

# ASSESSMENT OF TRAINING NEEDS: DEVELOPMENT OF CURRICULA ON SOCIAL RIGHTS IN UKRAINE



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# INTRODUCTION

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The purpose of this assessment is to study the training needs and curricula development on social rights in Ukraine with specific focus on the integration of the European Social Charter (revised) (hereinafter referred to as ESC). The expert team conducting the study has employed a basic three-step methodology for completing the evaluation based on:

1. The assessment of the existing regulatory requirements, teaching standards and curricula in Ukrainian higher education institutions with the objective to reveal the extent to which the ESC is integrated in teaching programmes in leading Ukrainian institutions of higher education, assessing the degree to which these programmes and curricula meet the existing demand for expertise and competency in the field, finding the gaps and needs, and identifying the causes for those gaps and shortcomings.
2. The assessment of existing teaching patterns and the curricula in leading university programmes in other member countries of the Council of Europe with the objective to identify a generic “best European practice” in the field.
3. A comparative analysis of Ukrainian patterns and experiences with those in leading European universities, in a view to reveal the level and depth of integration of the ESC into academia and assess the training needs that will facilitate the implementation of the Charter in the long run, in view of European best practices; propose best practice solutions and recommendation for the Ukrainian Government, higher education institutions (HEI), as well as other stakeholders.

This paper is structured in the following way. Section I (Background) provides a general overview of the underlying issues in the sphere of implementation of the European Social Charter since Ukraine’s accession to this treaty, with a particular focus on the low level of awareness of the Charter and the lack of vision and strategy to advance academic instruction on social rights and the Charter. Section II (HEI Curricula: Legal and Regulatory Requirements), describes the legal and regulatory requirements and specifically the so-called “higher education standards” enacted by the Ukrainian Governments, in order to assess the degree to which the incumbent issues and the potential solutions regarding integration of the study of the European Social Charter within the higher education institutions is contingent on existing state policies. Section III (HEI Programmes and Academic Curricula

in Ukraine) summarises the empiric study of the patterns of integration of the European Social Charter within the mandatory or optional curricula in some of the leading universities across Ukraine, while Section IV (HEI Curricula in Other Member Countries of the Council of Europe: Best Practices) discloses the same patterns and identifies good practices among universities and academic programmes in other European countries. The final Section V (Main Findings and Recommendations) sums up the main conclusions of the Paper and offers recommendations to be considered by Ukraine's Government agencies, higher education institutions, professional public associations and the civil society.

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## I. BACKGROUND

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Having been adopted in 1961, the ESC is widely viewed as the main “counterpart” of the European Convention on Human Rights in the sphere of economic and social rights. The ESC guarantees the enjoyment, without discrimination, of fundamental social and economic rights defined in the framework of a social policy that Parties undertake to pursue, by all appropriate means. In line with major international treaties bearing on social and economic rights, primarily including the International Covenant on Economic, Social and Cultural Rights (and its Optional Protocol) and partially the EU Charter of Fundamental Rights (applicable to EU countries only), the ESC comprises the fundamental international legal base for the protection of social rights in the member countries of the Council of Europe.

As a member state of the Council of Europe, Ukraine has signed the ESC in 1999, and submitted for the ratification of the Parliament in 2006. Ukraine’s commitments under the ESC have entered into force as of February 1, 2007.

During the last thirteen years since the entry of force of the ESC, the Country Reports<sup>1</sup> have been mainly covering the compliance of legislative framework and implementation practices of the ESC articles to show the progress in certain areas, as well as to highlight the emerging concerns. The Reports submitted by Ukraine have not explicitly highlighted the level of awareness of the ESC, as well as of the case-law of the European Committee of Social Rights, among professional circles and the general public.

In particular, and with respect to introduction of respective teaching agenda to promote the knowledge and study of the ESC, there can be no strong evidence generated of a continuous and proactive effort by the Ukrainian government in proper integration of the ESC standards and recommendations into the curricula of higher education institutions. Since 2007, the Treaty still remains a *terra incognita* — a little known body of international law-in Ukraine. For one, while the provisions of the Charter can be applied in Ukraine both for the protection of social and labour rights in state bodies, courts, and for the improvement, reform of social and labour legislation, the review of judicial practice in Ukraine demonstrates a very low

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<sup>1</sup>See more about Ukraine Reports and ECSR’s recommendations:  
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ac112>

awareness of the Charter and of the case-law of the European Social Committee among judges. Researches show that wherever references to the Charter are found in court decisions, these are most likely than not done in an abstract fashion and in a largely declarative way. The ESC is rarely applied as a source of positive law. In some decisions, judges apply provisions of the Charter that are not ratified by Ukraine.

The disconnection between the labour regulation framework in Ukraine and the implementation of many of the recommendations of the European Committee of Social Rights is conditioned by the fact that the main codified law adopted in 1971 in this sphere remains the only basis for the current labour code adopted during the Soviet era. Despite numerous amendments, it does not have the capacity to efficiently regulate modern relations in the sphere of labour and employment. Moreover, a number of other laws and regulations that do not take into account the requirements of the ESC have also been adopted. This is due to the lack of proper attention to the studies of ESC in higher education institutions, its poor presence in the programmes of qualification exams for judges, lawyers, training of social workers, and the like.

The lack of awareness and proper implementation of the ESC has manifested itself in the application of adopted legal acts without taking into account the financial implications on the State Budget, which led to thousands of court cases ruled in favour of the applicants. The vast majority of final judgements have not been enforced, leading the applicants to the European Court of Human Rights, which ruled against Ukraine<sup>2</sup>. Eventually, more than 12,000 cases within the judgment of the European Court of Human Rights “Burmych and Others v. Ukraine” were transferred to the Committee of Ministers of the Council of Europe and the issue of coordinated clear social legislation of Ukraine has become a matter of concern for both the European Court of Human Rights, the European Committee of Social Rights, and the Committee of Ministers.

The mentioned examples are a stark evidence that the ESC has by and large failed to become an organic part of the Ukrainian legal framework. This is both paradoxical and worthy of concern as according to the Constitution of Ukraine (article 9), international treaties ratified by the Parliament, Verkhovna Rada, are part of the national legislation.

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<sup>2</sup>Including in the pilot case of “Yuriy Mykolayovych Ivanov v. Ukraine” in 2009, and in “Burmych and Others v. Ukraine” in 2017, when the ECtHR decided to strike out all applications with the same issue from the list of cases for the failure to enforce national court judgments in Ukraine.



The role and significance of the ESC in legal practice in Ukraine is starkly exposed also in a comparative light, when measured against the same enjoyed by the European Convention of Human Rights (ECHR). Although the two treaties have the same weight and implications for the signatory states, the awareness and appreciation of the ESC is considerably lower than that of the ECHR, in both public and professional *milieu*.

Integration of the ESC subjects into the academic curricula, at the same time, has not been totally overlooked by the Ukrainian Government. Within the last several years, there have been initiatives to develop ESC studies into the academic curricula in related disciplines, resulting in a considerable increase in the awareness of ESC among the students in certain disciplines (especially labour law and social security law).

Surveys show that students demonstrate higher level of knowledge of the ESC and related social standards in comparison with judges and lawyers. This is a striking data that clearly outlines the degree to which the ESC and the positions of the European Committee for Social Rights are under-applied in legal practice, with all dare implications for the protection of social rights, and proves the pressing need for raising awareness among the professional community of both the ESC and of the European Committee for Social Rights. In particular, to raise public awareness and prepare a professional cohort that would have the capabilities and competences to implement the recommendations and decisions of the Council of Europe, reform the national legislation, introduce European social and labour standards, ensure and guarantee the social rights to the people proclaimed in the Constitution.

The lack of attention to the study and analysis of the ESC and its implementation in Ukraine is also confirmed by the lack of translations in Ukrainian of both the practice of the European Committee for Social Rights and the conclusions and recommendations provided by the Committee to Ukraine.<sup>3</sup>

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<sup>3</sup>Except for the 2019 Conclusions of March 20, 2020, which have been translated within the framework of the Council of Europe Development of Social Human Rights as a Key Factor for Sustainable Democracy in Ukraine Project.

## II. HEI CURRICULA: LEGAL AND REGULATORY REQUIREMENTS

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To assess the extent to which the ESC studies could be integrated in the curricula of higher education institutions in Ukraine and to identify possible regulatory barriers, one needs to take a note of the so-called “education standards” in relevant disciplines. Higher educational standard is a set of requirements for higher education programs that are common to all educational programs within a certain level of higher education and specialty (article 10, Law of Ukraine “About higher education”).

In Ukraine, the standards of higher education in Law, Social Work and Social Security are primarily based on the larger legal framework for education, comprising the following:

- Constitution of Ukraine;
- Law of Ukraine “On Education” of September 5, 2017 (as amended);
- Law of Ukraine “On Higher Education” of July 1, 2014 (as amended);
- Law of Ukraine “On Research and Scientific and Technical Activities” of November 26, 2016 (as amended);
- Resolution of the Cabinet of Ministers of Ukraine “On Approval of the National Qualifications Framework” of November 23, 2011, No. 1341 (as amended).<sup>4</sup>

The Law of Ukraine “On Education” of September 5, 2017, defines the basic principles of state policy in the field of education and the principles of educational

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<sup>4</sup>Applicable regulation also includes: Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 081 Law to Bachelor’s Degree Level” of December 12, 2018, No. 1379; Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 081 Law to Master’s Degree Level” of August 17, 2020, No. 1053; Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 231 Social Work to Bachelor’s Degree Level” of April 24, 2019, No. 557; Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 231 Social Work to Master’s Degree Level” of April 24, 2019, No. 556; Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 232 Social Security to Bachelor’s Degree Level” of May 24, 2019, No. 734; Ministry of Education and Science of Ukraine Order “On Approval of the Higher Education Standard for Major 232 Social Security to Master’s Degree Level” of May 24, 2019, No. 723.

activities, discloses the content of the right to education, stipulates the types, forms, components, levels of education; the basics of the functioning of educational institutions; management and control in the field of education, ensuring the quality of education and the like. It also defines the education standards, curricula, qualifications and educational documents. The law stipulates that the education standard determines, in particular, the requirements for the compulsory competencies and learning outcomes of the applicant for the education of the corresponding level, the total amount of workload of the applicant for education. Education standards are approved by central executive authorities. Educational programmes are developed by educational institutions, scientific institutions, other subjects of educational activities and approved in accordance with this procedure specified in the law. Educational programmes should provide educational components for the free choice of applicants for education.

The Law of Ukraine "On Higher Education" of July 1, 2014, establishes the legal, organisational, financial foundations for the functioning of the higher education system, principles and the like. It is confirmed that higher education institutions (HEIs) independently develop and approve their educational programmes, taking into account the requirements for the corresponding level of higher education established by legislation and higher education standards. Educational programmes that provide for the assignment of professional qualifications must ensure that the requirements of the relevant professional standards (if any) are met unless otherwise provided by law (Article 9). The educational programme must contain a list of educational components; their logical sequence; requirements for the level of education of persons who can start training in this programme; the number of ECTS credits required to complete this programme, as well as the expected learning outcomes (competencies) that must be mastered by the applicant for higher education. An institution of higher education can independently introduce specialisations, which are indicated when awarding educational qualifications to persons who have successfully completed training in the relevant educational programmes (Article 9). The Law also stipulates the right of HEIs on the basis of an appropriate educational programme to independently develop a curriculum that determines the list and volume of educational components in ECTS credits, their logical sequence, forms of organisation of the educational process, types and volume of training sessions, etc. to ensure that the applicant achieves programme learning outcomes.

As indicated in Article 32 of the Law “On Higher Education”, HEIs have the right to independently develop and implement their own programmes of educational, artistic, research, scientific and technical and innovative activities; independently introduce specialisations, determine their content and curricula of academic disciplines. Moreover, the specified Law (Article 62) provides for the right to choose students of academic disciplines in the amount of at least 25% of the total number of ECTS credits provided for a given level of higher education.

Our analysis of the above-mentioned legal and regulatory framework affecting university programmes and curricula submits that higher education institutions, both state and private, independently develop and approve the list of academic disciplines in accordance with the educational programme, approved standards, and the like. In addition, the HEIs are obliged to offer elective disciplines. Imperative regulation regarding the list of compulsory disciplines, their content has not been established, the autonomy of the HEI allows the introduction of various academic disciplines, which can be both compulsory and optional (elective), according to the demand and the interests of the students. The approved lists of academic disciplines can be revised and periodically changed as necessary. So, interested HEIs can include the study of the ESC as a separate special academic discipline (compulsory or optional), and as part of other related academic disciplines.

### **A. Higher education standards with specialisation in Law and International Law**

The higher education standard in Law at the undergraduate (bachelor’s degree) level includes a number of competencies that are related to social, labour rights and relevant international standards. In particular, General Competence No. 11 includes the ability to exercise the rights and responsibilities as a member of society, to recognise the values of a civil (free democratic) society and the need for its sustainable development, the rule of law, human and civil rights and freedoms in Ukraine.

The special (professional, subject) competencies include:

- respect for the honour and dignity of a person as the highest social value, understanding of their legal nature;
- knowledge and understanding of international human rights standards, the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the practices of the European Court of Human Rights;

- ability to apply knowledge of the foundations and content of international public law institutions, as well as private international law;
- special competence in knowledge and understanding of the fundamentals of the European Union law is provided separately.

The higher education standard in Law at the graduate (master's degree) level approved on August 18, 2020, in particular, includes:

- ability to analyse and assess the impact of the legal system of the European Union on the legal system of Ukraine;
- ability to analyse and assess the impact of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the practice of the European Court of Human Rights on the development of the legal system and law enforcement in Ukraine;
- ability to assess the interaction of international law and international legal systems with the legal system of Ukraine.

Additionally, in the normative sense of the preparation of masters, formulated in terms of learning outcomes, there are several provisions for the analysis of international standards and the law of the Council of Europe:

- to analyse the interaction of international law and international legal systems with the legal system of Ukraine on the basis of awareness of the main modern legal doctrines, values and principles of the functioning of law;
- to carry out a comparative legal analysis of individual institutions of the law of various legal systems, taking into account the relationship of the legal system of Ukraine with the legal systems of the Council of Europe and the European Union.

The importance of Council of Europe law for Ukrainian lawyers is emphasized in paragraph 5 of the normative content of training applicants for higher education in Law for master's degree students, formulated in terms of learning outcomes; they should "communicate fluently in a foreign language of law (one of the official languages of the Council of Europe) orally and in writing". This situation clearly emphasizes Ukraine's commitment to the standards of the Council of Europe and the need to understand it by the lawyers of the Council of Europe.

According to the approved standards of higher education for major 081 – Law at bachelor's and master's levels of education to the main special competencies and to the prescribed normative content of training students in Law, the study of the

standards of the Council of Europe, understanding of international human rights standards with an emphasis on the fact that a person is the highest social value, comparison of the legal system of Ukraine with the legal system of the Council of Europe, knowledge of the official language of the Council of Europe and other issues related to the study of both human rights and standards of the Council of Europe are included. At the same time, there is no direct reference to the study of the ESC, in contrast to the need to study the European Convention on Human Rights and the practice of the European Court of Human Rights.

The European Social Charter is not included in higher education standards in International Law (specialisation in International law 293). At the same time, given that new standards for the specialty "International Law" at the bachelor's and master's levels are being developed, we can expect increased attention to human rights and the Council of Europe in general.

Despite the lack of direct inclusion of the study of the ESC in higher education standards in Law for undergraduate and graduate levels, the ESC has been included in the Unified Admission Test Programme for admission to master's programme in Law since 2017 and/or International Law since 2018. Admission to master's programmes in the specified majors is provided only after successful passing of the mandatory test. Knowledge of the ESC is provided in the block on International protection of human rights in clause 3.5 (3. Protection of human rights in Europe) of the Test programme.

Considering that, along with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the ESC comprises the main body of the European system for the protection of human rights, the above provisions of the current Ukrainian legislation create grounds for mandatory inclusion in the curriculum in Law and International Law of a separate academic discipline on the ESC or a separate special block dedicated to the ESC in the framework of other academic disciplines on human rights, labour and social law, and the like.

The standards of higher education in Law, as approved by the Ministry of Education and Science of Ukraine, provide for competencies related to the study of the law of the Council of Europe, international human rights standards, though they do not provide for a direct requirement to study the Charter, provide for a direct requirement to study the European Social Charter, mentioning the ESC in the chapter «International Protection of Human Rights» among the sub-items

of the block «Protection of human rights in Europe» at the same level as many other international legal instruments, universal human rights conventions and many other issues which, in turn, can only indicate a cursory introduction and/or mention of the Charter within general human rights courses. The study, analysis and understanding of the foundations of the ESC should be understood as a separate necessary element in the preparation of undergraduate students in Law and International Law to prepare for the professional test for admission to master's programmes. At the same time, the Test Preparation Program does not include sections of labour and social law in general, which should also include relevant European labor and social standards, and is limited to constitutional, administrative and administrative procedural law, civil and civil procedural law, criminal and criminal procedural law and international law.

## **B. Higher education standards with specialisation in Social Work**

The standard of higher education in Social Work does not contain a requirement to study international, European social standards, including the provisions of the ESC. However, the Bachelor and Master's standard includes several competencies related to human rights and social law. In particular, one of the general competences of the bachelor's level is "the ability to exercise the rights and responsibilities as a member of society, to recognise the values of a civil (free democratic) society and the need for its sustainable development, the rule of law, human and civil rights and freedoms in Ukraine." Among the special competencies are the following:

- knowledge and understanding of the regulatory and legal framework for social work and social security;
- ability to develop ways to settle social issues and find effective methods for solving them;
- ability to contribute to improving the well-being and social safety of individuals providing social assistance and support to those in difficult life circumstances.

The standard for the master's degree level includes "the ability to critically assess the social consequences of policies in the field of human rights, social inclusion and sustainable development of society" in special competencies and refers to the normative content of training applicants for higher education formulated in terms of learning outcomes "Assess the social consequences of policies in the field of human rights, social inclusion and sustainable development of society, to develop recommendations for improving the regulatory framework for social work.» However,



improving the regulatory framework in the social sphere requires an understanding of the main international standards, the need to bring national legislation in line with them and take into account these standards, as well as Ukraine's international legal obligations when preparing proposals for improving the national regulatory framework.

The standards of higher education in the speciality "Social work", as approved by the Ministry of Education and Science of Ukraine for the bachelor and master levels, do not provide for the study of international human rights standards, international documents in the field of protection of social rights, treaties on social issues of the Council of Europe. At the same time, knowledge of international protection of social rights and European social standards is required to achieve individual learning outcomes.

### **C. Higher education standards with specialisation in Social Security**

The standards of higher education in Social Security, as well as the standards in Social Work, do not contain the requirements for studying international, European social standards, mastering among the general competences for the bachelor's level the same provisions as in Social Work on the "ability to exercise own rights and duties as a member of society, to be aware of the values of a civil (free democratic) society and the need for its sustainable development, the rule of law, human and civil rights and freedoms in Ukraine." However, among the special competencies provided the following ones in particular:

- ability to analyse social processes associated with the social development of the country;
- knowledge and understanding of the regulatory and legal framework for social work and social security;
- ability to advise on social security issues to various groups of the population in difficult life circumstances;
- ability to use administrative and legal mechanisms of appointment and control in the system of social protection of the population.

More requirements for understanding and ability to analyse social legislation are stipulated by the normative content of the training of applicants, formulated in terms of learning outcomes. So, applicants shall have to:



- use basic knowledge about the principles of state social policy and ways of social security of the population;
- apply the means of social and legal policy in the field of social protection, basic knowledge of jurisprudence and legislation of Ukraine in the field of social security;
- apply the legal framework in the protection of social groups of the population;
- explain the current processes in the social sphere and social security.

At the master's degree level standards, in addition to special competencies on, in particular, the ability to critically assess the social consequences of policies in the field of human rights and sustainable development of society, the normative content of training, formulated in terms of learning outcomes, provides for planning and doing scientific research in the system of social protection of the population and publishing of their results.

So, the competences in Social Security, although they do not directly provide for the study of the ESC, include the ability to apply the regulatory framework, develop proposals for its improvement, which, in turn, presupposes knowledge and understanding of relevant international standards.

The standards of higher education in Social Work and Social Security do not directly indicate the need for knowledge and understanding of human rights and, in particular, social rights. However, the competence and the ability to exercise the rights and obligations as a member of society, to understand the values of human and civil rights and freedoms, indirectly includes knowledge in the field of social rights. Competencies that are related to and may be associated with the social policy of the state and its consequences, understanding and ability to apply and develop proposals for improving national social legislation also presupposes understanding, application of international treaties in the social sphere, which are ratified by Ukraine and constituting part of Ukrainian legislation in accordance with Article 9 of the Constitution of Ukraine, and one of the main agreements among them is the ESC.

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### III. HEI CURRICULA AND ACADEMIC PROGRAMMES IN UKRAINE

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**F**or the purposes of reviewing the curricula and the prevailing patterns of teaching and methodology within the disciplines of Law, International Law, Social Work, Social Security, as well as other relevant majors, in some of the leading HEIs in Ukraine, the expert team conducted a series of interviews with faculty administration, teaching staff and experts in selected universities, analysed the educational plans and programmes, and the syllabi wherever these were available for public review on the HEIs websites.<sup>5</sup> The HEI studied for the purposes of this research included:

- Taras Shevchenko National University of Kyiv (Institute of Law, Institute of International Relations, Faculty of Philosophy);
- Ivan Franko National University of Lviv (Faculty of Law, Faculty of International Relations, Faculty of Pedagogical Education);
- National Technical University of Ukraine “Igor Sikorsky Kyiv Polytechnic Institute” (Faculty of Social Science and Law);
- Borys Grinchenko Kyiv University (Institute of Human Sciences);
- National Aviation University (Faculty of International Relations, Faculty of Law);
- National University of Kyiv-Mohyla Academy (Faculty of Law, V. Poltavets School of Social Work);
- Yaroslav Mudryi National Law University;
- National University «Odesa Law Academy»;
- Yuriy Fedkovych Chernivtsi National University (Psychology and Social Work Faculty, Faculty of Law);
- Kyiv National Economics University named after V.P. Hetman (Law Institute);
- Lesya Ukrainka Eastern European National University (Faculty of Pedagogical education and social work, Faculty of Law);
- V.N. Karazin Kharkiv National University (Faculty of Pedagogy, Faculty of Law);
- Ukrainian Catholic University (Faculty of Humanities, Faculty of Social Science);
- Vasyl Stus Donetsk National University (Faculty of Law);
- Kyiv International University (Institute of International Relations);
- «KROK» University, (Faculty of Law, Department of Psychology).

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<sup>5</sup>Disclaimer: we refer to the syllabi and programmes which are posted for public use only.

The results of this analysis demonstrate that in general, the higher education institutions in Ukraine have so far not introduced a single specialised course on the ESC; moreover, they have not developed courses meaningfully integrating the ESC in their curricula, and special courses on the study of social human rights were not an exception.

The master's programme taught in English at the Institute of International Relations of the Taras Shevchenko National University of Kyiv, provides an elective in European Social and Labour Law. The master's programme in Private Law of the Law Faculty of the Ivan Franko National University of Lviv offers "Issues of Labour Legislation Codification in the European Integration Context" as a mandatory discipline. These courses do not offer a meaningful review of the ESC or of the case-law of the European Committee of Social Rights.

Representatives of the Institute of International Relations of the Taras Shevchenko National University of Kyiv and Borys Grinchenko Kyiv University confirmed that academic disciplines aimed at studying the ESC were not introduced. In addition, it was noted that the B. Grinchenko University excluded a course on human rights, within which it would be possible to strengthen the component on social rights. At the same time, the issue of the ESC can be presented as a separate block in courses on international labour law, comparative labour and social law, and human rights. Besides, some interest was expressed in the course on the ESC and the possibility of its inclusion in the curriculum of the master's programme. It was also pointed out that there were no teaching materials for the preparation of the respective course.

At the Department of International Law of the Institute of International Relations, the ESC is taught in the framework of several academic disciplines: «Comparative Labour and Social Law» – certain provisions of the Charter in a comparative aspect with the national legislation of various states and other international documents, «European Labour and Social Law» – a general description is given and in the context of comparison with EU standards, in the course «Law of the Council of Europe» – a lecture on the Charter, and the Charter is reviewed together with other documents of the Council of Europe in the field of human rights in the framework of the discipline «Universal and Regional Systems of Human Rights Protection». The representative of the Institute of International Relations expressed interest in introducing a separate academic discipline on the ESC and stressed the importance of studying social human rights.

During the meetings, attention was drawn to the development of a unified state qualifications exam for applicants for higher education in Law and International Law. The inclusion of the ESC in the curriculum by the exam development working group could force higher education institutions to draw attention to the inclusion of the ESC, social rights in curricula and create an opportunity for students to study them.

Representatives of the National Aviation University reported about the absence of a course on the ESC and the possibility of studying it as part of the discipline «International Protection of Human Rights» or «Labour Law». The interest was also expressed in teaching the course on the ESC as the elective discipline for undergraduate and graduate students with one list of elective disciplines. In addition, the ESC course can be implemented as a certified stand-alone elective course for all students of higher education institutions. However, the main issue was the need to train teachers who would be able to teach both a separate course on the Charter and instructors of disciplines on human rights and labour and social law. Consequently, the inclusion of appropriate blocks in the subjects taught, or the development of a separate course will require the organisation of training for lecturers and assistance in the development of teaching materials by the Council of Europe Project.

During the meeting with representatives of the National University «Odesa Law Academy», it was also reported about the review of the ESC in the framework of academic disciplines on labour and social law, as well as confirmed interest in teaching the course on the ESC and readiness to include its elective course in the curriculum of the educational graduate programme.

At the meeting with representatives of the Ivan Franko National University of Lviv, the information on the overview lectures on the ESC in several academic disciplines, in particular on human rights and labour law was presented. In addition, it was proposed to develop and send to the Ministry of Education and Science of Ukraine proposals regarding the inclusion of issues on labour and social law that are usually absent in the curriculum, in preparation for the Unified Admission Test Programme for admission to graduate programmes in Law and International Law. This attitude towards these two branches of law does not contribute to the allocation of hours in the curricula for the relevant disciplines on labour and social law and does not create conditions for the introduction of special disciplines on the protection of social and labour human rights.

The respondents to the survey from among the leading HEIs confirmed that special courses on the ESC were never introduced. At the same time, they expressed interest in considering the possibility of introducing a separate course on the ESC, subject to a proper prior TOT session. The idea of preparing and conducting training, a tutorial workshop for teachers who teach disciplines in which the Charter can be covered in a separate module, as well as those lecturers who can teach a specialised course on the ESC, was expressed. It was suggested to develop proposals for amending the Unified Admission Test Programme for admission to master's programmes in Law and International Law to include issues of labour law and social law along with criminal, criminal procedural, constitutional, administrative and administrative procedural law, civil and civil procedure law. Moreover, it was proposed to attract the attention of the working group on the development of the Program of the unified state qualification examination in the ESC.

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## IV. STUDENT SURVEY TO DETERMINE THE LEVEL OF AWARENESS OF SOCIAL RIGHTS PROVIDED FOR BY THE EUROPEAN SOCIAL CHARTER

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In 2020, the Council of Europe Project “Promoting Social Human Rights as a Key Factor of Sustainable Democracy in Ukraine” conducted the survey on awareness of target groups, including students, about the provisions of the European Social Charter.<sup>6</sup> Among the international documents that enshrine social human rights, the European Social Charter was mentioned the 4th (44%) in student responses after the Universal Declaration of Human Rights, the European Convention on Human Rights, and the Convention on the Rights of the Child.

The study revealed: answering the question «How much do you consider yourself informed/aware of the European Social Charter provisions?», 48% of respondents rated their level of knowledge at 3, 4 or 5 points out of 5: 32% of respondents gave 3 points, 13% – 4 points, 3% – 5 points. Others 16% of respondents rated themselves at 2 points, 14% – 1, and 14% admitted that they were not at all aware of the ESC. Some 8% of respondents found it difficult to answer the question.<sup>7</sup> While 30 % of the respondents answered that this topic was not included in the curriculum, about 47% of all students who took part in the research indicated that they studied the European Social Charter as part of their university programmes. Furthermore, a half of those students who were familiar with the ESC also have read the conclusions of the European Committee of Social Rights.

While the respond rate might indicate a fairly high level of knowledge of European social standards within higher education institutions in Ukraine, the answers to simple questions about the list of rights provided by the Social Charter reveal

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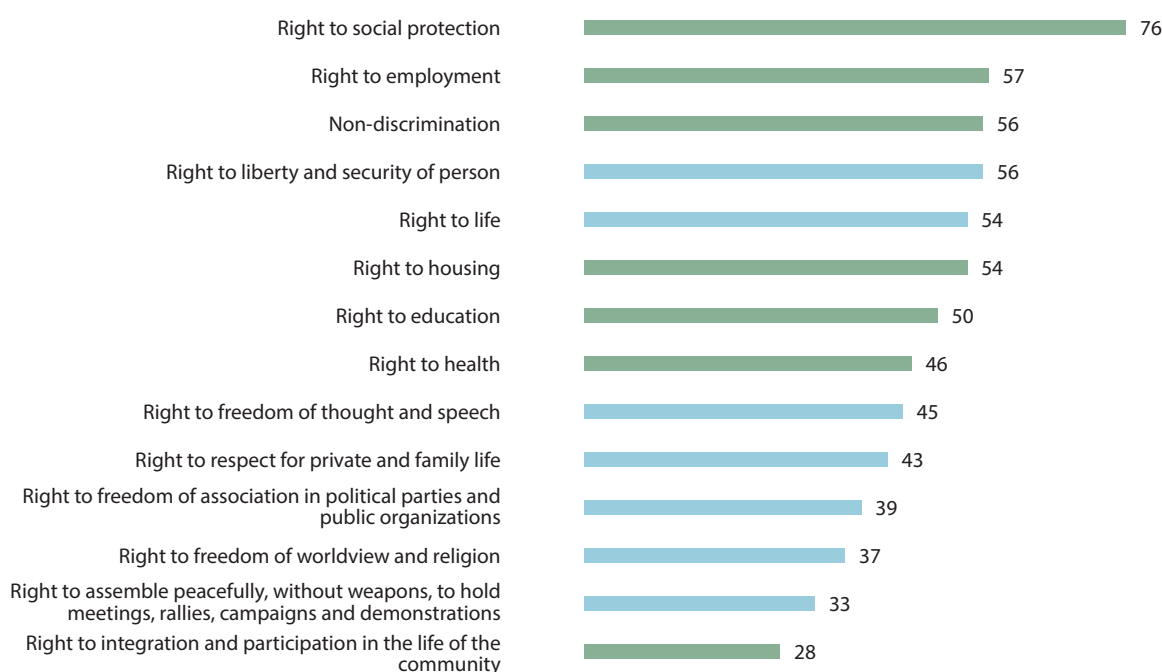
<sup>6</sup>Research into the awareness of certain target groups of people regarding the provisions of the European Social Charter. Survey report. June – September 2020. URL: <https://rm.coe.int/results-of-esc-research-eng-27-10/1680a02bee>.

<sup>7</sup>Ibid, p. 33.

a different picture. Students were asked to determine which rights, from the presented list, are protected under the European Convention for the Protection of Human Rights and Fundamental Freedoms, and which ones under the European Social Charter. The obvious result was the logical correct answer of the majority of respondents regarding the right to social protection. However, almost the same number of respondents further determined that the ESC provided for both the right to employment (57%) and the right to liberty and security (56%), both the right to life (54%) and the right to housing (54 %), the right to health and the right to freedom of thought and conscience also received almost equal percentage of votes (46% and 45% respectively), etc.

**What groups of rights are guaranteed by the European Social Charter?**

*(% of those who rated their knowledge of the ESC at 3, 4 or 5 points out of 5)*



These results confirm that while most students are aware of the existence of the ESC, they miss a profound understanding of its mission and substance. This result is in line with the general finding of this Paper about the lower levels of awareness about the ESC. This said, the student survey confirms a higher rate of genuine interest about studying the ESC among the respondents (about 75%), reconfirming the need to promote the study of the European social standards and of the ESC in particular in the HEIs in Ukraine.

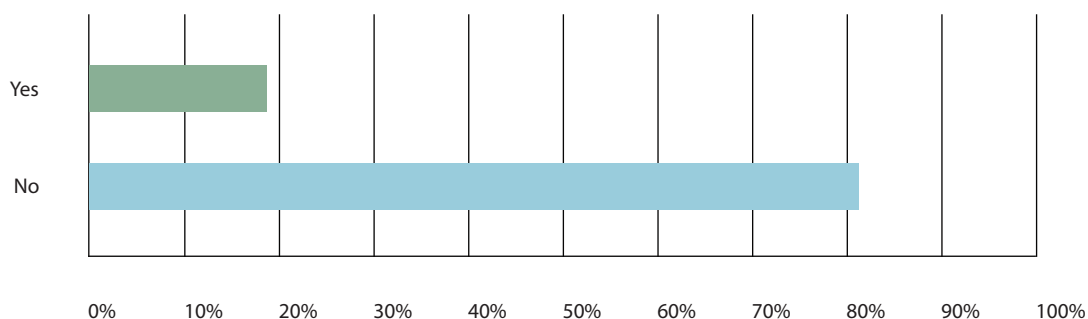
## V. HEI CURRICULA IN OTHER MEMBERS COUNTRIES OF THE COUNCIL OF EUROPE: BEST PRACTICES

As per the methodology of this study, surveys and interviews have been conducted among academics, faculty and experts, and explored the curricula of some of the leading European universities with a focus on the studies of social rights.

The data shows that on average, in universities across the Council of Europe member states the ESC is integrated in academic programmes and curricula to a considerably higher degree than in Ukraine. This gap is especially wide in comparison with universities in member countries of the European Union, including those in Central and East European countries/"new members" (e.g. Poland and Bulgaria). The levels of integration of the ESC in HEI curricula in Council of Europe member states outside of the European Union (countries in the Eastern Partnershp, e.g. Moldova, Armenia, Georgia) are overall comparable with those in Ukraine.

The survey demonstrates that some 18% of leading institutions and/or academic programmes in member states of the Council of Europe may have offered specialised courses focusing on the ESC:

**Do you know any institutions/program in Europe that offers a specialised course on the European Social Charter?**



However, a closer and more scrupulous examination of the curricula and programmes reveals that in most cases, the specialised ESC courses are offered not within regular

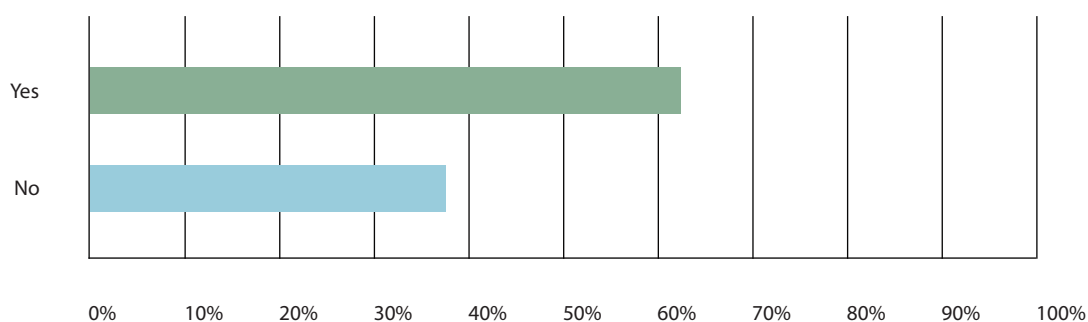


or established university programmes but in the framework of extra-curricular or ad-hoc programmes, including special training courses, seminars, summer schools and within extension programmes, in some of the largest and most established HEIs across the continent.

At the same time, a large number of regular HEIs programmes within the member states of the Council of Europe offer specialised courses specifically focusing on social law or social rights, in most part from a comparative perspective (e.g. Social Rights in Europe, International and European Social Law, Law and Policies of Social Rights), which are not often found in Ukrainian HEI's curricula (see above, Chapter IV).<sup>8</sup> Selected European institutions have offered a designated degree programme (usually a Master's) in social rights.<sup>9</sup> Such programmes provide syllabi with a substantial number of class hours devoted to the ESC, as well as to the European Committee of Social Rights.

The surveys also reveal that in more than 60% of HEIs across the member states of the Council of Europe, ESC may be taught as an essential part of courses related to the subject matter of the ESC:

**Do you know any institution/programme in Europe where the European Social Charter is taught as an important part of any other course?**



<sup>8</sup>Among these, see <https://phavi.umcs.pl/at/attachments/2020/0608/080559-sylabus-hoffman-international-and-european-social-law-corr2.pdf>; <https://www.unimi.it/en/education/degree-programme-courses/2020/law-and-policies-social-rights-protection-europe>; [https://mdsec.law.auth.gr/sites/default/files/courses/Syllabus\\_Konsta\\_EN\\_2017.pdf](https://mdsec.law.auth.gr/sites/default/files/courses/Syllabus_Konsta_EN_2017.pdf).

Disclaimer: here and below, we refer to the syllabi and programmes which are posted for public use only.

<sup>9</sup>See, for example, Master's Degree Programme in European and Comparative Social Law, offered jointly by Aristotle University in Thessaloniki and Toulouse 1 Capitole University: <http://mdsec.law.auth.gr/en>.

A detailed review of over thirty university programmes in the member states of the Council of Europe (primarily in the European Union) within the discipline of law, including labour law, social security law, social rights, International Law, International Human Rights Law, and European Union law, as well as within inter-disciplinary studies, including human rights, social protection, social work, and European social policy, etc. reveals that on average, the study of the ESC is integrated in the regular curricula of the leading European programmes to a substantially higher degree than this is done in leading Ukrainian universities (see the list above).<sup>10</sup> The latter statement is true about both the range of disciplines which include a study of the ESC, and the depths of its study within specific disciplines.

Thus, in some of the most advanced European programmes, the ESC is taught as an essential curricular part of a number of courses rather than only within one or two most related subjects where the ESC is found in Ukrainian HEIs.<sup>11</sup> At the same time, ESC is given significantly more time (hours) and attention within each course taught in the advanced European programmes as compared to most advanced Ukrainian universities where, as a general rule, the ESC studies are not especially prioritised even within most relevant courses (see above, chapter IV).<sup>12</sup> In particular, our review of over thirty course syllabi on social law, social rights and European social law, as well as interviews with a number of faculty members teaching these and other related subjects in universities across the European Union, demonstrate that the ESC is considered the backbone of the course as its main source and framework (roughly the same way as a country's constitution could be for a course on domestic constitutional law), while the case-law of the European Committee of Social Rights is viewed as the main reference point for the discussion on different subjects within the course (in the same analogy, as the case-law of a constitutional court might be in a constitutional law course).

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<sup>10</sup>Some of most advanced programmes integrating ESC into regular curricula include, among others: University of Antwerp, Leiden University, Jagiellonian University in Krakow, Marie Curie Skłodowska University, Université catholique de Louvain, Université de Strasbourg, Sofia University "St. Kliment Ohridski", Institut de recherche en droit international et européen de la Sorbonne (IREDIES), Faculté de droit de sciences politiques et de gestion de Strasbourg, Human Rights Programme, Essex University.

<sup>11</sup>As an example, the Jagiellonian University offers in-depths ESC studies in Labour Law, Social Policy, European Labour Law, European Human Rights Law and International Human Rights programmes. In contrast, in Ukraine, the ESC is mostly included within the framework of Labour Law, and less frequently, within social security courses.

<sup>12</sup>See [https://www.usosweb.uj.edu.pl/kontroler.php?\\_action=katalog2/przedmioty/pokazPrzedmiot&prz\\_kod=WPA-10.P-3203](https://www.usosweb.uj.edu.pl/kontroler.php?_action=katalog2/przedmioty/pokazPrzedmiot&prz_kod=WPA-10.P-3203) for how the ESC is integrated in a labour law course at the Jagiellonian University.

From the methodological perspective, the inspection of the curricula in the selected programmes in HEIs institutions of the European Union allows to identify a number of common patterns and tendencies which are highlighted below in a view that these can be taken as guidelines for developing the curricula in Ukrainian HEIs; scrupulous observation of these patterns has also helped to draw some of the recommendations presented in the next section of this Report.

■ The ESC is primarily taught in a comparative perspective, in most part as an organic part of courses on international human rights or international social law and policy, as well as, even more commonly, within the framework of courses on European social law/policy, European human rights law, and European labour law. The comparative method is also prevalent wherever the ESC is studied in the framework of courses on domestic social law or related domestic law (e.g. labour law): here, the principles and “standards” of the ESC are compared and contrasted with those provided by the respective domestic legislation, or in domestic legislation of the other countries of the European Union.

■ The ESC is rarely taught in an “abstract mode” or merely as a framework policy document outlining general aspirations or principles in the area of social rights or standards of social protection; in a large number of cases observed it is studied as a legal document which can be/is applied in practice. This is especially relevant to disciplines delivered within law schools, including within courses on international and comparative law (international social law, international labour law, European social law, European labour law).

■ In conjunction with the previous point, it has been observed that the ESC is principally studied in line with the legal positions and the case-law of the European Committee of Social Rights, and that the practice of the latter is organically integrated with the curricula of most disciplines, including European, international or domestic social law, as a law school subject.

■ In a fairly common way, the ESC and the case-law of the European Committee of Social Rights are studied in so-to-say “dialectic” and critical perspectives, as legal principles and standards which are subject to stable evolution and review, rather than as a static body of law. This observation is in line with the most common public expectations of social evolution and development of a welfare state within the Europe Union, where social standards and safeguards are inevitably viewed in the context of expected economic, social and technological advancement.<sup>13</sup> While typical to almost all disciplines reviewed, this pattern is more illustrative in the inter-

disciplinary subjects, including those on international and European social or labour law. In more conventional law-school disciplines, the patterns is observed through the academic treatment of the case law (including decisions and conclusions) of the European Committee of Social Rights in which a critical and dynamic perspective has often been observed.

■ As a general pattern, the ESC is commonly studied as an integral and essential constituent of the European human rights framework, on par with the European Convention on Human Rights (ECHR), the EU Charter of Fundamental Rights (where applicable) and other core European human rights instruments. The statement is by and large true about the treatment of the case-law of the European Committee of Social Rights, and while the latter is visibly less prominent in the syllabi of relevant legal disciplines, for obvious reasons, its comparable rank in the hierarchy of legal sources and equivalent significance vis-à-vis the case law of the European Court of Human Rights is clearly visible.

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<sup>13</sup>For both official and public expectations on the evolution of social standards, see e.g. [https://eminetwork.files.wordpress.com/2017/11/social-summit-european-pillar-social-rights-booklet\\_en.pdf](https://eminetwork.files.wordpress.com/2017/11/social-summit-european-pillar-social-rights-booklet_en.pdf), [https://www.europeansocialsurvey.org/docs/findings/ESS8\\_toplevels\\_issue\\_8\\_welfare.pdf](https://www.europeansocialsurvey.org/docs/findings/ESS8_toplevels_issue_8_welfare.pdf).

## VI. MAIN FINDINGS AND RECOMMENDATIONS

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**B**ased on the analysis of the multiple gaps and needs as identified in the Paper, it is concluded that the development of higher education agenda, competitive training programmes and enhanced modern curricula on social rights in Ukraine requires a coordinated effort by multiple stakeholders involved, but primarily by the Government of Ukraine and its respective agencies/ministries (particularly of the Ministry of Social Policy, Ministry of Education and Science, and Ministry of Justice), the higher education institutions, and self-governing professional associations, such as bar associations and associations of judges, as well as of the larger civil society and the expert community.

Following is a list of recommendations which these entities can consider in a view to address the issues and needs identified in the Paper.

### 1. A comprehensive and “aggressive” awareness raising campaign

The Government and its respective agencies (Ministry of Social Protection, Ministry of Education and Science, and Ministry of Justice) should launch an ambitious and well-designed campaign of publicity and training to promote a necessary understanding of the Charter and the respective social standards among the general public, as well as an advanced knowledge of the Charter and the standards among legal and social practitioners, including the bar and the judiciary, academics, and experts.

### 2. Case law of the Committee translated to Ukrainian

In the framework of the action(s) mentioned in Recommendation 1, the Government can consider making a visible effort at translating the decisions and conclusions (case law) of the European Committee of Social Rights to Ukrainian and making it publicly available through available web-based and other resources, to boost wider awareness and application of the Charter and the relevant standards as elaborated by the Committee. Among multiple effects, this may most certainly support

development of academic curricula and advancement of teaching practices in the field of social rights within higher education institutions.

### 3. Higher Education Standards

The Government could consider amending the Standards of Higher Education in Law, International Law, Social Work, Social Security to reflect the competences and learning outcomes necessary to understand the ESC as the main legal and policy document on social rights.

### 4. ESC-related questions in the Unified Admission Test for admission to master's programme in Law and/or International Law

Consideration can be given to including questions on the ESC in the Admission Tests for the master's programmes in Law and in International Law.

The Program of the Unified professional admission examination to master's programs in the specialties «Law», «International Law» should be extended and the branches of law should be complemented by the labour and social law, including European labour and social standards, European Social Charter.

### 5. Comprehensive revision of HEI curricula on social rights and related subjects

Institutions of higher education may consider a comprehensive revision of their curricula based on the needs and the best practices identified in this Paper. Teaching hours on the ESC should be substantially increased in both law school and in interdisciplinary subjects. Law schools should boost inclusion of the case-law of the European Committee of Social Rights in the curricula/syllabi of a number of subjects related to social and labour rights.

The inclusion of European Social Charter and case-law of the European Committee of Social Rights to the different education programme could be made in 3 main ways: as a special part (module) of the different subjects related to social and labour law, human rights; as a special course (obligatory or elective) within the various education programmes; and as a specialised course (within one programme or interdisciplinary) on the ESC.

## 6. Teaching methodology

Academic programmes instructing on subjects related to the ESC should make an effort at upgrading their teaching methodology to introduce comparative and critical perspectives in studying social rights as a field of law affected by evolving standards of welfare and by constantly changing economic, social and technological realities.

## 7. TOT programmes

The Government and the HEIs should make a visible effort to develop Training of Trainers (TOT) programmes to prepare a necessary pool of teachers and academics who are properly trained to apply and to teach ESC and the related case-law of the European Committee of Social Rights.

## 8. Academic specialisation and PhD programmes

HEI could consider promoting academic training and specialisation in the field of social rights/comparative and/or European social rights in a view to prepare a generation of academics who can assume the burden of leadership in academic training and research on ESC-related subjects. Consideration can be given to amending the regulatory framework for post-graduate education to allow HEIs to introduce PhD programmes with mentioned specialisations or sub-specialisations.

HEI which have PhD programmes might also consider including elective courses on the ESC and the case-law of the European Committee of Social Rights in their PhD curricula. HEIs could also consider developing peer reviewed journals on the subject of comparative social rights to promote academic work and exchange on social law and the ESC.

## 9. Study/Training Abroad

Consideration can be given to supporting, designing and implementing recurring training and study programmes for Ukrainian academics (lecturers, teachers), as well as experts and trainers, in leading European universities/programmes centres of excellence in social rights and social law. The list of advanced university programmes in the member states of the Council of Europe, mentioned in this Paper, can be consulted for these purposes.

## 10. Pilot specialised course on the ESC

A serious consideration could be given to designing an experimental pilot course on the ESC in one of the leading Ukrainian institutions, as an elective for advanced students with a specialisation in social law, human rights or a related subject. Upon success, the course can be offered across Ukrainian universities and the experience can be widely shared among other schools and universities (TOT, study visits etc).

## 11. Degree programme in European Social Rights

Ukrainian HEIs may review the possibility of building a specialised degree programme (Master's programme) on comparative and/or European social rights, with a heavy instruction programme featuring the ESC and the Committee case law. The programme may be offered as a collaborative initiative between two and more Ukrainian, as well as Ukrainian and foreign/European universities. As a pilot initiative, the programme may attract a large student body from across Ukraine, and can become a pioneer and role-model among other universities wishing to introduce a similar programme.

## 12. Extra-curricular instruction and extension programmes

Ukrainian HEIs could consider introduction of extra-curricular instruction on subjects related to the ESC, particularly in the framework of specially-designed training courses, seminars, summer schools, etc. Special consideration could be given to teaching or training programmes within extension programmes- courses for persons who are not regularly enrolled in as students, such as practitioners, experts, prospective students, etc. Extension course can be delivered as evening classes or classes in off-campus facilities or through web-based platforms.

## 13. Moot Court

To boost awareness and professional interest in the ESC and the case-law of the European Committee of Social Rights, a serious consideration can be given to organisation of an annual nation-wide moot-court contest with the involvement of students from different universities and regions of Ukraine.



#### 14. Summer/Winter School

To boost awareness and professional interest in European social rights, and to develop an institutional capacity for an academic training of trainers proficient in the ESC, consideration can be given to organisation of an annual summer/winter schools for students, researchers and early-career academics with a narrow focus on the European Social Charter and the case-law of the European Committee of Social Rights. Two or more tracks of summer schools may be designed for students of law on one hand (with a special focus on legal application and the case-law of the European Committee for Social Rights) and students in other disciplines or in inter-disciplinary programs.

#### 15. Training programmes for practitioners

Design and develop training programmes specifically for practicing attorneys/advocates, as well as for judges. This can contribute to the application of the provisions of the Charter and the legal positions of the Committee as part of the positive law and an integral component of Ukraine's domestic law to raise awareness of the ESC and the case-law of the European Committee of Social Rights among practitioners and the judiciary. Consideration can be given to organising and developing these programmes in cooperation with or under the auspices of leading professional associations of advocates (the bar) or judges.

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The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

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[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



Charte  
sociale  
européenne

