorities' decisions, adding further layers of complexity. In this respect, speedier processing of complaints would reduce the burden on complainants to continue providing periodic updates on the changing situation of victims.

6. *Considering the desirability of institutionalising a High-level Conference of specialised ministers in the area of social rights (labour, health, social affairs, housing, etc).*

Amnesty International supports the holding of regular High-Level Conferences of specialised ministers in the area of social rights in order to give greater attention to the rights guaranteed under the Charter, with a specific periodic focus on the protection of each right. This should necessarily lead to a review of shortcomings in the protection of those rights and the implementation of the conclusions and decisions of the Committee. Such meetings should also take into account the implementation of general measures impacting on social rights from relevant judgments of the European Court of Human Rights and the implementation of opinions of other CoE monitoring bodies, such as the Commissioner for Human Rights, the European Commission against Racism and Intolerance (ECRI), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Istanbul Convention, as appropriate.

7. *Initiating a reflection on whether and how to consolidate the various instruments that make up the Charter system and, if appropriate, requesting that the Committee of Ministers set in motion a process to consolidate the Charter instruments into one single treaty. Discussing strategic partnerships, including the relationship with the European Union and the feasibility of EU accession to the Charter.*

To deliver greater socio-economic justice on the ground throughout Europe there is a need not just for the various Council of Europe bodies, but also the European Union, given the number of EU member states that have accepted the Social Charter and the collective complaints mechanism, to ensure that the decisions of the Committee of Social Rights are implemented via periodic follow up and meetings with the relevant authorities, with victims' groups, etc.

Amnesty supports a strengthened relationship with the EU and its institutions in order to better advance socio-economic justice throughout Europe. In this respect, it is important to identify appropriate synergies between EU and CoE social rights law and for their respective bodies including the EU Commission and CoE Committee of Social Rights to share information, collaborate and strategise accordingly. This should include active consideration of the EU's ratification of the Charter and acceptance of the Collective Complaints Protocol.

⁴ See "[Guide on the case-law of the European Convention on Human Rights - Social Rights](#)", ECtHR, 31 August 2022 for jurisprudence of the Court concerning social rights on issues such as health, labour rights, trade union rights, social benefits and pensions, housing, rights of specific vulnerable groups etc.