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“Protecting social rights in times of war in Ukraine”

Side event on the occasion of the High-Level Conference on the European Social Charter, organised under the auspices of the Lithuanian Presidency of the Committee of Ministers, as part of the follow-up to the 4th Summit of the Council of Europe

Opening remarks by Michael O’Flaherty
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Good morning, Ministers, President of the Committee.

Dear friends,

I am very pleased to have been invited to speak here and to participate in this important initiative.

Let me begin by expressing, in my very first words, my sincere solidarity and respect for our Ukrainian friends, many of whom are with us today and all of whom are represented by you, Minister.

The war of aggression has had a devastating impact on human well-being and on the infrastructure that is essential for people’s lives and welfare.

The figures are well known, but they're worth repeating: some 11,000 civilians dead, 33,000 civilians casualties in total, 3.5 million people displaced within the country, 8 million refugees in the EU and elsewhere.

Last month, the United Nations reported that 1172 educational establishments as well as 505 medical facilities had been damaged or destroyed. Likewise, as we have just heard, some 70% of the electricity capacity has been destroyed, shocking levels of poverty jumping from 5.5% to 24.1% in 2022, and food prices surging some 40% year on year.

This devastating impact on human well-being affects all human rights - civil, political, economic, social and cultural. But the framing of conflict and responses to it are not systematically framed in terms of the social rights dimension.

There are many reasons for this, which I don't need to go into this morning, one of which is a tussle regarding the relationship between humanitarian law and human rights law. But whatever is the cause of this neglect, it is problematic and any initiative to push back against it is to be welcomed.

I therefore greatly appreciate this event and the many forms of cooperation between Ukraine and the Council of Europe. I acknowledge with respect the project “Enhanced Social Protection in Ukraine”, and

in particular, the way in which it embeds attention to the Social Charter and to case law of the European Committee of Social Rights. It's also about what Ukraine is doing at the moment to stand up for social rights, for instance, including, and perhaps above all, in the context of the EU accession process. I think we can acknowledge with respect and some admiration the way in which Ukraine continues to engage in a serious way with its commitments under the European Social Charter, as exemplified by the recent submission of its report on the cost-of-living crisis.

Notwithstanding these achievements, we can, of course go further in addressing the needs and gaps in social rights that have been identified in recent years. In terms of where they're being identified, I'd suggest a few valuable sources. The first is the sustained work of the European Committee of Social Rights and its engagement in recent years across multiple reports, in analyses and recommendations, which are a very important source for a roadmap for us. I am also thinking of the useful Concluding Observations of the UN Committee on Economic, Social and Cultural Rights, that were adopted as recently as November 2022, and of course, the ongoing human rights reporting of the United Nations.

Let me briefly outline four suggestions for further enriching the social rights dimension of engaging the conflict.

The first is that it will remain important for us to continuously distinguish between immediate humanitarian needs and longer-term goals and objectives. I have been in Ukraine twice in the last few months, once in my former EU capacity, and once, as Commissioner, and I have been struck by the fact that there are essential pieces of infrastructure in the country that cannot wait for the end of the conflict to be restored. Schools need to be rebuilt so that the kids can get back into the classroom, housing need to be provided for internally displaced people, particular in the west of the country. We should find all possible international support to address these immediate humanitarian social needs.

Second, we need to sustain the human rights monitoring of the situation and embed social rights analysis within that monitoring. As I said, I believe that this social rights dimension could be much further developed, for instance, in these very valuable periodic UN reports. We need the record, also for future accountability.

Third, as the engagement with social rights, a more explicit engagement with social rights, deepens, I would encourage greater cooperation with civil society. Ukraine is blessed with a strong, resilient, resourceful, expert civil society, and I think that there could be a mutual benefit, or a gain for society, through a deeper engagement between the actors delivering responses to the social rights crisis and those NGO representatives.

Fourth, and finally, as Ukraine, is quite rightly reaching out to international intergovernmental expertise to support it to addresses the current situation, I'd like to suggest that those intergovernmental partners could find ways to be more nimble, more engaged.

I wonder if the Committee on Social Rights might consider making adjustments to its own procedures so that it can engaged even more in real time. I am not going to go further than that, because the President is with us, and I have no doubt, that she would speak to issues of this kind. I want to acknowledge the important statement made by the Committee on 24 March 2022, which in itself was somewhat innovative in terms of working methods.

I would also like to see the United Nations Special Procedures on social and economic rights more engaged with Ukraine. When I went to check what's been happening in this area recently, I saw that some of the UN special mechanisms on issues like torture, summary disappearance, executions, have come to Ukraine and issued reports, but I didn't see any from the social and economic side of the United Nations.

Finally, I assure you that I will find ways to contribute to standing up for social rights in Ukraine.

Let me now turn to another dimension of engaging social rights in the context of the conflict, namely in the context of peace and reconstruction.

I have been following very closely the conferences on the reconstruction of Ukraine, most recently in Berlin last month, and the outcome of the June Summit in Lucerne on peace in Ukraine. I'm struck by how both Berlin and Lucerne engage with substantive issues of social justice. They do name the key issues, but there's very little framing of the issues in terms of human rights. The words "human rights" are very occasionally in the outcome documents of the conferences, and I would like to encourage that as these peace and reconstruction processes move forward, that human rights be more explicitly present.

Why is that? There are a number of very concrete reasons why this would add value.

First, explicit reference to treaties such as the Charter, will provide elements of roadmaps for building a path to the future.

Second, an explicit reference to human rights and to the instruments ensures that people and human dignity are always at the heart of the efforts. And not just any dignity, but the dignity of those who could otherwise be forgotten, the most marginalised, the most overlooked people in our societies.

Third, an explicit reference to human rights would ensure that the path of reconstruction, the path of peace, also serves to strengthen human rights institutions as elements of peace and reconstruction.

My friends, in my experience of working in conflict and post conflict situations, all of this would undoubtedly lead to better, more widely accepted, and ultimately more durable outcomes.

Before I conclude, let me say a few words about Ukrainian refugees in the EU and elsewhere. The welcome has been generous, and much credit is due to those countries that opened their doors to the millions of Ukrainians who have come to them for help and for shelter. I want to acknowledge the importance of the application of the European Union's Temporary Protection Directive. I want to pay particular tribute to the special role played by cities, by mayors, frankly, more than by ministers, who in many cases who led the way in welcoming Ukrainians into their communities.

But I'm worried at the moment about what we might call a waning welcome after more than two years. It is so important to reinvest in maintaining decent and respectful conditions for all the Ukrainians in the societies of neighbouring countries and EU countries. It is also necessary to invest in integration strategies on the assumption that many people who may ultimately go home will remain, in these host countries for some more time. I also think that the investment in integration could be ratcheted up.

Let me wrap up here by recalling that the Russian war of aggression is a war against human rights, and part of the pushback, part of the fight back against this war, is to stand up for human rights, all human rights, including social rights.

In this spirit, I would like conclude by quoting the last paragraph of the statement of the Committee on Social Rights in March 2022, in which it stated that it considers that the current crisis caused by the Russian Federation's military aggression against Ukraine should not have, as a consequence, the reduction in the protection of the rights recognised by the Charter, both within Ukraine and beyond its borders, and that the states parties to the Charter are bound to take all necessary steps to ensure that

the rights recognised by the Charter are effectively guaranteed at all times, including, where necessary, through international assistance and cooperation.

Thank you for your attention.