

Appendix

Request for an ad hoc report on the cost of living crisis

Introduction

Since at least late 2021 Europe has seen a very significant rise in cost-of-living. Inflation has reached levels not seen in the last four decades in many countries, its effects hitting disproportionately the most vulnerable, low-income households. In many States Parties wages are failing to keep up with inflation.

Different States have responded in different ways but across the Council of Europe, there have been significant increases in poverty and reduced enjoyment of Charter rights. This is particularly true with regard to rights related to social protection (Articles 12, 13, 16 (family benefits), 30, and 31), the right of workers to remuneration such as will give them and their families a decent standard of living (Article 4§1), and rights adhering to socially vulnerable groups (Articles 15, 17, 19 and 23). The cost of living issue has a broad scope and a pan-European dimension.

The Committee considers that 'social rights and the cost-of-living crisis' is an appropriate topic for an ad hoc report (cf. paragraph 9 of CM(2022)114-final) as, (i) it addresses a key emerging challenge in terms of contemporary rights enjoyed in the Council of Europe area, (ii) it enables the Committee to provide a general [pan-European] overview of national situations in light of this challenge, and (iii) it enables the Committee to refine and develop further its legal analysis from a Charter perspective. This is a new issue for the Committee (and indeed human rights monitoring bodies with a social rights mandate more generally) and it is urgent the Committee should engage with it. Doing such a report would enable the Committee to provide general orientations on the application of the Charter to a crucial emerging issue and to outline the criteria to be applied when seeking to establish whether the situation in a specific State Party satisfies the requirements of the Charter (again drawing on paragraph 9 of CM(2022)114-final).

In developing the following questions on the basis of which the ad hoc reports should be drawn up, the Committee has especially focussed on aspects of 12, 13, 15, 16, 17, 23, 30, 31 and 4§1, in particular aspects related to income and purchasing power. In doing so, we will look at rights related to social protection – namely Articles 12, 13, 16 (family benefits) and 31 – as well as the right of workers to remuneration such as will give them and their families a decent standard of living (Article 4§1). The Committee has also had regard to the cost of living and the right to protection from poverty and social exclusion (Article 30) as well as the situation of groups that have been hit particularly hard by the cost-of-living crisis, such as families with children (Articles 16 and 17), persons with disabilities (Article 15), and older persons (Article 23).

The Committee underlines that the ad hoc report system is quite different in aim and purpose from the statutory reporting process. The Committee's report following the ad hoc reports from States Parties will not be country specific (although it may refer to pertinent law and practice in certain States Parties where appropriate) and it will make no legal assessment of the situation in States Parties in relation to specific Charter provisions. The process is rather aimed at gathering information with a view to the Committee identifying elements of good practice which the

Committee could then use in order to formulate guidance to States or statements of interpretation relating to Charter provisions. Therefore, States Parties should reply to all questions posed irrespective of whether the State Party has accepted the relevant provision of Part II of the Charter (as an example, the Committee wishes to receive information on minimum wages also from States that have not accepted Article 4§1 of the Charter, cf. question 1 to 3 below).

Questions

1) *Please provide information as to whether and how the statutory minimum wage is regularly adjusted/indexed to the cost of living. Please indicate when this last happened, specifically whether it has been adjusted /indexed since the end of 2021.*

2) *Please provide information on any supplementary measures taken to preserve the purchasing power of the minimum wage since the end of 2021*

3) *For States Parties with no statutory minimum wage, please describe any measures taken to preserve the purchasing power of the lowest wages since the end of 2021.*

4) *Please provide information as whether the cost of living crisis has led to the extension of in-work benefits.¹*

5) *Please provide information on changes to social security and social assistance systems since the end of 2021. This should include information on benefits and assistance levels and the allocation of benefits*

6) *Please provide information as to whether social security benefits and assistance are indexed to the cost of living, as well as information in particular on how income-replacing benefits such as pensions are indexed. Please indicate when benefits and assistance were last adjusted/indexed.*

7) *Please provide information as to whether any special measures have been adopted since late 2021 to ensure persons can meet their energy and food costs, such as price subsidies for energy, fuel, and basic food items.*

8) *Please provide up-to-date information on at-risk-of-poverty rates for the population as a whole, as well as for children, families identified as being at risk of poverty, persons with disabilities and older persons. Please show the trend over the last 5 years, as well as forecasts for upcoming years.*

¹ Supplements to support workers on low incomes such as the *prime d'activité* in France, or the *Working Family Payment* and the *Back to Work Family Dividend* in Ireland.

9) Please provide information on what measures are being taken to ensure a coordinated approach to combat poverty as required by Article 30 of the Charter, and to diminish reliance on last-resort relief, such as food banks and soup kitchens.

10) Please provide information on steps taken to consult with, and ensure the participation of, the persons most affected by the cost of living crisis and/or organisations representing their interests in the process of designing of measures in response to the crisis.

Extracts from the ECSR's case law²:

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state, regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment) and to special regimes or statuses (e.g., migrant workers).

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage. The assessment is based on net amounts, i.e., after deduction of taxes and social security contributions. For these purposes, taxes are all taxes on earned income. Indirect taxes are thus not taken into account. Where net figures are difficult to establish, it is for the State Party concerned to provide estimates of this amount. When a statutory national minimum wage exists, its net value for a full-time worker is used as a basis for comparison with the net average full-time wage (if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as a manufacturing industry or for several sectors). Otherwise, regard is had to the lowest wage determined by collective agreement, or the lowest wage actually paid. This may be the lowest wage in a representative sector, for example, the manufacturing industry.⁶⁴⁰ Where the net minimum wage is between 50% and 60% of the net average wage, it is for the State Party to establish that this wage permits a decent standard of living. Where the minimum wage is low, the Committee may, when assessing compliance with Article 4§1, take into consideration other elements, such as whether workers are exempt from the co-payment in respect of health care or have the right to increased family allowances. A wage does not meet the requirements of the Charter, irrespective of the percentage, if it does not ensure a decent living standard in real terms for a worker, i.e., it must be clearly above the poverty line for a given country.

Under **Article 12§1**, the level of income-replacement benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

Assistance under Article 13 must be “appropriate”, i.e., make it possible to live a decent life and sufficient to cover the individual's basic needs. In order to assess the level of assistance, basic benefits, additional benefits and the poverty threshold in the country are taken into account. (The

² These extracts are for background information and not because the Committee will be making legal assessments.

poverty threshold h is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold). The equivalised disposable income is calculated by Eurostat on the basis of the income of a household, established by summing all monetary income received from any source by each member of the household and deducting taxes and social contributions paid. In order to reflect differences in household size and composition, this total is divided by the number of “equivalent adults” using a standard scale, the so-called ‘modified OECD scale’. The resulting figure is attributed to each member of the household (Source: Eurostat). In the absence of this indicator, the national poverty threshold is taken into account. Assistance is appropriate where the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold in the above sense. In conducting this assessment, the level of medical assistance is also taken into account.

Under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be family or child benefits provided as part of social security, available either universally or subject to a means-test.

Family benefits must constitute an adequate income supplement for a significant number of families. Adequacy is assessed with respect to the median equivalised income (Median equivalised income (Eurostat): the income of a household is established by summing all monetary income received from any source by each member of the household. In order to reflect differences in household size and composition, this total is divided by the number of “equivalent adults” using a standard scale (the so-called modified OECD equivalence scale). The resulting figure is attributed to each member of the household.). The level of benefit should be adjusted as necessary to keep pace with inflation. Other forms of economic protection, such as birth grants, additional payments to large families or tax relief in respect of children, are also relevant to the implementation of this provision.

The obligation of States under **Article 15** to take measures to promote persons with disabilities’ full social integration and participation in the life of the community is strongly linked to measures directed towards the amelioration and eradication of poverty amongst people with disabilities.

Likewise, under **Article 17** the prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal, and economic protection. The obligation of states to take all appropriate and necessary measures to ensure that children and young persons have the assistance they need is strongly linked to measures directed towards the improvement and eradication of child poverty and social exclusion.

When assessing adequacy of resources of older persons for the purposes **of Article 23**, the Committee takes into account all social protection measures guaranteed to older persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to older persons. These resources will then be compared with median equivalised income. For this purpose, the

Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture, and social and medical assistance. It must link and integrate public policies in a consistent way, embedding the fight against poverty and social exclusion in all strands of policy and moving beyond a purely sectoral or target group approach. Effective coordination mechanisms should exist at all levels, including at the level of delivery of assistance and services to the end users. Adequate resources must be made available for the implementation of the measures taken in the context of the overall and coordinated approach under Article 30. In many instances, a significant and enduring expansionary fiscal policy effort by the States Parties will be necessary to prevent an increase in poverty and social exclusion. Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty and should consequently be allocated to attain the objectives of the strategy. The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.

Adequate housing under **Article 16** (housing for families) and **Article 31** includes a dwelling which is safe from a sanitary and health point of view, i.e., that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc.