

ACTIVITY REPORT 2020



European Committee of Social Rights



European
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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Activity Report 2020

**European Committee
of Social Rights**

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter.

The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by the organisations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

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Introduction

In response to the emerging COVID-19 pandemic, States all over Europe introduced strict measures to protect public health. Those actions have had a very significant impact on a wide range of social rights such as employment and labour rights, the right to social security, social and medical assistance, the right to be protected against poverty and social exclusion as well as the right to housing and education – to name only a few. While the pandemic poses an unprecedented challenge to our society as a whole, it is becoming increasingly clear that the most vulnerable among us find themselves in the eye of the storm, facing the severest consequences. The European Social Charter, which embodies the main European human rights treaty in the area of social rights and which includes a globally unique monitoring process, is therefore an indispensable element to accompany economic recovery while ensuring compliance with comprehensive social rights. Regarding the composition of the European Committee of Social Rights (ECSR), the transition process continued in 2020. After being elected at the 1391st meeting of the Ministers' Deputies on 8 December 2020, **four new members** joined the Committee: Miriam Kullmann (German), Paul Rietjens (Belgian), George N. Theodosis (Greek) and Mario Vinković (Croatian). I would like to welcome them very warmly as part of the Committee and thank them for settling in so quickly in such a challenging and unexceptional situation. Karin Møhl Larsen (Danish), expert in international social security issues and European Union Law and experienced member of the Committee since two years, **was re-elected for a second term**.

The European Committee of Social Rights is constantly working on the improvement of the monitoring under the European Social Charter. To simplify and streamline **the reporting procedure**, the Committee focussed in 2020 on 11 out of the 21 provisions scheduled for examination under the thematic group “employment, training and equal opportunities” having formulated targeted questions to States Parties. This helped the Committee to make the analyses as short and focussed as possible, providing explanations and using pedagogical language in the context of conclusions to support States in understanding what the specific Charter provisions require. The Committee examined 33 national reports, covering the period from 1 January 2015 to 31 December 2018. For the assessment of the reports, the comments submitted by trade unions, National Human Rights Institutions and Non-Governmental Organisations were often crucial. Out of the 349 conclusions adopted, 152 conclusions were of non-conformity to the Charter and 97 conclusions of conformity. In 100 cases, the Committee was unable to assess the situation due to a lack of information. The Committee identified persisting shortcomings related to topics such as the prevalence of poverty amongst people with disabilities, failure to ensure equal enjoyment of labour rights for all, gaps in the prevention of forced labour and labour exploitation and shortfalls in re-training and re-integration of long-term unemployed persons.

In the framework of the **collective complaints** procedure, nine new complaints were lodged against six States Parties: Czech Republic (two), France (two), Italy (two), Belgium (one), Finland (one) and Greece (one). During the sessions held in 2020, the Committee adopted eight decisions on the merits and 17 on admissibility,

including five decisions declaring the complaints inadmissible and one decision declaring a complaint admissible and indicating immediate measures. The decisions on the merits concerned a broad range of problems, from the infringement of the rights of children of unemployed parents or parents on maternity, paternity or parental leave and the creation of geographical inequalities between children and between parents depending on the municipality where they live in Finland to the still persisting gender pay gap and the lack of effective measures to ensure the sufficient representation of women in decision-making bodies within private enterprises in a number of different States. The Committee of Ministers has also adopted four resolutions concerning complaints in Sweden (one), Finland (one) and Italy (two). Furthermore, it examined the simplified reports submitted by eight countries and noted that the situation had been fully or partially brought into conformity with the Charter in response to 17 cases where the Committee had found a violation of the Charter.

The procedure on **non-accepted provisions** concerned seven States this year: Bulgaria, Cyprus, Estonia, Georgia, Ireland, Malta and Montenegro. The reports concerning those countries will be adopted by the Committee in 2021.

The European Committee of Social Rights maintains close contacts with and is grateful for the support of other Council of Europe bodies in the common effort towards the effective implementation of social rights. For example, Marija Pejčinović Burić, Secretary General of the Council of Europe, stressed the importance of social rights in her report "**Multilateralism 2020**". Furthermore, the Committee also continued to work with other international bodies, agencies, and States that are active in the field of social rights. Cooperation with the European Union continues to be very close, including on the rights of older persons and the implementation of the European Pillar of Social Rights.

Due to the COVID-19 pandemic, the protection of social rights became a key issue for national governments as well as human rights defenders. In April 2020, the European Committee of Social Rights issued a **statement of interpretation on the right to protection of health**, reminding States that responses to the COVID-19 pandemic must be designed and implemented having regard to the current state of scientific knowledge and in accordance with relevant human rights standards. Organised by the Greek Chairmanship of the Committee of Ministers of the Council of Europe, a high-level videoconference on "Protection of human life and public health in the context of a pandemic" took place on 3 June 2020. Speaking at the event, the former President of the Committee, Giuseppe Palmisano, signalled that the virus and its social impacts will last for years to come and highlighted that pandemic-readiness requires States to ensure the enjoyment of a range of social rights, and that States should therefore strengthen their commitment to the Charter.

In 2020, the European Committee of Social Rights also established and published criteria for **equal pay and equal opportunities for women in employment**. Together with the decisions on related collective complaints, this led the Committee of Ministers to address recommendations to 14 countries which were found to be in violation of the Charter and to adopt a declaration on equal pay and equal opportunities for women and men in employment.

Other Council of Europe activities also support the European Social Charter. For example, the European Social Cohesion Platform (PECS) continued its functioning under the renewed mandate for 2020-2021, focussing on the impact of the COVID-19 pandemic on social rights and social cohesion. The Human Rights Education for Legal Professionals (HELP) course on labour rights was revised. And the Council of Europe Directorate General Human Rights and Rule of Law (DGI) contributed to the European Commission consultation on the Action Plan to implement the European Pillar of Social Rights.

The economic crisis of 2008 highlighted the importance of realising economic and social rights in order to shield European citizens from poverty and social exclusion. A need that is underlined even more by the ongoing **COVID-19 pandemic**. We have seen that the failure to deliver on the right to health has detrimental effects on other rights, for example on child poverty and unemployment. Although we cannot assess the exact extend of the crisis yet, it is very clear that a major effort will be needed to recover from it. Crises, whatever their cause, should not be followed by a reduction of the protection or in the enjoyment of the rights enshrined in the European Social Charter. The Committee will be very vigilant in order to ensure that social rights are adequately protected throughout this period of economic recovery and improved in the longer term.

Karin Lukas,
President of the European Committee of Social Rights

1. Overview and key figures

The European Committee of Social Rights (ECSR) was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States Parties under the 1996 Revised European Social Charter, the 1988 Additional Protocol and the initial 1961 European Social Charter¹. It is made up of 15 independent members elected by the Committee of Ministers (see below on its composition)².

The Committee conducts its supervision through two distinct but complementary procedures: the reporting procedure, in which it examines written reports submitted by States Parties at regular intervals, and the collective complaints procedure, which allows certain national and international organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.³

The national reports and the collective complaints are examined during the Committee's sessions, seven in 2020:

- ▶ 317th Session 7-11 December 2020
- ▶ 316th Session 19-23 October 2020
- ▶ 315th Session 7-11 September 2020
- ▶ 314th Session 6-10 July 2020
- ▶ 313th Session 16-17 June 2020
- ▶ 312th Session 11-14 May 2020
- ▶ 311th Session 27-31 January 2020

The Committee examined 33 national reports presented by States Parties to the Charter describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- the right to equal opportunities between women and men (Article 20);
- the right to protection in cases of termination of employment (Article 24);
- the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

1. See Appendix 1: Signatures and ratifications of the European Social Charter

2. See Appendix 2: Composition of the European Committee of Social Rights at 1 January 2021

3. In response to national reports, the Committee adopts conclusions; in response to collective complaints, it adopts decisions.

The reports covered the period from 1 January 2015 until 31 December 2018.

At its session in January 2021, the European Committee of Social Rights adopted 349 conclusions⁴ on employment, training and equal opportunities in respect of the 33 States, including 152 conclusions of non-conformity to the Charter and 97 conclusions of conformity. In 100 cases, the Committee was unable to assess the situation due to lack of information (“deferrals”).

Due to restrictions related to the COVID-19 outbreak, the Committee presented its conclusions on 24 March 2021 by an online press conference and through social media.

As to the collective complaints procedure, nine new complaints were lodged in 2020 against six States Parties: Czech Republic (two), France (two), Italy (two), Belgium (one), Finland (one) and Greece (one), five complaints were submitted by national trade unions and four by international NGOs. The Committee adopted eight decisions on the merits and 17 on admissibility, including five decisions declaring the complaints inadmissible and one decision declaring complaints admissible and indicating immediate measures. Decisions on the merits concerned, for example, issues related to the institutionalisation of Roma children and children with disabilities under the age of three in the Czech Republic; abuses resulting from the continued repetition of certain fixed-term employment contracts in the public and education sectors in Italy; access to mainstream education for children with intellectual disabilities in the French Community of Belgium; the right of trade unions to designate their representatives within the company in France; the legal protection of children below the age of criminal responsibility in juvenile justice system in the Czech Republic; the absence of provisions enabling members of the Irish Defence Forces to discharge from the armed forces on grounds of conscientious objection in Ireland; or the setting of an age limit for candidates for an election to the board of the Order of health care professionals in France.

With regard to the decisions adopted during 2020, the average processing time was 10.3 months for the 17 admissibility decisions and 32.7 months for the eight decisions on the merits. In comparison, the average processing times for the whole period from 1998 to 2020 were 6 months for admissibility decisions and 17.5 months for decisions on the merits.

4. [Conclusions 2020 of the European Committee of Social Rights: States Parties to the European Social Charter still struggle with problems related to social rights discrimination - News \(coe.int\)](#)

2. Composition of the European Committee of Social Rights

The composition of the Committee is governed by Article 25 of the Charter. Its 15 members are required to be “*independent experts of the highest integrity and of recognised competence in international social questions*”. They are nominated by States Parties and elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

The Committee of Ministers of the Council of Europe elected five new members of the European Committee of Social Rights at the 1391st meeting of the Ministers’ Deputies on 8 December 2020 (CM/ResChS(2020)7):

- ▶ Dr Miriam Kullmann (German), academic and expert in the field of international labour law and social security. Dr Kullmann is also an Assistant Professor in Vienna University of Economics and Business and in the Institute for Austrian and EU Labour and Social Security Law.
- ▶ Mr Paul Rietjens (Belgian), academic and expert in European and international law, University of Ghent, Belgium. Mr Rietjens is also an Honorary Director General of the Federal Public Department (SPF) of Foreign Affairs, Foreign Trade and Development Co-operation, Belgium.
- ▶ Mr Mario Vinković (Croatian), Professor of Labour law and Social security, Holder of the Jean Monnet Chair in EU Labour, Equality and Human Rights Law (2013-2016), Faculty of Law, University of Osijek, Croatia.
- ▶ Mr George N. Theodosis (Greek), Assistant Professor of Labour and Employment Law and Director of the Laboratory of Comparative and European Social Law at the Democritus University of Thrace, Komotini, Greece.

Moreover, the Ministers’ Deputies re-elected for another term Ms Karin Møhl Larsen (Danish), expert in international social security issues and European Union Law, retired.

The term of office for all these members began on 1 January 2021 and will end on 31 December 2026.

On 28 January 2021, during its 318th session, the European Committee of Social Rights elected its new Bureau for a period of two years. Karin Lukas was elected as President of the Committee, Eliane Chemla and Aoife Nolan were elected Vice-Presidents and Giuseppe Palmisano was elected as new General Rapporteur.

3. Collective complaints procedure

3.1. Overview

Nine new complaints were lodged in 2020⁵. During the seven sessions held in 2020, the European Committee of Social Rights adopted eight decisions on the merits and 17 on admissibility, including five decisions declaring the complaints inadmissible and one decision declaring a complaint admissible and indicating immediate measures.

The nine complaints registered in 2020 were lodged against six States Parties: Czech Republic (two), France (two), Italy (two), Belgium (one), Finland (one) and Greece (one); five complaints were submitted by national trade unions and four by international non-governmental organisations (INGOs).

With regard to the decisions adopted during 2020, the average processing time was 10.3 months for the 17 admissibility decisions and 32.7 months for the eight decisions on the merits. In comparison, the average times for the whole period from 1998 to 2020 were 6 months for admissibility decisions and 17.5 months for decisions on the merits.

3.2. Decisions made public in 2020

In 2020, the following 18 decisions on the merits were made public:

- ▶ **The decision on the merits in Central Union for Child Welfare (CUCW) v. Finland, Complaint No. 139/2016, became public on 4 February 2020.**

The Central Union for Child Welfare alleged a violation of Articles 16, 17 and 27§1(c) taken alone and Article E in conjunction with each of these provisions of the Charter, on the ground that because of the amendments to its Act on Early Childhood Education and Care, which came into force on 1 August 2016, Finland had:

- infringed the rights of children of unemployed parents or parents on maternity, paternity or parental leave, in breach of Articles 16, 17, 27§1(c) and E of the Charter; and
- infringed the rights of the parents referred to above, in breach of Articles 16, 17, 27§1(c) and E of the Charter; and
- created geographical inequalities between children and between parents depending on the municipality where they live, discriminating, in particular, against children and their parents in the economically least advantaged municipalities in breach of Articles 16, 27§1(c) and E of the Charter.

5. See Appendix 3: Collective Complaints registered in 2020

In its decision on the merits, adopted on 11 September 2019, the Committee concluded:

- by 10 votes to 4, that there was a violation of Article E taken in conjunction with Article 17§1(a) of the Charter;
- by 12 votes to 2, that there was a violation of Article 27§1(c) of the Charter;
- by 13 votes to 1, that there was a violation of Article E taken in conjunction with Article 16 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2020)3⁶ on 11 March 2020. It noted that, according to information provided by the Finnish authorities, that amendments introduced into the legislation, due to enter into force as of 1 August 2020, would enable all children to have an equal right of access to full-time early childhood care and education services regardless of the socio-economic status of the parents.

- ▶ **The decision on the merits in *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 158/2017, became public on 11 February 2020.**

The CGIL alleged that the provisions contained in Articles 3, 4, 9 and 10 of Legislative Decree No. 23 of 4 March 2015 violated Article 24 (the right to protection in cases of termination of employment) of the Charter as, in cases of unlawful dismissal in the private sector, they provided for compensation that has a ceiling, which precluded any ability of the courts to assess and acknowledge any additional losses suffered by the worker as a result of the dismissal.

In its decision on the merits adopted on 11 September 2019, the Committee concluded:

- by 11 votes to 3 that there was a violation of Article 24 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2020)2⁷ on 11 March 2020.

- ▶ **The decision on the merits in *University Women of Europe (UWE) v. Belgium*, Complaint No. 124/2016, became public on 29 June 2020.**

UWE alleged that the situation in Belgium constituted a violation of Articles 1, 4§3, 20 and E of the Charter on the following grounds:

- Firstly, a pay gap between men and women still persists and is unfavourable to women. UWE maintained that Belgium has not achieved equal pay for equal, similar or comparable work because of the failure to ensure that the relevant legislation is enforced in practice.
- Secondly, that only a very small number of women occupy decision-making positions within private companies, in spite of domestic legislation enacted since 2011.

6. [CM/ResChS\(2020\)3](#): Resolution - The Central Union for Child Welfare (CUCW) v. Finland - Complaint No. 139/2016 (Adopted by the Committee of Ministers on 11 March 2020 at the 1370th meeting of the Ministers' Deputies)

7. [CM/ResChS\(2020\)2](#): Resolution - *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy* - Complaint No. 158/2017 (Adopted by the Committee of Ministers on 11 March 2020 at the 1370th meeting of the Ministers' Deputies)

In its decision on the merits adopted on 6 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value:
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 9 votes to 6, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency is not ensured;
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies;
- ▶ unanimously, that there was no violation of Article 20.c of the Charter as regards promotion of equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)¹⁸ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Bulgaria, Complaint No. 125/2016, became public on 29 June 2020.**

UWE alleged that the situation in Bulgaria constituted a violation of Articles 1, 4§3, 20 and E of the Charter on the following grounds:

- Firstly, that a pay gap between women and men still persists and is unfavourable to women. UWE maintained that Bulgaria has not achieved equal pay for equal work and that it has not ensured that the relevant legislation is enforced in practice.
- Secondly, that a very small number of women occupy decision-making positions within private companies, as there is no legislation requiring gender equality on decision-making boards within private enterprises.

In its decision on the merits, adopted on 6 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 14 votes to 1, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that access to effective remedies was not ensured;

8. [CM/RecChS\(2021\)1](#): Recommendation - University Women of Europe (UWE) against Belgium - Complaint No. 124/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency was not ensured and job comparisons were not enabled;
- by 14 votes to 1, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that the obligation to maintain effective equality bodies in respect of equal pay was not satisfied;
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was a violation of Article 20.d of the Charter on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)2⁹ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Croatia, Complaint No. 126/2016, became public on 29 June 2020.**

UWE alleged that the situation in Croatia constituted a violation of Articles 1 and 4§3 of the 1961 Charter and Article 1 of the 1988 Additional Protocol on the following grounds:

- Firstly, that a gender pay gap between women and men still persists to the detriment of the former. UWE maintained that Croatia has not achieved equal pay for equal work or work of equal value and has not ensured the respect for the principle in practice.
- Secondly, that women are still under-represented in decision-making positions in private companies.

In its decision on the merits, adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Article 1.c of the 1988 Additional Protocol as regards recognition of the right to equal pay in the legislation;
 - unanimously, that there was a violation of Article 1.c of the 1988 Additional Protocol on the ground that access to effective remedies was not ensured;
 - unanimously, that there was a violation of Article 1.c of the 1988 Additional Protocol on the ground that pay transparency was not ensured;
 - by 12 votes to 3, that there was no violation of Article 1.c of the 1988 Additional Protocol as regards effective equality bodies;
- ▶ unanimously, that there was a violation of Article 1.c of the 1988 Additional Protocol on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.

9. [CM/RecChS\(2021\)2](#): Recommendation - University Women of Europe (UWE) against Bulgaria - Complaint No. 125/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- ▶ unanimously, that there was a violation of Article 1.d of the 1988 Additional Protocol on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)3¹⁰ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Cyprus, Complaint No. 127/2016, became public on 29 June 2020.**

UWE alleged that the situation in Cyprus constituted a violation of Articles 1, 20 as well as Article E on the following grounds:

- Firstly, the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, only very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures to ensure the sufficient representation of women in decision-making bodies within private enterprises.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Article 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 12 votes to 3, that there was no violation of Article 20.c of the Charter as regards effective access to remedies;
 - unanimously, that there was a violation of Article 20.c of the Charter on the ground that pay transparency is not ensured in practice;
 - by 12 votes to 3, that there was no violation of Article 20.c of the Charter as regards equality bodies.
- ▶ by 14 votes to 1, that there was no violation of Article 20.c of the Charter as regards measures to promote equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was a violation of Article 20.d of the Charter on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)4¹¹ on 17 March 2021.

10. [CM/RecChS\(2021\)3](#): Recommendation - University Women of Europe (UWE) against Croatia - Complaint No. 126/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

11. [CM/RecChS\(2021\)4](#) : Recommendation - University Women of Europe (UWE) against Cyprus - Complaint No. 127/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Czech Republic, Complaint No. 128/2016, became public on 29 June 2020.**

UWE alleged that the situation in the Czech Republic constituted a violation of Articles 1 and 4§3 of the 1961 Charter and Article 1 of the 1988 Additional Protocol on the following grounds:

- Firstly, that the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, only a very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures to ensure a balanced representation of women in decision-making bodies within private enterprises.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Article 4§3 and Article 1.c of the 1988 Additional Protocol as regards recognition of the right to equal pay in the legislation;
 - by 12 votes to 3, that there was no violation of Article 4§3 and Article 1.c of the 1988 Additional Protocol as regards access to effective remedies;
 - unanimously, that there was a violation of Article 4§3 and Article 1.c of the 1988 Additional Protocol on the ground that pay transparency was not ensured and job comparisons were not enabled in practice;
 - by 13 votes to 2, that there was no violation of Article 4§3 and Article 1.c of the 1988 Additional Protocol as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 1.c of the 1988 Additional Protocol on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ by 14 votes to 1, that there was a violation of Article 1.d of the 1988 Additional Protocol on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making bodies within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)5¹² on 17 March 2021.

12. [CM/RecChS\(2021\)5](#) : Recommendation - University Women of Europe (UWE) against Czech Republic - Complaint No. 128/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Finland, Complaint No. 129/2016, became public on 29 June 2020.**

UWE alleged that the situation in Finland breaches Articles 1, 4§3, 20 and E of the Charter on the following grounds:

- Firstly, that a gender pay gap between women and men still persists and is unfavourable to women. UWE maintained that Finland has not achieved equal pay for equal, similar or comparable work.
- Secondly, women are still under-represented in decision-making positions within companies.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that access to effective remedies was not ensured;
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards pay transparency and job comparisons;
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)6¹³ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. France, Complaint No. 130/2016, became public on 29 June 2020.**

UWE alleged that the situation in France constituted a violation of Articles 1, 4§3 and 20 as well as Article E of the Charter on the following grounds:

- Firstly, that the pay gap between women and men still persists and is unfavourable to women. Moreover, France has not achieved equal pay for equal, similar or comparable work in practice.
- Secondly, only a very small number of women hold decision-making positions in private companies, despite legislation adopted in 2011 requiring 40% representation of women in decision-making positions in private companies.

13. [CM/RecChS\(2021\)6](#) : Recommendation - University Women of Europe (UWE) against Finland - Complaint No. 129/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards pay transparency and job comparisons;
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ by 14 votes to 1, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ by 14 votes to 1, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making bodies within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)7¹⁴ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Greece, Complaint No. 131/2016, became public on 29 June 2020.**

UWE alleged that the situation in Greece constituted a violation of Articles 1, 4§3 and 20 as well as Article E combined with Articles 4§3 and 20 of the Charter on the following grounds:

- Firstly, that the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, that only a very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures in order to ensure the sufficient representation of women in decision-making positions within private enterprises.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that access to effective remedies was not ensured;

14. [CM/RecChS\(2021\)7](#): Recommendation - University Women of Europe (UWE) against France - Complaint No. 130/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency was not ensured in practice;
- by 12 votes to 3, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was a violation of Article 20.d of the Charter on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making bodies within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)8¹⁵ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Ireland, Complaint No. 132/2016, became public on 29 June 2020.**

UWE alleged that the situation in Ireland constituted a violation of Articles 1, 4§3 and 20, as well as Article E combined with Articles 4§3 and 20 of the Charter, on the following grounds:

- Firstly, that the pay gap between women and men still persists and is unfavourable to women. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, that a very small number of women occupy decision-making positions within private companies, as there are no effective legislative measures to ensure the sufficient representation of women in decision-making bodies within private enterprises.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 13 votes to 2, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that the pay transparency was still not ensured in practice;
 - by 13 votes to 2, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there was an absence of indicators showing measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was a violation of Article 20.d of the Charter on the ground that there had been insufficient progress in ensuring a balanced representation of women in decision-making positions within private companies.

15. [CM/RecChS\(2021\)8](#): Recommendation - University Women of Europe (UWE) against Greece - Complaint No. 131/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

The Committee of Ministers adopted Recommendation CM/RecChS(2021)9¹⁶ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Italy, Complaint No. 133/2016, became public on 29 June 2020.**

UWE alleged that the situation in Italy constituted a violation of Articles 1, 4§3, and 20 as well as Article E of the Charter on the following grounds:

- Firstly, that a pay gap between women and men still persists and is unfavourable to women.
- Secondly, that a very small number of women occupy decision-making positions within private companies, despite the legislation enacted.

In its decision on the merits adopted on 6 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 11 votes to 4, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency was not ensured;
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter as the obligation to collect statistical data on pay has not been complied with and as there has been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)10¹⁷ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. the Netherlands, Complaint No. 134/2016, became public on 29 June 2020.**

UWE alleged that the situation in the Netherlands constituted a violation of Articles 1, 4§3, 20 as well as E of the Charter on the following grounds:

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16. [CM/RecChS\(2021\)9](#): Recommendation - University Women of Europe (UWE) against Ireland - Complaint No. 132/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)
 17. [CM/RecChS\(2021\)10](#): Recommendation - University Women of Europe (UWE) against Italy - Complaint No. 133/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- Firstly, that a pay gap between women and men still persists. UWE maintains that the Netherlands has not achieved equal pay for equal work and has not ensured the respect for the principle in practice.
- Secondly, that women are still under-represented in decision-making positions within private companies.

In its decision on the merits adopted on 6 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 8 votes to 7, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - unanimously, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency was not ensured;
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there has been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)11¹⁸ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Norway, Complaint No. 135/2016, became public on 29 June 2020.**

UWE alleged that the situation in Norway constituted a violation of Articles 1, 4§3 and 20 as well as Article E:

- Firstly, that the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, that, in the absence of effective legislation, only a very small number of women occupy decision-making positions within private companies. The 40% quota for the under-represented sex applies only to listed companies.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;

18. [CM/RecChS\(2021\)11](#): Recommendation - University Women of Europe (UWE) against Netherlands - Complaint No. 134/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- by 13 votes to 2, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
- by 14 votes to 1, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that job comparisons were not enabled;
- by 13 votes to 2, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)12¹⁹ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Portugal, Complaint No. 136/2016, became public on 29 June 2020.**

UWE alleged that the situation in Portugal constituted a violation of Articles 1, 4§3, 20 and E of the Charter on the following grounds:

- Firstly, a pay gap between women and men still persists to the detriment of the former. UWE maintained that Portugal has not achieved equal pay for equal work and has not ensured the respect for the principle in practice.
- Secondly, that women are still under-represented in decision-making positions in private companies.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - by 11 votes to 4, that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards pay transparency and job comparisons;
 - by 12 votes to 3, that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ by 13 votes to 2, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.

19. [CM/RecChS\(2021\)12](#): Recommendation - University Women of Europe (UWE) against Norway - Complaint No. 135/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- ▶ by 11 votes to 4, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)13²⁰ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Slovenia, Complaint No. 137/2016, became public on 29 June 2020.**

UWE alleged that the situation in Slovenia constituted a violation of Articles 1, 4§3 and 20 of the Charter, as well as Article E on the following grounds:

- Firstly, a pay gap between women and men still persists. UWE maintained that Slovenia has not achieved equal pay for equal, similar or comparable work because of the failure to ensure that the relevant legislation is enforced in practice. UWE further claimed that the two institutions which promote gender equality (the Advocate of the Principle of Equality and the Human Rights Ombudsperson) do not have well defined powers, nor sufficient funding.
- Secondly, only a very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures to ensure higher representation of women on the boards of private companies.

In its decision on the merits adopted on 5 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in legislation;
 - by 13 votes to 2, that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that access to effective remedies was not ensured;
 - unanimously that there was a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency had not been ensured and job comparisons had not been enabled;
 - by 12 votes to 3 that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was a violation of Article 20.c of the Charter on the ground that there had been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ by 12 votes to 3, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

20. [CM/RecChS\(2021\)13](#): Recommendation - University Women of Europe (UWE) against Portugal - Complaint No. 136/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

The Committee of Ministers adopted Recommendation CM/RecChS(2021)14²¹ on 17 March 2021.

- ▶ **The decision on the merits in University Women of Europe (UWE) v. Sweden, Complaint No. 138/2016, became public on 29 June 2020.**

UWE alleged that the situation in Sweden constituted a violation of Articles 1, 4§3 and 20, as well as Article E of the Charter on the following grounds:

- Firstly, that the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, only a very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures to ensure the sufficient representation of women in decision-making bodies within private enterprises.

In its decision on the merits adopted on 6 December 2019, the Committee concluded:

- ▶ as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously that there was no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in legislation;
 - unanimously that there was no violation of Articles 4§3 and 20.c of the Charter as regards access to effective remedies;
 - by 14 votes to 1, that there was no violation of Articles 4§3 and 20.c of the Charter as regards pay transparency and job comparisons;
 - unanimously that there was no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies.
- ▶ unanimously, that there was no violation of Article 20.c of the Charter as regards measurable progress in promoting equal opportunities between women and men in respect of equal pay.
- ▶ unanimously, that there was no violation of Article 20.d of the Charter as regards measures to ensure a balanced representation of women in decision-making positions within private companies.

The Committee of Ministers did not adopt a Resolution in respect of Sweden.

- ▶ **The decision on the merits in European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic, Complaint No. 157/2017, became public on 22 October 2020.**

The ERRC and the MDAC invited the Committee to find a violation of Article 17 of the 1961 Charter taken alone or in conjunction with the prohibition of discrimination laid down in the Preamble of the Charter, on the ground that the Czech Republic:

21. [CM/RecChS\(2021\)14](#): Recommendation - University Women of Europe (UWE) against Slovenia - Complaint No. 137/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

- does not comply with its obligation to refrain from institutionalising children under the age of 3, and instead routinely places young children in child centres, especially the most vulnerable children, such as Roma children and children with disabilities.
- has failed to put in place non-institutional and family-like alternative forms of care.

In its decision on the merits adopted on 17 June 2020, the Committee concluded:

- Unanimously, that there was a violation of Article 17 of the 1961 Charter on the ground that the application of the legal framework of institutional care and operation of children centres as provided for by the Health Care Act does not ensure appropriate protection and care for children under the age of 3.
- Unanimously, that there was a violation of Article 17 of the 1961 Charter on the ground that adequate measures have not been taken to provide children under the age of 3 with services in family-based and community-based family-type settings and to progressively de-institutionalise the existing system of early childhood care.
- Unanimously, that there was a violation of Article 17 of the 1961 Charter on the ground that necessary measures have not been taken to ensure the right to appropriate protection and appropriate care services of Roma children and children with disabilities under the age of 3.

3.3. Complaints declared inadmissible

► *Syndicat CGT YTO France v. France, Complaint No. 174/2019*

CGT YTO France alleged that the provisions of the Law of 13 July 1973 and Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships, as inserted in paragraphs 1 and 2 of Article L 1235-3 of the Labour Code, which amended the provisions relating to the financial compensation for dismissals without a valid reason, by setting mandatory compensation ranges, according to the worker's length of service and the size of the undertaking. CGT YTO France claimed that these provisions constitute a violation of Article 24 of the Charter both on the issue of the adequate compensation in case of unfair dismissal and on the issue of the right to reinstatement.

The Committee held that CGTYTO France, albeit being representative in accordance with domestic law at the level of a single enterprise, does not possess representativeness for the purposes of the collective complaints procedure. The Committee, by 7 votes against 6, declared the complaint inadmissible on 28 January 2020.

► *Syndicat CGT YTO France v. France, Complaint No. 183/2019*

CGTYTO France alleged that the provisions of the Law of 13 July 1973 and Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships as incorporated into the Labour Code relating to public holidays with pay (Articles L. 3133-1, L.3133-3, L.3133-4 and L.3133-5), to dismissal for economic reasons (Articles L.1233-2 and L.1233-3) and appropriate compensation

in the event of unfair dismissal (Articles L.1235-3-1 and L.1235-3-2), to protection of workers' claims in the event of the insolvency of the employer (Articles L.3253-8, L.3253-9, L.3253-10, L.3253-14, L.3253-17 and D.3253-5), and to redeployment or reinstatement of workers in the context of collective redundancies (Article L.1233-4) constitute a violation respectively of Articles 2, 24, 25 and 29 of the Charter.

The Committee referred to its decision in *CGT YTO France v. France*, Complaint No. 174/2019, decision on admissibility of 28 January 2020, in which it held that *CGT YTO France*, albeit being representative in accordance with domestic law at the level of single enterprise, does not possess representativeness for the purposes of the collective complaints procedure. The Committee maintained its position in this respect. The Committee, by 13 votes against 2, declared the complaint inadmissible on 13 May 2020.

► ***Syndicat CGT Ford Aquitaine Industrie v. France, Complaint No. 184/2019***

CGT Ford Aquitaine Industrie alleged that the provisions of the Law of 13 July 1973 and Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships as incorporated into the Labour Code relating to public holidays with pay (Articles L. 3133-1, L.3133-3, L.3133-4 and L.3133-5), to dismissal for economic reasons (Articles L.1233-2 and L.1233-3) and appropriate compensation in the event of unfair dismissal (Articles L.1235-3-1 and L.1235-3-2), to protection of workers' claims in the event of the insolvency of the employer (Articles L.3253-8, L.3253-9, L.3253-10, L.3253-14, L.3253-17 and D.3253-5), and to redeployment or reinstatement of workers in the context of collective redundancies (Article L.1233-4) constitute a violation respectively of Articles 2, 24, 25 and 29 of the Charter.

The Committee referred to its decision in *CGT YTO France v. France*, Complaint No.174/2019, decision on admissibility of 28 January 2020, in which it held that a trade union whose activity is limited to a single enterprise will generally not be deemed to be representative within the meaning of Article 1§c of the Protocol. The Committee therefore held that *CGT Ford Aquitaine Industrie*, albeit being representative in accordance with domestic law at the level of a single enterprise, does not possess representativeness for the purposes of the collective complaints procedure. The Committee, by 13 votes against 2, declared the complaint inadmissible on 13 May 2020.

► ***Sindacato Autónomo Europeo Scuola ed Ecologia (SAESE) v. Italy, Complaint No. 186/2019***

SAESE alleged that according to projections by the National Social Security Institute (INPS) three and a half million workers aged below 35 in public education (teachers and administrative, technical and auxiliary staff – ATA) on fixed-term contracts will have to face poverty risks when they reach retirement age, due to the reduction in the amount of pensions. SAESE maintained that the minimum level for pensions is manifestly inadequate and that Italy has failed to adopt an overall and coordinated approach to combat poverty and social exclusion in violation of Article 30 (right to protection against poverty and social exclusion) of the Charter.

The Committee referred to its decision in *SAESE v. Italy*, Complaint No. 166/2018, decision on admissibility of 18 March 2019, in which it declared SAESE's complaint inadmissible. The Committee was unable to conclude that SAESE is a representative

trade union within the meaning of Article 1 (c) of the Protocol because it did not have the information necessary to assess the representativeness of the complainant organisation, including any indication of the specific number of members it represents or whether it has bargained collectively on behalf of such members with a view to concluding collective agreements. On the basis of the information at its disposal, the Committee maintained its position in this respect. The Committee declared the complaint inadmissible on 20 October 2020.

▶ ***Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy, Complaint No. 194/2020***

SAESE alleged that Resolutions Nos. 03–162 and 05–423 of the Strike Guarantee Commission established pursuant to Law No. 146/1990, obstructed the national strikes called by SAESE on 8 January and 7 February 2020. The resolutions deemed the strikes in question to be unjustified, unfounded and unrelated to the right to strike. In this connection, SAESE argued that the discretionary power of the Ministry of Education is too broad and that the resolutions of the Strike Guarantee Commission effectively imposed a ban on the said strikes in violation of Article 6§4 of the Charter.

The Committee referred to its decisions in *SAESE v. Italy*, Complaint No.166/2018, decision on admissibility of 18 March 2019, and *SAESE v. Italy*, Complaint No.186/2019, decision on admissibility of 20 October 2020. While SAESE had now indicated its membership figure in 2020, the Committee still lacked adequate information on the involvement of SAESE in typical trade union activities, including on the role it plays in collective bargaining with a view to concluding collective agreements with employers. Therefore, on the basis of the information at its disposal, the Committee maintained that SAESE cannot be considered as a representative trade union for the purposes of the collective complaints procedure. The Committee declared the complaint inadmissible on 11 December 2020.

3.4. Further decisions adopted in 2020

In addition, the following decisions adopted by the European Committee of Social Rights in 2020 were made public in 2021²²:

- ▶ The decision on the merits in *Associazione Professionale e Sindacale (ANIEF) v. Italy*, Complaint No. 146/2017 was adopted on 7 July 2020. The decision became public on 19 January 2021.
- ▶ The decision on the merits in *International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium*, Complaint No. 141/2017 was adopted on 9 September 2020. The decision became public on 3 February 2021.
- ▶ The decision on the merits in *Fédération FIECI et Syndicat SNEPI CFE-CGC v. France*, Complaint No. 142/2017 was adopted on 9 September 2020. The decision became public on 1 February 2021.

22. See Appendix 4 and 5: Decisions adopted by the European Committee of Social Rights per year and per country

- ▶ The decision on the merits in *Confederazione Generale Sindacale (CGS) v. Italy*, Complaint No. 144/2017 was adopted on 9 September 2020. The decision became public on 9 February 2021.
- ▶ The decision on the merits in *International Commission of Jurists (ICJ) v. Czech Republic*, Complaint No. 148/2017 was adopted on 20 October 2020. The decision became public on 17 March 2021.
- ▶ The decision on the merits in *European Organisation of Military Associations (EUROMIL) v. Ireland*, Complaint No. 164/2018 was adopted on 21 October 2020. The decision became public on 18 March 2021.
- ▶ The decision on the merits in *International Federation of Associations of the Elderly (FIAPA) v. France*, Complaint No. 162/2018 was adopted on 10 December 2020.

3.5. Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event that the ECSR's decisions identifies violations of the Charter, the Committee of Ministers of the Council of Europe examines the follow-up to be given to the decisions and the respondent States are invited to provide information on the measures taken or planned to bring the situation into conformity. Under Article 9 of the Protocol providing for a system of collective complaints, the Committee of Ministers shall adopt a recommendation to the respondent State by a two-thirds majority of those voting.

In practice however, the Committee of Ministers has in many cases adopted resolutions (by a majority of those voting), notably when the respondent States announce that specific steps have already been taken or will be taken in order to bring the situation into conformity.

In cases where the ECSR finds no violation of the Charter, the Committee of Ministers adopts a resolution closing the procedure.

The Committee of Ministers' decisions on follow-up are based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

In 2020, the Committee of Ministers adopted 4 resolutions concerning 4 complaints:

▶ **CM/ResChS(2020)6**

Resolution - *University Women of Europe (UWE) v. Sweden* - Complaint No. 138/2016 (Adopted by the Committee of Ministers on 9 September 2020 at the 1381st meeting of the Ministers' Deputies)

▶ **CM/ResChS(2020)3**

Resolution - *The Central Union for Child Welfare (CUCW) v. Finland* - Complaint No. 139/2016 (Adopted by the Committee of Ministers on 11 March 2020 at the 1370th meeting of the Ministers' Deputies)

► **CM/ResChS(2020)2**

Resolution - *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy* - Complaint No. 158/2017 (Adopted by the Committee of Ministers on 11 March 2020 at the 1370th meeting of the Ministers' Deputies)

► **CM/ResChS(2020)1**

Resolution - *Unione Generale Lavoratori - Federazione Nazionale Corpo forestale dello Stato (UGL-CFS) and Sindacato autonomo polizia ambientale forestale (SAPAF) v. Italy* - Complaint No. 143/2017 (Adopted by the Committee of Ministers on 22 January 2020 at the 1365th meeting of the Ministers' Deputies)

3.6. Findings on follow-up to decisions in collective complaints

In the framework of the reporting procedure States Parties bound by the collective complaints procedure every other year submit so-called "simplified reports" (instead of the ordinary thematic reports on accepted provisions) dealing exclusively with the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation.²³

In 2020, the Committee examined the simplified reports submitted by Belgium, Bulgaria, Greece, Finland, France, Ireland, Italy and Portugal and noted that the following violations had been fully or partially brought into conformity with the Charter²⁴:

► **1. International Movement ATD Fourth World (ATD) v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007**

The European Committee of Social Rights found violations of the following articles of the Revised Charter: Article 31§2, on the grounds that the legislation on the prevention of evictions was unsatisfactory and that there was a lack of measures to provide rehousing solutions for evicted families; Article 31§3, on the grounds that there was a clear shortage of social housing at an affordable price for the poorest and that the arrangements for allocating social housing to the most deprived members of the community and the available remedies in the event of excessive waiting times for housing were inadequate; Article E read in conjunction with Article 31 on the ground of the inadequate implementation of legislation on stopping places for Travellers; Article 30 read alone or in conjunction with Article E on the ground that there was no co-ordinated approach to promoting effective access to housing for persons who lived or risked living in a situation of social exclusion or poverty.

In its 2018 findings, the Committee decided to assess jointly the measures taken in several decisions (Collective Complaints Nos. 33/2006; 39/2006; 51/2008; 63/2010; 64/2011; 67/2011) in response to violations of the social and economic rights of Roma migrants and Travellers. It therefore decided to limit the scope of the follow-up of the current collective complaint by asking the Government to provide information solely on this issue.

23. For details of this type of reporting, see the Social Charter website: <https://www.coe.int/en/web/european-social-charter/reporting-system>

24. Findings 2020 of the European Committee of Social Rights: <https://rm.coe.int/findings-ecrs-2020/1680a1dd39>

Regarding the implementation of legislation on stopping places for Travellers, the Committee took note of the substantial efforts made regarding Traveller reception and accommodation plans at *département* level. It also observed the improvement in the quality of the amenities available on the stopping sites and housing. It further took note of the various rules for providing, operating or even using such sites and on the facilities to be made available. It asked that the next report include up-to-date statistics, in terms of the number and percentage of the target figure, on residential sites, large-scale transit sites and pitches for extended stays in mobile homes that have been made available, in order to be assessed in the next relevant cycle of the reporting system (children, families and migrants).

Regarding planning and support for eviction operations on illegally occupied land and the measures taken to prevent undue violence during evictions, following its decision to limit its assessment to violations affecting the social and economic rights of Roma migrants and Travellers (2018 Findings), the Committee decided to only examine information on these issues.

Regarding the clearance of shanty towns, the Committee considered the new approach of the authorities as comprehensive because it tackles all the issues at stake: access to rights, school attendance and access to employment, housing and health care. The Committee also considered that, in principle, the authorities' approach is in conformity with the requirements laid down by the European Social Charter, and therefore asked that the next monitoring report include up-to-date statistics on the measures that have been implemented, with a view to establishing that concrete results are achieved in practice in conformity with the Charter's requirements. The Committee decided that these issues will continue to be assessed in the next relevant cycle of the reporting system (children, families and migrants).

Regarding evictions of Travellers from illegally occupied land, the Committee noted the developments in national case-law since the decision of the European Court of Human Rights in the case of *Winterstein and Others v. France*: respect for the requirements to protect the right to private and family life has been improved by introducing a measure to assess the proportionality of an eviction order (distinguishing between private and public land) and also by setting a timeframe for the eviction, in particular to enable the state services to carry out an assessment and to provide support. The Committee therefore considered that the procedure in force which authorises the eviction of Travellers who have settled illegally was in conformity with Article 31§2 of the Revised European Social Charter.

In light of the above, the Committee decided to close the follow-up to the decision in this complaint.

► **2. European Council of Police Trade Unions (CESP) v. France, Complaint No. 38/2006, decision on the merits of 3 December 2007**

The Committee considered that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Revised Charter. It also considered that the flat-rate compensation scheme for extra services for all active personnel of the national police force was such as to deprive all active personnel of the actual increase required by the said Article.

In particular, the Committee concluded that the functions of officers and commanders were not in all cases equivalent to design and management functions.

Regarding the structural dysfunctions at the origin of overtime accumulation, the Committee noted that the steps taken by the authorities in order to take into account the impact of work organisation on the generation of overtime are only at an experimental stage, so it reserved its position on this point. Regarding the situation of officers in the command corps, the Committee considered that the information provided by the Government was not detailed enough to allow it to assess the situation in this respect.

Regarding compensation for overtime worked by active personnel, the Committee considered that the arrangements for compensating the stock and flow of overtime are provided for by law, pursue a legitimate aim and are proportionate to that aim, and therefore justify the existence of restrictions on overtime pay (claim no. 55/2009, decision on the merits of 23 June 2010). Consequently, the Committee considered that the situation had been brought into conformity on this point.

► **3. European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article 31§1, on the ground of insufficient progress as regards the eradication of substandard housing and lack of proper amenities for a large number of households; Article 31§2, on the grounds of (i) the unsatisfactory implementation of the legislation on prevention of evictions and the lack of measures to provide rehousing solutions for evicted families; (ii) the inadequacy of measures to reduce homelessness, both in quantitative and qualitative terms; Article 31§3, on the ground of the malfunctioning of the social housing allocation system, and the related remedies; Article 31§3 in conjunction with Article E on the ground of the deficient implementation of legislation on stopping places for Travellers.

In its 2018 findings, the Committee decided to assess jointly the measures taken in several decisions (Collective Complaints Nos. 33/2006; 39/2006; 51/2008; 63/2010; 64/2011; 67/2011) in response to violations of the social and economic rights of Roma migrants and Travellers. It therefore decided to limit the scope of the follow-up of the current collective complaint by asking the Government to provide information solely on this issue.

Regarding the implementation of legislation on stopping places for Travellers (Article 31§3 taken in conjunction with Article E), the malfunctioning of the social housing allocation system, and the related remedies (Article 31§3), and the eradication of substandard housing and lack of proper amenities for a large number of households (Article 31§1), the Committee noted that different types of sites intended for extended and transit stays as well as Traveller reception and accommodation plans at department level had been set up. The Committee also observed that the quality of the amenities available on the sites is constantly improving. It also noted the different options open to Travellers wishing to move into housing (e.g. mainstream social housing or bungalow-style housing in light of their social and economic situation: income, family size and current residence). It further noted with

interest the new rules on residential sites and rented family plots for Travellers and their availability. As a result, the Committee considered that the situation has been brought into conformity with the relevant articles of the Charter.

Regarding the anticipation and support of operations to evacuate illegally occupied land and the mechanisms for proposing re-housing solutions to evicted families (Article 31§2), following its decision to limit its assessment to violations affecting the social and economic rights of Roma migrants and Travellers (2018 Findings), the Committee decided to only examine information on these issues.

Regarding the clearance of shanty towns, the Committee considered the new approach of the authorities as comprehensive because it tackles all the issues at stake: access to rights, school attendance and access to employment, housing and health care. The Committee also considered that, in principle, the authorities' approach is in conformity with the requirements laid down by the European Social Charter, and therefore asked that the next monitoring report include up-to-date statistics on the measures that have been implemented, with a view to establishing that concrete results are achieved in practice in conformity with the Charter's requirements. The Committee decided that these issues will continue to be assessed in the next relevant cycle of the reporting system (children, families and migrants).

Regarding evictions of Travellers from illegally occupied land, the Committee noted the developments in national case-law since the decision of the European Court of Human Rights in the case of *Winterstein and Others v. France*: respect for the requirements to protect the right to private and family life has been improved by introducing a measure to assess the proportionality of an eviction order (distinguishing between private and public land) and also by setting a timeframe for the eviction, in particular to enable the state services to carry out an assessment and to provide support. The Committee therefore considered that the procedure in force which authorises the eviction of Travellers who have settled illegally was in conformity with Article 31§2 of the Revised European Social Charter

In light of the above, the Committee decided to close the follow-up to the decision in this complaint.

▶ **4. European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article 31§1, on the ground of the inadequate implementation of legislation on stopping places for Travellers, poor living conditions and operational failures at the sites and lack of access to housing for settled Travellers; Article 31§2, on the ground of the conditions in which eviction procedures are carried out by law enforcement agencies; Article E read in conjunction with Article 31, on the ground of the failure to take account of the specific differences of Travellers in the implementation of the right to housing; Article 16 and Article E read in conjunction with Article 16, on the ground of the lack of family housing for Travellers; Article 30, on the ground of the lack of a co-ordinated approach to promoting effective access to housing for Travellers who live or risk living in a situation of social exclusion; Article E read in conjunction with Article 30, on the ground of the difference in treatment between Travellers and homeless people regarding eligibility to vote and

of the quota of circulation document holders of no fixed abode or residence who may be attached to the municipality in order to vote (limited to 3% of the municipal population); Article 19§4c, on the ground of the less favourable treatment in access to housing of Roma migrants residing legally in France.

In its 2015 findings, the Committee concluded that the situation which had led to the findings of violations of Article E read in conjunction with Articles 16 and 31 had been brought into conformity. The Committee also found that the difference in treatment between Travellers and homeless people with regard to their eligibility to vote had been abolished (Decision of the Constitutional Court of 5 October 2012 declaring that the requirement for administrative attachment to a municipality for a three-year period was unconstitutional).

In its 2018 findings, the Committee noted that the 3% limit on the number of voters of no fixed abode or residence in each municipality had been entirely lifted since the adoption of the Law on Equality and Citizenship.

Regarding the inadequate implementation of legislation on stopping places for Travellers, poor living conditions and operational failures at the sites and lack of access to housing for settled Travellers, the Committee noted that different types of sites intended for extended and transit stays as well as Traveller reception and accommodation plans at *département* level had been set up. The Committee also observed that the quality of the amenities available on the sites is constantly improving. It also noted the different options open to Travellers wishing to move into housing (e.g. mainstream social housing or bungalow-style housing in light of their social and economic situation: income, family size and current residence). It further noted with interest the new rules on residential sites and rented family plots for Travellers and their availability. As a result, the Committee asked that the next monitoring report include up-to-date statistics on the measures that have been implemented, with a view to establishing that concrete results are achieved in practice in conformity with the Charter's requirements.

Regarding the clearance of shanty towns, the Committee recalled that for the situation to be in conformity with the treaty, States Parties must implement the necessary legal, financial and operational means; keep meaningful statistics on needs, resources and results; undertake regular reviews of the impact of the strategies adopted; establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage; and be particularly mindful of the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable. The Committee also pointed out that, when the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. The Committee considered that French authorities had taken a comprehensive approach that tackles all the issues at stake: access to rights, school attendance and access to employment, housing and health care. The Committee also considered that, in principle, the authorities' approach is in conformity with the requirements laid down by the European Social Charter, and therefore asked that the next monitoring report include up-to-date statistics on the measures that have been implemented, with a view to establishing that concrete

results are achieved in practice in conformity with the Charter's requirements. The Committee decided that these issues will continue to be assessed in the next relevant cycle of the reporting system (children, families and migrants).

Regarding evictions of Travellers from illegally occupied land, the Committee noted the developments in national case-law since the decision of the European Court of Human Rights in the case of *Winterstein and Others v. France*: respect for the requirements to protect the right to private and family life has been improved by introducing a measure to assess the proportionality of an eviction order (distinguishing between private and public land) and also by setting a timeframe for the eviction, in particular to enable the state services to carry out an assessment and to provide support. The Committee therefore considered that the procedure in force which authorises the eviction of Travellers who have settled illegally was in conformity with Article 31§2 of the Revised European Social Charter

In light of the above, the Committee decided to close the follow-up to the decision in this complaint.

► **5. European Council of Police Trade Unions (CESP) v. France, Complaint No. 57/2009, decision on the merits of 1 December 2010**

The Committee considered that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Revised Charter. In particular, the Committee concluded that police officers are treated differently depending on whether they belong to the command corps or the "*corps d'encadrement et d'application*". It noted that in any case, the functions of officers and commanders are not assimilated to functions of conception and direction.

Regarding the structural dysfunctions at the origin of overtime accumulation, the Committee noted that the steps taken by the authorities in order to take into account the impact of work organization on the generation of overtime are only at an experimental stage, so it reserved its position on this point. Regarding the situation of officers in the command corps the Committee considered that the information provided by the Government was not detailed enough to allow it to assess the situation in this respect.

Regarding compensation for overtime worked by active personnel, the Committee considered that the arrangements for compensating the stock and flow of overtime are provided for by law, pursue a legitimate aim and are proportionate to that aim, and therefore justify the existence of restrictions on overtime pay (claim no. 55/2009, decision on the merits of 23 June 2010). Consequently, the Committee considered that the situation had been brought into conformity on this point.

► **6. Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010, decision on the merits of 28 June 2011**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article E in conjunction with Article 31§2, because of the conditions in which the forced evacuations of Roma of Romanian and Bulgarian origin took place in the summer of 2010; Article E in conjunction with Article 19§8, due to the collective expulsions of Roma in the summer of 2010 to Romania and Bulgaria.

In its 2018 Findings, the Committee had stated that the situation which had led to the finding of a violation of Article E in conjunction with Article 19§8 had been brought into conformity.

In 2019, the Committee concluded that Article 31§2 (in conjunction with Article E) was not in conformity, *inter alia*, due to the unsatisfactory implementation of legislation on the prevention of evictions, the lack of a mechanism to provide relocation solutions to evicted families and the failure to respect the rights of Roma and Travellers in the implementation of eviction procedures.

With regard to the modalities for implementing the evacuation of illegal camps as defined in the instruction of 25 January 2018, the Committee noted that the objective stated by the authorities now goes beyond the approach focusing on the evacuations as such and places public intervention in a broader dimension, from the establishment of the camp to its disappearance, including the prevention of facilities, and combining a whole range of issues such as access to rights, schooling, access to employment, housing and care. This new dynamic is intended to apply to all territories, through national credits conditional on the making of specific commitments for 2022. The Committee took note of the various examples demonstrating that solutions for re-housing, schooling of children and support for employment have been found in 2019. It also noted that the authorities have carried out a cost/benefit analysis on the cost of closing down a shantytown and that the action taken in that respect will enable the shantytown to disappear once and for all, the integration of the people, the gains for the community and the end of repeated evacuations. The Committee noted that the authorities have taken into account positively the differences in the population concerned in terms of the re-housing and schooling solutions proposed. It also noted with interest the pragmatic solutions deployed to create this type of facility (State subsidies; possibility for social landlords to create and manage TFLs; counting of this land under the Solidarity and Urban Renewal Act).

In the light of these elements, the Committee considered that the approach adopted by the authorities was now in line with the requirements of the European Social Charter and requested that the authorities provide it with updated statistical information on the concrete results achieved in relation to the objectives set for next relevant cycle of the reporting system (children, families and migrants).

In light of the above, the Committee decided to close the follow-up to the decision in this complaint.

► **7. Assessment of follow-up: European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011 v. France, decision on the merits of 24 January 2012**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article E combined with Article 19§8, in that the administrative decisions ordering, after summer 2010, Roma of Romanian and Bulgarian origin to leave the French territory on which they resided were not based on an individual examination of their situation, did not respect the principle of proportionality, and were discriminatory in nature since they targeted the Roma community; Article E in combination with Article 30, as regards the right of Travellers to vote; Article E in combination with Article 31§1, on the grounds that

the implementation of the legislation on reception areas for Travellers and Roma of Romanian and Bulgarian origin was insufficient; Article E in combination with Article 31§2, due to the execution of the forced evacuation procedure governed by Articles 9 and 9-I of the Law of 5 July 2000 and due to the conditions under which forced evacuations from Roma settlements take place; Article E combined with Article 31§3 on the grounds that access to social housing for Travellers and Roma wishing to live in mobile homes was not effective; Article E in conjunction with Article 16, in connection with the finding of a violation of Article E in conjunction with Article 31 (1), (2) and (3).

In its 2018 Findings, the Committee had stated that the situations which had led to the findings of violations of Article E in conjunction with Articles 19§8 and 30 had been brought into conformity.

Regarding the implementation of the legislation on reception areas for Travellers (Article E in combination with Articles 31§1 and 16) and on the lack of effective access to social housing for Travellers and Roma wishing to live in mobile homes (Article E in combination with Articles 31§3 and 16), the Committee noted with satisfaction the diversification of the reception and housing offer for Travellers since the entry into force of new regulatory provisions. The Committee also noted that the completion rate for permanent reception areas has increased and that the quality of facilities in reception areas continues to improve, as well as the pragmatic solutions deployed to build this type of facility. It also noted the different possibilities for some Travellers to integrate into housing and the various rules applicable in terms of development, equipment, management and use. In the light of the information provided, the Committee considered that the situation has been brought into conformity with the provisions of Article E in conjunction with Articles 31§1, 31§3 and 16 of the Charter and requested that the authorities provide it with updated statistical information on the rate of realisation of permanent reception areas, high-traffic areas and the number and percentage of extended parking spaces for serviced mobile homes in the next relevant cycle of the reporting system (children, families and migrants).

Regarding the execution of the forced evacuation procedure governed by Articles 9 and 9-I of the Law of 5 July 2000 and due to the conditions under which forced evacuations from Roma settlements take place (Article E combined with Articles 31§2 and 16), in terms of slum clearance the Committee noted that the approach of French authorities is global since it covers all issues (access to rights, schooling, access to employment, housing and care) and is accompanied with a significant increase in the budget allocated to support projects to accompany the dismantling of settlements. As a result, the Committee considered that the approach adopted by the French authorities is in line with the requirements of the European Social Charter and requested that the authorities provide it with updated statistical information on the concrete results achieved in relation to the objectives set for the next relevant cycle of the reporting system (children, families and migrants).

With regard to the expulsion of illegally stationed Travellers, the Committee noted the developments in national case-law since the decision of the European Court of Human Rights in the case of *Winterstein and Others v. France*: respect for the requirements to protect the right to private and family life has been improved by introducing a

measure to assess the proportionality of an eviction order (distinguishing between private and public land) and also by setting a timeframe for the eviction, in particular to enable the state services to carry out an assessment and to provide support. The Committee therefore considered that the procedure in force which authorises the eviction of Travellers who have settled illegally was in conformity with Article 31§2 of the Revised European Social Charter.

In light of the above, the Committee decided to close the follow-up to the decision in this complaint.

► **8. Médecins du Monde - International v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012**

In its decision, the European Committee of Social Rights found a violation of the following articles of the Revised Charter: Article E in combination with Article 31§1, due to the too limited access of migrant Roma legally residing or working legally in France to adequate housing and due to substandard housing conditions; Article E in conjunction with Article 31§2, due to the procedure for the expulsion of migrant Roma from the sites where they are settled and the lack of sufficient measures to provide emergency accommodation and reduce the homeless status of migrant Roma; Article E in combination with Article 16, due to a lack of sufficient measures to provide housing for Roma migrant families legally residing or working legally in France; Article E in conjunction with Article 30, due to a lack of sufficient measures to promote effective access to housing for Roma migrants legally residing or working legally in France; Article E in combination with Article 19§8, due to shortcomings in the procedure for the expulsion of Roma migrants; Article E in combination with Article 17§2, due to a lack of accessibility of the French education system to migrant Roma children; Article E in combination with Article 11§1, due to difficulties in accessing health care for Roma migrants, whether in a regular or irregular situation; Article E in combination with Article 11§2, due to a lack of information and awareness among migrant Roma and a lack of consultation and screening for diseases at their destination; Article E in combination with Article 11§3, due to a failure to prevent illness and accidents of migrant Roma; Article E combined with Article 13§1, due to a lack of medical assistance for Roma migrants who have been legally residing or working legally in France for more than three months; and Article 13§4, due to a lack of medical assistance for migrant Roma who have been legally residing or working legally in France for less than three months.

In its 2015 Findings, the Committee considered that the situation which had led to a violation of Article E read in conjunction with Article 17§2 had been brought into conformity. In the context of its 2018 Findings, the Committee considered that the situation which had led to violations of Articles 13§1, 13§4 and 19§8 had been brought into conformity.

On the too limited access of migrant Roma legally residing or working regularly in France to housing of a sufficient standard and due to substandard housing conditions (Article E combined with Article 31§1), on the lack of sufficient measures to provide housing for Roma migrant families legally residing or working regularly in France (Article E combined with Article 16), and on the lack of sufficient measures to promote effective access to housing for migrant Roma legally residing or working regularly

in France (Article E combined with Article 30), the Committee noted the diversification of the reception and housing offer for Travellers since the entry into force of the new regulatory provisions which has resulted in an increasing completion rate for permanent reception areas and high-traffic areas, as well as in the development of extended parking spaces for mobile homes with improving quality of facilities in the reception areas which have been deployed under pragmatic solutions. The Committee therefore considered that the situation has been brought into conformity with the provisions of Article E in conjunction with Articles 30, 31§1 and 16 of the Charter and requested that the authorities provide it with updated statistical information on the rate of completion of permanent reception areas, high-traffic areas and the number and percentage of extended parking spaces for serviced mobile homes in the next relevant cycle of the reporting system (children, families and migrants).

On the procedures for the expulsion of migrant Roma from the sites where they are settled and the lack of sufficient measures to provide emergency accommodation and reduce homelessness among migrant Roma (Article E in conjunction with Article 31§2), the Committee noted that the new approach of the authorities is global since it covers all issues: access to rights, schooling, access to employment, housing and care. It noted that solutions for re-housing, schooling of children and support for employment have been found. The Committee also noted the cost/benefit analysis carried out by the authorities. In the light of these elements, the Committee considered that the approach adopted by the authorities was in line with the requirements of the Charter and that the situation has been brought into conformity with Article E combined with 31§2. It requested that the authorities continue to inform the Committee on the concrete results achieved in relation to the objectives set for 2022 in the framework of the next relevant cycle of the reporting system (children, families and migrants).

In respect of the remaining violations the Committee observed that, in the light of the information provided by the authorities, it was not in a position to assess whether the situation has been brought into line with Articles 11§1, 2 and 3 of the Charter.

► **9. European Council of Police Trade Unions (CESP) v. France, complaint No. 68/2011, decision on the merits of 23 October 2012**

The Committee considered that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Revised Charter. It also considered that the flat-rate compensation scheme for extra services for all active personnel of the national police force is such as to deprive all active personnel of the actual increase required by the said Article. In particular, the Committee concluded that the functions of officers and commanders are not in all cases equivalent to design and management functions.

Regarding the structural dysfunctions at the origin of overtime accumulation and the situation of officers in the command corps, in the light of the information provided by the Government the Committee considered that it is not in a position to assess the situation in this respect and cannot say whether the situation has been brought into conformity with Article 4§2 on this point.

Regarding compensation for overtime worked by active personnel the Committee considered that the arrangements for compensating the stock and flow of overtime

are provided for by law, pursue a legitimate aim and are proportionate to that aim, and therefore justify the existence of restrictions on overtime pay (complaint no. 55/2009, decision on the merits of 23 June 2010). Consequently, the Committee considered that the situation had been brought into conformity on this point.

► **10. APPROACH v. France, Complaint No. 92/2013, decision on the merits of 12 September 2014**

The European Committee of Social Rights concluded that there was a violation of Article 17§1 of the Charter owing to the lack of a sufficiently clear, binding and precise prohibition on corporal punishment in French law. The Committee noted that even if the relevant provisions of the Criminal Code prohibited serious acts of violence against children and that national courts would convict those guilty of corporal punishment of a certain degree of severity, none of the legislation referred to by the government set out an explicit and full prohibition on all forms of corporal punishment of children that was likely to affect their physical integrity, dignity, development or psychological well-being. Furthermore, it was unclear whether there was still a judicially recognised “right of correction”, and there was no clear and detailed case-law fully prohibiting the practice of corporal punishment.

The Committee noted that several cases have recently been brought before criminal courts, with the imposition of penalties where appropriate, reflecting an evolution in case-law in line with the new judicial framework. The Committee remarked that the Law of 2019 on the prohibition on corporal punishment now provides for a sufficiently clear, binding and precise prohibition on corporal punishment in France. The Committee also observed that the new legislation which has come into force is accompanied by a significant range of supporting measures, particularly for parents and professionals caring for children, which help ensure its effective application in practice.

The Committee therefore found that the situation had been brought into conformity with Article 17§1 of the Charter since the entry into force of the Law of 10 July 2019 and decided to close the follow-up to the decision in this complaint.

► **11. European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2025, decision on the merits of 24 January 2018**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article 17§1 of the Charter, due to the shortcomings noted in the national shelter, assessment and guidance system for unaccompanied foreign minors; delays in the appointment of an ad hoc administrator for unaccompanied foreign minors; the detention of unaccompanied foreign minors in waiting areas and hotels; the use of bone testing to determine the age of unaccompanied foreign minors considered inappropriate and ineffective; legal insecurity surrounding access to an effective remedy for unaccompanied foreign minors; Article 17§2 of the Charter, due to the lack of access to education for unaccompanied foreign minors aged between 16 and 18; Article 7§10 of the Charter, because of inappropriate accommodation of minors or their exposure to life on the street; Article 11§1 of the Charter, due to the lack of access to health care for unaccompanied foreign minors; Article 13§1 of the Charter, due to the

lack of access to social and medical assistance for unaccompanied foreign minors; Article 31§2 of the Charter, due to the failure to provide shelter for unaccompanied foreign minors.

Regarding the violation of Article 17§2 of the Charter due to the lack of access to education for unaccompanied foreign minors aged between 16 and 18, the Committee noted that, since the start of the school year in September 2020, training is compulsory for all young people up to the age of majority. It also noted that specific arrangements have been made for young people arriving from abroad. It further noted the measures taken to combat early school leaving. All in all, it considered that the situation has been brought into conformity on this point.

By contrast, regarding the remaining violations, the Committee found that the situation had not been brought into conformity.

► **12. Confédération Générale du Travail Force Ouvrière (FO) v. France, Complaint No. 118/2015, decision on the merits of 3 July 2018**

The Committee found a violation of Article 6§2 in that the general prohibition of clauses designating supplementary pension schemes in collective agreements and their replacement by recommendation clauses is not proportionate to the legitimate aim pursued, namely the protection of the contractual freedom of undertakings. It considered that such a restriction cannot be considered necessary in a democratic society within the meaning of Article G of the European Social Charter.

The Committee noted that legislative developments have taken place in order to comply with the terms of the Charter, in particular Decree no. 2017-162 of 9 February 2017 relating to the terms and conditions of the mutual financing and management of the benefits referred to in IV of Article L. 912-1 of the Social Security Code, which was issued in addition to a decree of 11 December 2014 that provided that professional or inter-professional agreements may establish collective guarantees of supplementary social protection with a high degree of solidarity and, as such, including benefits of a non-contributory nature. It also noted that Decree no. 2017-162 of 9 February 2017 not only provides for an amount equal to or greater than 2% of the premium for the financing of social actions with the recommended organisation, but also provides that collective agreements or arrangements must include a clause setting out the conditions and frequency of review of the recommendation, which may not exceed 5 years.

The Committee also took note of the Court of Cassation's decision of 9 October 2019, where the Social Chamber considered that no public policy provision prohibits representative trade union and employers' organisations in the scope of the agreement from providing by collective agreement for a system of mutualisation of the financing and management of certain non-mandatory social security benefits even in the absence of a legal provision to this effect. It further noted that the Social Chamber also specified that the signing of a branch agreement or a professional agreement by the representative trade union and employer organisations in the field of the agreement commits the signatories of the agreement as well as the members of the cross-industry organisations signing the agreement.

In the light of these elements, the Committee considered that the situation had been brought into conformity with Article 6§2 of the Charter taking into account the provisions of Article G of the European Social Charter.

► **13. European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015, decision on the merits of 5 December of 2017**

In its decision, the European Committee of Social Rights found violations of the following articles of the Revised Charter: Article 17§2 of the Charter, taken alone and in combination with Article 17§2, due to the lack of guarantees ensuring the application of the right to education in the context of expulsion procedures; Article E in combination with Article 10§§3 and 5 of the Charter, due to the failure to comply with the positive obligation of trafficking in a different way to persons in a different situation; Article E combined with Article 31 of the Charter; Article E combined with Article 30 of the Charter.

Regarding the violation of Article 17§2 and Article E in conjunction with Articles 10§3, 10§5, 17§2 and 30 of the Charter, the Committee considered that the situation has not been brought into conformity.

Regarding the violation of Article E in conjunction with Article 31 of the Charter, the Committee noted the diversification of the reception and housing offer for Travellers since the entry into force of the new regulatory provisions. The Committee also noted the increase of the completion rate for permanent reception and high-traffic areas, as well as the development and extension of parking spaces for mobile homes, with continuous improvements in the quality of facilities in reception areas. Moreover, the Committee noted the eventual payment of a temporary housing allowance to organisations managing one or more Traveller reception areas, depending on the total number of places and their actual occupation. Finally, the Committee also noted that court decisions may have enjoined certain local authorities to comply with the obligation to open reception areas. In the light of the information provided, the Committee considered that the situation had been brought into conformity with the provisions of the Charter on this point.

► **14. General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 66/2011, decision on the merits of 23 May 2012**

The Committee considered that the provisions of Section 74§8 of Law 3863/2010 and Section 1§1 of Ministerial Council No 6 of 28-2-2012 constitute a violation of Article 4§1 of the 1961 Charter insofar as the minimum wage paid to all workers below the age of 25 is below the poverty level (fair remuneration). The Committee also considered that the extent of the reduction in the minimum wage and the manner in which it is applied to all workers under the age of 25 is disproportionate and amounts to age-related discrimination.

Regarding fair remuneration, the Committee noted that the minimum wage in 2019 stood at € 650, which is above the poverty threshold (€ 488), and it is now also paid to workers under 25. It therefore considered that the situation has been brought into conformity with the Charter in this respect. Regarding age discrimination, the

Committee observed that the Circular No. 7613/395 of 2019 removed the difference in wage and the new statutory minimum wage and salary set for full-time employment applies to all workers, irrespective of age. The Committee therefore considered that the situation relating to age discrimination has also been brought into conformity.

The Committee further held that there had been a violation of Article 7§7 and of Article 12§3, but it found that neither of them had been brought into conformity with the Charter.

▶ **15. Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, decision on the merits of 23 March 2017**

The Committee held that there was a violation of Article 4§1 of the 1961 Charter on the ground that the reduction of the minimum wage for workers under 25 years was excessive and constituted discrimination on grounds of age. As regards Article 1§2, the Committee considered that the reduction in the minimum wage, and the manner in which it is applied to all workers under the age of 25, was disproportionate even when taking into account the particular economic circumstances in question and therefore there was a violation of this provision of the Charter.

The Committee noted that the Circular No. 7613/395/2019 removes the difference in wage and the new statutory minimum wage and salary set for full-time employment applies to all workers, irrespective of age. As a result, it considered that the situation relating to age discrimination has been brought into conformity with Articles 1§2 and 4§1 of the Charter.

The Committee also held that there had been a violation of Article 2§1, Article 4§1, Article 4§4 and Article 7§5 of the Charter, on which the Committee considered that the situation had not been brought into conformity with the Charter.

▶ **16. European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017**

The European Committee of Social Rights concluded that there was a violation of Article 5 of the Charter on the grounds that the complete prohibition against military representative associations from joining national employees' organisations was not necessary and proportionate. The Committee also found a violation of Article 6§2 as military representative associations are unable to meaningfully participate in national pay agreement discussions.

With respect to Article 5 of the Charter, the Committee considered that the situation has not yet been brought in conformity with Article 5 of the Charter.

As regards Article 6§2 of the Charter, the Committee noted that the Permanent Defence Forces Associations has been included in public service pay negotiations alongside public sector trade unions, non-Irish Congress of Trade Unions (ICTU) affiliated unions and representative bodies. As a result, the Committee considered that the situation in practice is now compatible with Article 6§2 of the Charter.

▶ **17. "La Voce dei Giusti" v. Italy, Complaint No. 105/2014, decision on the merits of 18 October 2016**

The European Committee of Social Rights found that there was a violation of Article E read in conjunction with Article 10§3 a) and b) of the Charter on the ground that

teachers in the third category on aptitude lists (i.e. those without a teaching qualification) suffered indirect discrimination with regard to access to specialist training in support teaching. The Committee noted that, although teachers with or without a teaching qualification exercised in practice equivalent teaching duties, those who did not have a teaching qualification could not access specialist training in support teaching, unless they first acquired a teaching qualification, through additional training courses (TFA and PAS). In this respect, the Committee held that the terms of admission to the training courses (TFA or PAS) leading to the teaching qualification, the way in which this training was organised and the lack of recognition of prior work experience disproportionately affected the capacity of supply teachers to acquire the teaching qualification, and subsequently pursue the specialist training in support teaching, guaranteed under Article 10 § 3 a) of the Charter, thus creating a situation of indirect discrimination in comparison with teachers who held the teaching qualification and did not therefore have to complete the TFA or the PAS prior to exercising their right to vocational training.

The Committee noted that, even if, as requested (Findings 2018), the report does not fully clarify to what extent the measures taken facilitate the access to the teaching qualification for the teachers concerned by this complaint and hence their access to specialist training in teaching support, it is to be acknowledged from the information available that, in the meantime, the Council of State accepted that teachers without the teaching qualification be admitted to TFA training and have their professional experience recognised, with a view to qualify as support.

Furthermore, the Committee noted that the requirements to obtain a teaching qualification (*abilitazione*) have been in the meantime modified and no longer require to undergo further training (see *Confederazione Generale Sindacale (CGS) v. Italy*, Complaint No. 144/2017, decision on the merits of 9 September 2020).

In view of this information, the Committee considered that the situation has been brought into conformity with the Charter and decided to close the follow-up to the decision in this complaint.

4. Reporting procedure

4.1. Overview

In 2020, in the framework of the reporting procedure, the European Committee of Social Rights examined national reports²⁵ submitted by 33 States Parties to the Charter describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group “employment, training and equal opportunities”:

- ▶ the right to work (Article 1);
- ▶ the right to vocational guidance (Article 9);
- ▶ the right to vocational training (Article 10);
- ▶ the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- ▶ the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- ▶ the right to equal opportunities between women and men (Article 20);
- ▶ the right to protection in cases of termination of employment (Article 24);
- ▶ the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

The following 33 countries were examined:

Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Georgia, Germany, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Malta, Montenegro, the Netherlands, the Netherlands in respect of Curacao, the Netherlands in respect of Sint Maarten, North Macedonia, Poland, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine and the United Kingdom.

The reports covered the period from 1 January 2015 until 31 December 2018.

The efforts of the European Committee of Social Rights to render the reporting procedure lighter and more targeted, focusing on topics of strategic importance were translated into concrete action. The Committee asked States Parties to the European Social Charter - whether the 1961 or the Revised Charter - to respond in their reports to certain targeted questions²⁶ with a strategic dimension and to address only part of the provisions within the group “employment, training and equal opportunities”, without prejudice to responding to issues still pending from previous reporting cycles.

25. National reports submitted by States Parties: <https://www.coe.int/en/web/european-social-charter/national-reports>

26. Targeted questions of the European Committee of Social Rights relating to Conclusions 2020 on “employment, training and equal opportunities”: <https://rm.coe.int/questions-to-states-group1-conclusions-2020-en/16809e7b7a>

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

In January 2021, the European Committee of Social Rights adopted 349 conclusions on employment, training and equal opportunities in respect of the 33 States, including 152 conclusions of non-conformity with the Charter and 97 conclusions of conformity. In 100 cases, the Committee was unable to assess the situation due to lack of information (“deferrals”).

The Committee emphasised that the prevalence of poverty amongst people with disabilities is an important indicator of the success or failure of state efforts to ensure their right to enjoy independence, social integration and participation in the life of the community.

The duty of states to take measures to promote the full social integration and participation of persons with disabilities in the life of the community is strongly linked to measures directed towards the amelioration and eradication of poverty amongst them.

The Committee also identified several recurrent shortcomings in terms of countries’ efforts to ensure equal enjoyment of labour rights for all. It highlighted problems such as insufficient protection against discrimination in employment, a failure of some states to guarantee equal rights to men and women - in particular as regards equal pay. The Committee also flagged the lack of legislation providing for a shift in the burden of proof in gender pay discrimination cases.

The Committee has also found situations where states have failed to fulfil their positive obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

Another issue identified by the Committee, particularly relevant in the current pandemic situation, was the lack in certain countries of special measures for the retraining and reintegration of long-term unemployed persons. In some cases, the efforts to combat unemployment and encourage job creation remained inadequate.

The Committee also adopted a **statement of interpretation on Article 15§1** of the Revised Charter (right to education and vocational training for persons with disabilities).

Nevertheless, the Committee also noted a number of **positive developments** in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties.

For example, Germany implemented an extensive programme aimed at helping young people aged 12-26 with specific needs to integrate into school, training and work; of the 57,000 participants, around 59% (re)started school or vocational training as a result of the project.

The Committee also noted that a substantial reform of the vocational education and training system was implemented from the 2016/2017 school year in the Slovak Republic.

In Slovenia, the reform of vocational and technical education has led to the introduction of modular curricula, thus offering a wider range of choices, with an increase in practical training that takes into account the needs of local employers for vocational qualifications.

In Austria, the Committee noted an increase in the number of children with disabilities in inclusive education and the adoption and implementation of a programme on inclusive model regions to enable children with disabilities to attend mainstream schools.

Denmark has adopted a general law prohibiting discrimination in employment, on grounds of disability.

In Iceland, legislation prohibiting discrimination on grounds of disability in employment and providing for reasonable accommodation has entered into force (Act 86/2018 on Equal Treatment in the Labour Market).

Legislation concerning equal opportunities and non-discrimination between women and men, including equal pay for women and men, has been adopted in Andorra, Montenegro and Romania.

| | 2020 | 2019 | 2018 | 2017 | 2016 | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Examined situations | 349 | 896 | 580 | 486 | 576 | 824 | 724 | 568 | 608 | 950 | 569 | 572 |
| Conformity | 152 | 453 | 276 | 228 | 277 | 452 | 337 | 277 | 277 | 459 | 271 | 281 |
| | 44% | 51% | 48% | 47% | 48% | 55% | 46% | 49% | 45% | 48% | 48% | 49% |
| Non-conformity | 97 | 289 | 206 | 175 | 204 | 278 | 252 | 181 | 156 | 256 | 184 | 164 |
| | 28% | 32% | 35% | 36% | 35% | 34% | 35% | 32% | 26% | 27% | 32% | 29% |
| Deferral | 100 | 154 | 98 | 83 | 95 | 94 | 135 | 110 | 175 | 235 | 114 | 127 |
| | 28% | 17% | 17% | 17% | 16% | 11% | 19% | 19% | 29% | 25% | 20% | 22% |

Legend: Committee's assessments of conclusions 2009-2020

4.2. Provisions concerned

An overview of the Committee's main findings in 2020 is presented article by article below. A complete table of the Committee's conclusions for 2020 per country and per article can be found in Appendix 6²⁷.

27. See Appendix 6: Summary of the Committee's Conclusions 2020

► Article 1 - The right to work

Article 1§1 concerns the effective exercise of the right to work (policy of full employment). By accepting Article 1§1 of the Charter, States Parties undertake to pursue a policy of full employment. This means that States Parties:

- must adopt and follow an economic policy which is conducive to creating and preserving jobs;
- and must take adequate measures to assist those who become unemployed in finding and/or qualifying for a job.

Of the 35 findings of Section 1§1 of the Charter, the Committee considered that the situation was not in conformity with the requirements of this provision in nine cases (approximately 25.7%). The States Parties concerned are Albania, Armenia, Bosnia and Herzegovina, Montenegro, the Netherlands in respect of Curacao, the Netherlands in respect of Sint Maarten, Northern Macedonia, Spain and Ukraine. These findings of non-compliance are based on the fact that the authorities have not demonstrated that their efforts in terms of job creation, training and assistance to the unemployed are sufficient in view of the economic situation and the level of unemployment.

Article 1§2 concerns discrimination in employment and prohibition of forced or compulsory labour as well other aspects of the right to earn one's living in an occupation freely entered upon.

a) Non-discrimination

Under Article 1§2 of the Charter legislation must prohibit any discrimination in employment, both direct and indirect. Discrimination should be prohibited in connection with recruitment or with employment conditions in general (remuneration, training, promotion, transfer and dismissal and other detrimental action).

Under this provision, the Committee examined in this cycle the relevant legislation prohibiting discrimination in employment in general terms and for some specific grounds such as: gender (if Article 20/Article 1 of the Additional Protocol has not been accepted), race, ethnic origin, sexual orientation, religion, age, political opinion, disability (if Article 15§2 has not been accepted).

Examples of non-conformities:

- indirect discrimination is not defined and prohibited by legislation (Armenia);
- there is no protection against discrimination in employment on grounds of sexual orientation (Armenia, Turkey);
- it has not been established that there is sufficient protection against discrimination in employment, in particular on grounds of sexual orientation, ethnic origin and political opinion (Turkey).

It has not been established that protection against discrimination in employment on grounds of sexual orientation is ensured in Azerbaijan.

As regards prohibition of discrimination, the most problematic matter for States has been the restrictions on access of foreign nationals to employment and the requirement that the only jobs from which foreigners may be banned are those inherently connected with the protection of the public interest or national security and involve

the exercise of public authority (Albania, Armenia, Bosnia and Herzegovina, Croatia, Latvia, Montenegro, North Macedonia, Turkey, Serbia).

A particular emphasis was placed on the question of **remedies**.

The Committee examined whether appropriate and effective remedies are ensured in the event of an allegation of discrimination. The notion of effective remedies encompasses judicial or administrative procedures available in cases of an allegation of discrimination, an appropriate adjustment of the burden of proof which should not rest entirely on the complainant, as well as the setting-up of a special, independent body to promote equal treatment. In the event of a violation of the prohibition of discrimination, sanctions should be a sufficient deterrent to employers and compensation should be proportionate to the damage suffered by the victim; protection is also required from dismissal or other retaliatory action by the employer against an employee who has lodged a complaint or taken legal action.

Grounds of non-conformity:

- the upper limit on the amount of compensation awarded in discrimination cases might preclude damages from fully compensating the loss suffered and from being a sufficient deterrent (Armenia, Turkey);
- it has not been established that appropriate and effective remedies are provided to victims of alleged discrimination in employment (Azerbaijan);
- legislation does not provide for a shift in the burden of proof in discrimination cases (), Azerbaijan, the Russian Federation, Ukraine).

It has not been established that legislation provides for a shift in the burden of proof in discrimination cases in Armenia and Serbia.

b) Prohibition of forced and compulsory labour

During the 2020 cycle, the ECSR also assessed measures taken to combat forced labour and exploitation within two particular sectors: domestic work and the “gig economy” or “platform economy”. It had also asked states to report on the problem of exploitation of vulnerability and modern slavery.

Grounds of non-conformity:

- it had not been established that the national authorities have fulfilled their positive obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences (Albania, Azerbaijan, Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia, Serbia);
- it has not been established that the national authorities have fulfilled their obligations to prevent labour exploitation of domestic workers (Romania).

c) Other aspects of the right to earn one's living in an occupation freely entered upon

- the duration of alternative civil service amounts to an excessive restriction of the right to earn one's living in an occupation freely entered upon (Armenia, Cyprus);
- it has not been established that civil servants are sufficiently protected against arbitrary suspensions or transfers (Turkey).

Overall, the ECSR examined 35 situations, it found only one State to be in conformity (Denmark), 15 States not to be in conformity and deferred its conclusion in 19 situations.

▶ **Article 9 - The right to vocational guidance**

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

▶ **Article 10 - The right to vocational training**

Under **Article 10§1** (Technical and vocational training; access to higher technical and university education), the ECSR examined the situation in 23 States. It found 11 States to be in conformity, four not to be in conformity (Cyprus, Montenegro, Poland, Ukraine) and deferred its conclusion in 8 situations.

No questions were asked under **Article 10§2** (Apprenticeship) in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

Under **Article 10§3**, the Committee examined the situation relating to vocational training and retraining of adult workers

The ECSR examined a total of 23 situations; it found nine States to be in conformity with the provision, five not in conformity and deferred its conclusion in respect of eight States. Non-conformities concern lack of individual leave for training of employed persons (Malta, Serbia, Ukraine) or a failure to establish that the right of adult workers to vocational training and retraining is guaranteed (Montenegro, Spain).

The ECSR also examined the situation of long-term unemployed persons under **Article 10§4 of the Revised Charter**.

The ECSR examined a total of 19 situations; it found 11 States to be in conformity with the provision, five not in conformity and deferred its conclusion in respect of three States.

The main grounds of non-conformity were:

- special measures for the retraining and reintegration of the long-term unemployed had not been effectively provided or promoted (Georgia, Montenegro, Turkey, Ukraine);
- equal treatment regarding access to training and retraining for the long-term unemployed had not been guaranteed to nationals of other States Parties lawfully resident on the territory (Georgia, Slovak Republic, Ukraine).

No questions were asked under **Article 10§4 of the 1961 Charter** and under **Article 10§5 of the Revised Charter** (full use of facilities available) in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

▶ **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community**

Article 15§1 guarantees the right of persons with disabilities to guidance, education and vocational training. In 2020, the ECSR focussed on the right to education

of children with disabilities of compulsory school age. Article 15§1 of the Charter makes it an obligation for States Parties to provide quality education for children with disabilities, priority should be given to inclusive education in the mainstream school system. States Parties must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems. The Committee issued a statement of interpretation as to the meaning and requirements of Article 15§1 (see above).

The ECSR examined a total of 26 situations; it found four States to be in conformity with the provision, eight not in conformity and deferred its conclusion in respect of 13 States.

Luxembourg and the Russian Federation were found not to be in conformity on the grounds that it could not be established that there are adequate remedies in the event of discrimination on grounds of disability in education. Montenegro, Serbia and Turkey were found not to be in conformity on the ground that it has not been established that the right of children with disabilities to mainstream education and training is effectively guaranteed. However, in three other cases, Poland, Romania and Ukraine, the ECSR concluded that, in the light of the information available, the right of children with disabilities to mainstream education is not effectively guaranteed and hence it found the situation not to be in conformity with the Charter.

Article 15§2 guarantees the right of persons with disabilities to employment. States must promote an equal and effective access to employment on the open labour market.

The ECSR examined a total of 27 situations; it found nine States to be in conformity with the provision, 11 not in conformity and deferred its conclusion in respect of seven States.

The main reasons for the findings on non-conformity were:

- it had not been established that persons with disabilities are guaranteed adequate protection against discrimination in employment (Cyprus);
- it had not been established that persons with disabilities are guaranteed effective and equal access to employment (Cyprus, Luxembourg, Montenegro, North Macedonia, Russian Federation, Slovak Republic);
- it had not been established that there are adequate remedies in the event of discrimination in employment (Hungary);
- it had not been established that the obligation to provide reasonable accommodation is guaranteed (Serbia, Turkey, Ukraine);
- persons with disabilities are not guaranteed effective access to employment (Romania).

Article 15§3 guarantees the right of persons with disabilities to full social integration and participation in the life of the community. The ECSR focussed its examination under this provision in 2020 on the right to live independently in the community, stressing the importance of the right to personal assistance, the deinstitutionalisation of persons with disabilities, access to housing, transport, communication technologies as well as to cultural, leisure and sporting facilities.

The Committee examined the situation in 17 States. It found three States to be in conformity and seven not to be in conformity; in seven cases it deferred its conclusion.

Grounds of non-conformity:

- no legislation prohibiting discrimination on grounds of disabilities covering the fields of housing, transport, telecommunications and cultural and leisure activities (Armenia, Estonia, Turkey);
- it had not been established that persons with disabilities have effective access to housing (Armenia, Georgia, Hungary, Serbia);
- it had not been established that persons with disabilities have effective access to transport (Armenia, Cyprus, Georgia, Serbia);
- it had not been established that persons with disabilities have effective access to communication technologies (Cyprus, Georgia, Serbia);
- it had not been established that persons with disabilities have effective access to cultural and leisure activities (Cyprus).

► **Article 18 - The right to engage in a gainful occupation in the territory of other Parties**

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral.

► **Article 20 - The right to equal opportunities between women and men**

The Committee focussed its examination under this provision in cycle 2020 on equal pay for work of equal value. The Committee examined the situation in 30 States, it found three States to be in conformity and 27 not to be in conformity.

Grounds of non-conformity:

- there is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value (Armenia, Azerbaijan, Georgia, Hungary);
- the legislation explicitly covers only certain elements of pay for the purposes of equal pay (Albania, Slovak Republic);
- women are not permitted to work in all professions which constitutes discrimination based on sex (Azerbaijan, Bosnia and Herzegovina, Montenegro, Russian Federation, Turkey);
- the upper limit on the amount of compensation that may be awarded in gender discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive (Armenia);
- it has not been established that legislation provides for a shift in the burden of proof in gender pay discrimination cases (Armenia);
- legislation does not provide for a shift in the burden of proof in gender pay discrimination cases (Azerbaijan, Russian Federation);
- the obligation to ensure access to effective remedies in cases of pay discrimination has not been fulfilled (Croatia);
- it has not been established that the right to compensation is provided for in gender pay discrimination cases (Serbia);

- the obligation to ensure pay transparency has not been satisfied (Bosnia and Herzegovina, Croatia);
- the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled (Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, the Czech Republic, Denmark, Georgia, Malta, North Macedonia, the Russian Federation, the Slovak Republic, Turkey).

► **Article 24 - Right to protection in case of dismissal**

The ECSR examined 18 situations; it found 10 States to be in conformity, five not to be in conformity and deferred its conclusion in respect of three States.

The grounds of non-conformity related to:

- inadequate protection against dismissal during probationary period (Cyprus, Malta);
- termination of employment at the initiative of the employer on the sole ground that the person has reached the pensionable age (Malta, the Netherlands);
- inadequate compensation in case of unlawful dismissal (Turkey);
- no possibility of reinstatement in the private sector (Albania);
- the categories of persons excluded from protection against unlawful dismissal go beyond what is allowed under the Appendix to the Charter (Cyprus).

► **Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer**

No questions were asked under this provision in cycle 2020. States were only obliged to report if there was a previous conclusion of non-conformity or a deferral. Only three situations were examined; all were conclusions of non-conformity (Albania, Romania, Turkey).

4.3. Examples of progress in the application of the European Social Charter with respect to employment, training and equal opportunities

When preparing Conclusions 2020, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or, in some cases, on the basis of new information clarifying the situation as regards issues raised in previous examinations.

The Committee welcomed these developments which contribute to a better implementation of the Charter at national level and invites States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights provisions of the Charter.

This chapter contains a non-exhaustive list of examples of progress by country and provision regarding countries bound by the 1961 Charter and countries bound by the Revised Charter of 1996.

4.3.1 Article 1§1

Germany

Thanks to a programme designed to help young people between 12 and 26 years of age with special needs for assistance in integrating into school, training and work (*Jugend stärken im Quartier*, Supporting Youth in the Neighbourhood), 175 projects were implemented nationwide between 2015 and 2018 reaching nearly 57,000 young participants, of whom around 59% subsequently started (or restarted) school or vocational training.

Lithuania

The project entitled “Support for the long-term unemployed” enabled 67.7% of the 15,000 participants to find a job (2014-2018), and the project entitled “Support for older unemployed people” enabled more than half (53.5%) of the 14,400 participants to return to the job market (2015-2018).

Slovak Republic

Law No. 336/2015 on Support for the Least Developed Districts was adopted in 2015 with a view to mitigating regional disparities. On the basis of this law, in 2017, the funds allocated to active labour market measures in the 12 least developed districts accounted for 113% of the funds allocated to the other districts (on average), and approximately 49,300 jobs were created there.

Sweden

During the 2015-2018 period, nearly 397,200 long-term unemployed persons (of whom approximately 45.6% were women) participated in the “Job and Development Guarantee” programme created for their benefit.

4.3.2 Article 1§2

Andorra

With regard to legislation prohibiting discrimination in general, the report states that at the beginning of 2019, the Consell General approved Law No. 13/2019 of 15 February 2019 on equal treatment and non-discrimination (*Llei per a la igualtat de tracte i la no discriminació*). This Law came into force on 21 March 2019 (outside the reference period). The Committee took note of this major development in anti-discrimination legislation. Given that Law No. 13/2019 came into force outside the reference period, the Committee asked for the next report on this thematic group to provide detailed information on the contents of this law and in response to the aforementioned questions regarding the legislation prohibiting all forms of discrimination in employment, particularly those on grounds of race, ethnic background, sexual orientation, religion, age, political opinions and information on available remedies.

Latvia

As regards the burden of proof in cases of alleged discrimination in employment, the Committee noted in the 2019 Country Report on Non-discrimination of the European Equality Law Network that the provision on the shift in the burden of proof is included in the Labour Law. The same source indicates that, in 2018, the Labour Law was amended to include a provision on the shift in the burden of proof in alleged discrimination cases on grounds of language.

4.3.3 Article 10§1

Slovak Republic

The ECSR noted in its conclusion that a substantial reform of the system of vocational education and training (Law No. 61/2015) was implemented as of the 2016/2017 school year. It noted that this dual education system allows pupils to acquire theoretical knowledge at school which is put into practice during workplace training in companies. According to the information provided, the new system put in place by the authorities demonstrated positive results and the situation has been brought into conformity in this respect, although information is still awaited on measures taken to integrate migrants and refugees in vocational education and training.

Slovenia

The reform of vocational and technical education paved the way for the introduction of modular education programmes offering a wider range of options, with an increase in practical training taking account of local employers' needs in terms of vocational skills. In 2017, at the end of a consultation process carried out with employers' organisations and trade unions, the authorities reintroduced apprenticeships in the education system. The chosen mechanism enables apprentices, who have student status, to spend at least 50% of their time in practical training (on average, an apprentice spends two days a week at school and three days with his/her employer). They are also protected by labour legislation and have the right to be paid.

4.3.4 Article 15§1

In respect of **Austria**, the Committee noted an increase in the number of children with disabilities in inclusive education and noted the adoption and implementation of a programme on Inclusive Model regions to enable children with disabilities to attend mainstream schools.

In respect of **Denmark**, the Committee noted the adoption of a general law prohibiting discrimination on grounds of disability in employment.

4.3.5 Article 15§2

In **Iceland**, legislation prohibiting discrimination on grounds of disability in employment and providing for reasonable accommodation entered into force (Equal treatment on the Labour Market Act 86/2018).

4.3.6 Article 20

Albania

Law No. 136/2015 of 5 December 2015 (which came into force in June 2016) made amendments to the Labour Code. As a result, where there has been a breach of Article 9 of the Labour Code, the burden of proof has now been shifted to the employer where the plaintiff is able to provide evidence enabling the court to presume that the employer has engaged in discriminatory conduct. The report also states that a new Code of Administrative Procedure (Law No. 44/2015 approved by the Assembly of the Republic of Albania on 30 April 2015), which came into force on 28 May 2016, contains a provision which reverses the burden of proof in cases of discrimination (Article 82(2)).

Andorra

The Equal Treatment and Non-Discrimination Act, No. 13/2019 of 15 February 2019 entered into force on 21 March 2019. It defines the principle of equal pay between men and women. Under Article 13(1), the principle entails an obligation to provide the same remuneration, whatever its nature, for work of equal value, without any form of discrimination against women regarding the elements or conditions of the work in question. This Act applies to both private and public sectors.

Moreover, the Industrial Relations Act, No. 31/2018 of 6 December 2018 (which was amended by the Equal Treatment and Non-Discrimination Act, No. 13/2019, and which came into force on 1 February 2019) states explicitly that women must not be subject to any discrimination concerning the elements or conditions of their remuneration.

Montenegro

The new Labour Code (No. 74/19) published in the Official Gazette on 30 December 2019 and which came into force on 8 January 2020 (*outside the reference period*) has replaced the 2008 Labour Code. The new Labour Code provides that every worker is entitled to equal pay for equal work or work of equal value.

Romania

The Agency for Equal Opportunities between Women and Men was re-established in 2015 (by Law No. 229/2015 amending and supplementing Law No. 202/2002). As a legal entity, it is a specialised body of the central public administration under the Ministry of Labour and Social Protection, and its purpose is to promote the principle of equal opportunities and treatment for women and men so as to eliminate all types of gender discrimination from all national policies and programmes.

4.4. Follow-up of the conclusions by the Governmental Committee of the European Social Charter and the European Code of Social Security

In 2020, the Governmental Committee examined follow-up measures taken by national governments with respect to conclusions of non-conformity issued by the European Committee of Social Rights on the articles of the European Social Charter relating to thematic group “children, families and migrants” (Conclusions 2019).

As a result of the COVID-19 pandemic, the Governmental Committee cancelled its first meeting planned for May 2020 and held only one meeting in 2020. The 141st meeting was held via videoconference from 5 to 8 October 2020, with Mr Joseph Faber (Luxembourg) in the Chair. The Representative of the European Trade Union Confederation (ETUC) attended the meeting of the Governmental Committee in a consultative capacity. In its examination of the cases of non-conformity, the Governmental Committee applied the procedures adopted by the Committee of Ministers at its 1196th meeting on 2 April 2014 and focused on certain conclusions of non-conformity. The Governmental Committee took the decision to divide the conclusions selected by the European Committee of Social Rights in two groups: group A, which were assessed on the basis of the written information submitted by the delegates, and group B, which were examined orally.

Under group A, the following 33 conclusions were considered:

- ▶ Article 7§1 of the Revised European Social Charter in respect of Azerbaijan, Estonia, Georgia, Hungary;
- ▶ Article 7§3 of the Revised European Social Charter in respect of Albania, Georgia, Turkey, Ukraine;
- ▶ Article 7§3 of the 1961 Charter in respect of the United Kingdom;
- ▶ Article 16 of the Revised European Social Charter in respect of Azerbaijan, Montenegro, Russian Federation;
- ▶ Article 17 of the 1961 Charter in respect of Denmark;
- ▶ Article 17§1 of the Revised European Social Charter in respect of Georgia, Greece, Latvia, Russian Federation, Serbia;
- ▶ Article 19§6 of the Revised European Social Charter in respect of France, Serbia, Turkey;
- ▶ Article 19§6 of the 1961 Charter in respect of Luxembourg, Poland, United Kingdom;
- ▶ Article 19§8 of the Revised European Social Charter in respect of Republic of Moldova, Romania, Turkey; 19§8 of the 1961 Charter in respect of Poland;
- ▶ Article 31§1 of the Revised European Social Charter in respect of France;
- ▶ Article 31§2 of the Revised European Social Charter in respect of France, Italy, Lithuania, Ukraine.

Among these cases, an automatic warning was adopted by consensus for countries that did not submit information on the cases examined, in particular with regard to the Republic of Moldova concerning conclusions under Article 19§8 of the Revised European Social Charter.

As regards conclusions examined orally, the Governmental Committee voted a number of warnings:

- ▶ Article 7§1 in respect of Armenia, Republic of Moldova, Romania, Turkey and Ukraine;
- ▶ Article 7§3 in respect of Armenia, Republic of Moldova and Romania;
- ▶ Article 16 in respect of Republic of Moldova;

- ▶ Article 17§1 of the 1961 Charter in respect of the United Kingdom;
- ▶ Article 17§1 of the Revised Charter in respect of Armenia and Hungary;
- ▶ Article 19§6 of the 1961 Charter in respect of Germany;
- ▶ Article 19§8 in respect of the Republic of Moldova.

During its examination, the Governmental Committee took note of important positive developments in several States Parties.

The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous recommendations adopted by the Committee of Ministers.

The Governmental Committee also seized the opportunity to create a working group to prepare a position paper and present proposals on the follow-up to the Committee of Ministers decisions and the Second Report of the Steering Committee for Human Rights (CDDH) on identifying good practices and making proposals with a view to improving the implementation of social rights in Europe²⁸. The group was composed by the four members of the Governmental Committee Bureau, as well as by delegates from France, Netherlands, United Kingdom, and the representative of the European Trade Union Confederation. It proposed a first statement which was agreed by the Governmental Committee and was submitted to the Committee of Ministers on 16 December 2020²⁹. The working group will continue its work in 2021.

28. Report of the Steering Committee for Human Rights (CDDH) identifying good practices and making proposals with a view to improving the implementation of social rights in Europe, 2019: <https://rm.coe.int/droits-sociaux-volume-ii-eng/1680a0770c>

29. See Appendix 7: Statement addressed to the Committee of Ministers of the Council of Europe on the follow-up to the Steering Committee for Human Rights (CDDH) report by the Governmental Committee of the European Social Charter and European Code of Social Security , 16 December 2020

5. Procedure on non-accepted provisions

5.1. Introduction

Article A of the European Social Charter (Article 20 of the 1961 Charter) authorises states to ratify the treaty without accepting all of its substantive provisions. The same article also allows states, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.³⁰ This gradual acceptance principle is described in Article 22 of the 1961 Charter.

The Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

For the first years of the Charter's existence, this procedure took the form of a traditional reporting exercise, with states submitting reports describing the implementation, in both law and practice, of the provisions concerned. The Committee of Ministers launched these "exercises" on eight occasions between 1981 and 2002.

In December 2002, the Committee of Ministers decided that "States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned" (Committee of Ministers Decision of 11 December 2002). Following this decision, it was agreed that the European Committee of Social Rights would examine – either in meetings or as part of a written procedure – the legal and practical situation in the states concerned from the standpoint of the situation's compatibility with the non-accepted provisions. The first examination would take place five years after ratification of the Revised Social Charter and thereafter every five years, so that the situation could be assessed on a continuing basis and states would be encouraged to accept new provisions. In practice, experience has shown that states have tended to lose sight of the fact that the selective acceptance of Charter provisions must only be a temporary phenomenon.

A detailed table of the accepted provisions of the European Social Charter can be found in Appendix 9³¹.

30. See Appendix 8: Number of accepted provisions by year since 1962

31. See Appendix 9: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

5.2. Overview of the States Parties concerned in 2020

In 2020, the procedure on non-accepted provisions concerned seven states: Bulgaria, Cyprus, Estonia, Georgia, Ireland, Malta and Montenegro.

Due to the COVID-19 pandemic and related travel restrictions, the Committee took a decision to cancel all the meetings on non-accepted provisions planned for 2020 and invited the states concerned to submit written reports.

The Committee adopted reports on non-accepted provisions for the following countries: Andorra, Azerbaijan and Romania (procedure 2019).

The Committee will adopt the reports concerning Bulgaria, Cyprus, Estonia, Georgia, Ireland, Malta and Montenegro in 2021.

Andorra

Andorra ratified the Revised Charter on 2 March 2004, accepting 75 of the 98 paragraphs of the Revised Charter. It did not accept the system of collective complaints. In 2011 the procedure provided for in Article 22 of the 1961 Charter was applied for the first time and gave rise to a meeting between the European Committee of Social Rights and the representatives of the Government of Andorra on 18 February 2011 in Andorra la Vella. The Andorran authorities expressed the wish at that meeting to continue consultations with the Committee with a view to accepting at least some additional provisions. At the conclusion of the discussions and after having examined the written report communicated subsequently, the Committee encouraged the government of Andorra to accept the following provisions: 6§§1, 2, 3 and 4, 19§2, 19§4a and b, 21, 22, 25, 27, 28 and 29. The Andorran authorities were invited to provide written information regarding the progress made towards accepting new provisions in 2014. No information was submitted.

In view of the implementation of the procedure for the third time in 2019, a meeting between the European Committee of Social Rights and representatives of the Government of Andorra took place on 14 November 2019 in Andorra la Vella. The meeting consisted of an exchange of views and information on the following non-accepted provisions of the Revised Charter: Articles 6§§1, 2, 3 and 4; 16; 18§§1, 2 and 3; 19§§2, 4, 6, 8 and 10; 21; 22; 24; 25; 27§§1, 2, and 3; 28; 29; 31§3.

Following the meeting, the European Committee of Social Rights concluded that, in view of the important legislative developments presented by the Andorran authorities, Articles 6§§1, 2, 3 and 4, as well as Articles 21, 22, 25, 28 and 29 could be accepted immediately and that there were no significant obstacles in law and in practice to the acceptance of Articles 19§2 and 27§1, 2, and 3.

As regards Articles 16, 19§4, 24 and 31§3, the Committee noted the existence of obstacles and considered that legislative and political developments seemed necessary to bring the situation into conformity with the Charter, but that the acceptance of these provisions should nonetheless be considered by the Andorran authorities.

As regards Articles 19§§6, 8, 10 and 18§§ 1, 2 and 3, the Committee took note that acceptance of these provisions is not currently envisaged by the Andorran authorities.

The Committee encouraged the authorities to continue the efforts to approximate the requirements established by the Social Charter and to consider accepting the provisions in question.

An exchange of views also took place on the additional protocol to the European Social Charter providing for a system of collective complaints, with a view to encouraging Andorra to accept the procedure.

The next review of the provisions not accepted by Andorra will take place in 2024.

The 3rd report of the European Committee of Social Rights on non-accepted provisions of the European Social Charter by Andorra³² can be consulted online at [Andorra and the European Social Charter \(coe.int\)](https://rm.coe.int/3eme-rapport-nap-andorre-avril-2020/16809ecb03).

Azerbaijan

Azerbaijan ratified the Revised Charter on 2 September 2004 accepting 47 of the 98 paragraphs of the Revised Charter. At the time of ratification, Azerbaijan did not consider itself bound by 51 numbered paragraphs of the Revised Charter, namely articles 2§§1–7, 3§§1–4, 10§§1–5, 12§§1–4, 13§§1–4, 15§§1–3, 17§§1 and 2, 18§§1–3, 19§§1–12, 23, 25, 30 and 31§§1–3. It did not accept the system of collective complaints.

Two meetings on the non-accepted provisions of the Revised European Social Charter were held in Azerbaijan, one in 2009 and one in 2014.

The issue of non-accepted provisions was also addressed at a meeting held in Baku on 9 July 2013. However, the main aim of this latter meeting was the promotion of the collective complaints procedure as well as providing information in relation to cases of non-conformity concerning Azerbaijan.

The third examination of the situation in Azerbaijan as regards the non-accepted provisions of the Revised Charter took place in written form, based on the third report on non-accepted provision submitted by the Azerbaijan Government in 2019.

According to the national report, the Azerbaijani authorities considered it possible to ratify additionally the following provisions of the Revised Charter: Art.12§§1 and 3, Art.15§§1–3 and Art.19§§1–12. Concerning Article 25, the Azerbaijani authorities suggested to organise a workshop or a study visit by the experts of the Council of Europe to analyse further the possibility of ratification. As regards other non-accepted provisions, the Azerbaijani authorities indicated that the ratification of these provisions is not currently under consideration.

The European Committee of Social Rights remains at the disposal of the authorities of Azerbaijan and encourages them to take the necessary steps towards acceptance of the indicated provisions of the Revised Charter and the collective complaints procedure.

The next examination of the provisions not yet accepted by Azerbaijan will take place in 2024.

32. 3rd report on non-accepted provisions of the European Social Charter by Andorra: <https://rm.coe.int/3eme-rapport-nap-andorre-avril-2020/16809ecb03>

The 3rd report of the European Committee of Social Rights on non-accepted provisions of the European Social Charter by Azerbaijan³³ can be consulted at [Azerbaijan and the European Social Charter \(coe.int\)](https://rm.coe.int/Azerbaijan-and-the-European-Social-Charter)

Romania

Romania ratified the Revised Charter on 7 May 1999, accepting 65 of the 98 paragraphs of the Revised Charter. At the time of ratification, Romania did not consider itself bound by 32 numbered paragraphs of the Revised Charter, namely Art.2§3, Art.3§4, Art.10§§1–5, Art.13§4, Art.14§§1–2, Art.15§3, Art.18§§1–2, Art.19§§1–6,9–12, Art.22, Art.23, Art.26§§1–2, Art.27§§1,3, Art.30 and Art.31§§1–3. It did not accept the system of collective complaints.

The procedure provided by Article 22 of the 1961 Charter was applied for the first time in 2004, and a meeting between members of the European Committee of Social Rights and representatives of various Romanian ministries was held in Bucharest on 18 and 19 May 2004.

Following this meeting, the European Committee of Social Rights concluded that acceptance seemed possible in respect of the following Articles: 2§3, 3§4, 15§3, 19§5, 19§9, 22, 26§1, 27§3. The Committee further considered that acceptance was not immediately possible in respect of the following Articles: 13§4, 19§4, 23. As regards the other non-accepted provisions, the Committee was of the view that the information provided was not sufficient to allow an assessment: Articles 10§§1–5, 14§§1–2, 18§§1–2, 19§§1–3, 19§6, 19§10–12, 26§2, 27§1, 30, 31§§1–3.

For the second time, the examination of non-accepted provisions of the Charter took place at a meeting in Bucharest on 6 May 2009. Following this meeting, the European Committee of Social Rights confirmed that from the point of view of the situation in law and in practice there were no obstacles to the immediate acceptance of the following provisions: Articles 2§3, 19§9 and 27§3. Furthermore, the Committee considered that the acceptance of the following provisions was also possible: Articles 10§1, 10§§4–5 and 19§§1–3. Moreover, the Committee considered that, subject to some improvements in practice, Romania could also accept Articles 3§4, 10§3 and 15§3. The Committee further considered that acceptance was not immediately possible in respect of the following provisions: Articles 10§2, 14§§1–2, 18§§1–2, 22, 26§§1–2, 27§1 and 30. Finally, as regards Articles: 19§§4–6, 19§§10–12, 27§2 and 31§§1–3, the Committee found that the information provided was not sufficient to allow an assessment.

With a view to carrying out the procedure for the third time in 2014, the Romanian authorities were invited to provide written information on the non-accepted provisions. The Romanian Government submitted a report on the non-accepted provisions of the European Social Charter on 25 April 2014. Having examined the written information, the Committee observed that from the point of view of the situation in law and in practice there were no obstacles to the immediate acceptance of Articles: 2§3, 10§§1–5, 19§§1–5, 27§1, 27§3. Moreover, the Committee considers that the acceptance of the following provisions was also possible: Article 19§9, 22, 26§§1–2.

33. 3rd report on non-accepted provisions of the European Social Charter by Azerbaijan: <https://rm.coe.int/3rd-report-na-provisions-azerbaijan/16809ecb00>

Furthermore, the Committee considered that, subject to some improvements in practice or with respect to data collection mechanisms, Romania could accept the following provisions: Article 3§4, 14§§1–2, 15§3, 18§1, 19§6, 23. The Committee was of the view that further analysis of the legislation and practice was needed in respect of the following provisions: Article 13§4, 18§2, 30, 31§1. Finally, the Committee considered that the information provided in the report was not sufficient to allow a thorough assessment with regard to Articles: 19§§10–12, 31§§2–3.

The third meeting on the non-accepted provisions of the Revised Charter was held in Bucharest on 7 November 2019. The meeting consisted of an exchange of views and information on the non-accepted provisions of the Revised Charter. An exchange of views also took place concerning the Additional Protocol to the European Social Charter providing for a system of collective complaints, with a view to encouraging Romania to accept the procedure.

The European Committee of Social Rights remains at the disposal of the authorities of Romania and encourages them to take the necessary steps towards acceptance of the collective complaints procedure and more provisions of the Revised Charter.

Having examined the information provided by the Romanian authorities, the Committee reiterates its earlier finding that from the point of view of the situation in law and in practice there are no obstacles to the immediate acceptance of Articles 2§3, 10§§1–4, 18§2, 19§§1–3, 5, 9, 27§1 and 3.

Romania is encouraged to accept also Articles 3§4, 10§5, 14§§1–2, 15§3, 18§1, 19§§4 and 6, 22 and 26§§1–2, while some additional efforts towards effective implementation and updated information on the situation in practice are needed.

As regards Article 13§4, Article 19§10 and 11, Article 23, Article 30 and Article 31§§1–3, the Government is encouraged to continue its efforts towards guaranteeing the respective rights both in law and in practice.

The next examination of the provisions not yet accepted by Romania will take place in 2024.

The 4th report of the European Committee of Social Rights on non-accepted provisions of the European Social Charter by Romania³⁴ can be consulted at [Romania and the European Social Charter \(coe.int\)](https://rm.coe.int/4th-report-non-accepted-provisions-romania-e-july-2020/1680a0344b).

34. 4th report on non-accepted provisions of the European Social Charter by Romania: <https://rm.coe.int/4th-report-non-accepted-provisions-romania-e-july-2020/1680a0344b>

6. Strengthening the European Social Charter treaty system

Improving the implementation of social rights in Europe has been a longstanding objective for the Council of Europe. Its statute³⁵ (adopted in 1949) included social progress among the aims of the Organisation, and the endeavour has been pursued with the adoption of the European Social Charter on 18 October 1961³⁶ and its subsequent development, both as regards substantive aspects (Additional Protocol of 1988³⁷, Revised Charter of 1996³⁸), and the monitoring procedures under the Charter (1991 Amending Protocol³⁹, known as the Turin Protocol) and the 1995 Additional Protocol⁴⁰ introducing a system of collective complaints, as well as a number of Committee of Ministers decisions over the years.

There is a general agreement that more needs to be done to reinforce the Charter's treaty system and the protection of social rights in Europe. More recent initiatives to this end included the so-called Turin Process⁴¹ (initiated in 2014) and a mandate given in 2017 by the Committee of Ministers to the Steering Committee for Human Rights (CDDH)⁴² with a view to "improving the implementation of social rights". The CDDH reported back in 2018 (Analysis of the legal framework of the Council of Europe for the protection of social rights in Europe⁴³) and in 2019 (Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe⁴⁴).

35. Statute of the Council of Europe: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680935bd0>

36. European Social Charter adopted on 18 October 1961: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=035&CM=1&CL=ENG>

37. Additional Protocol to the European Social Charter of 1988: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/128>

38. Revised European Social Charter of 1996: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=163&CM=8&CL=ENG>

39. Protocol amending the European Social Charter (Turin Protocol), 1991: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=142&CM=8&CL=ENG>

40. Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, 1995: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158>

41. Turin Process for the European Social Charter: <https://www.coe.int/en/web/european-social-charter/turin-process>

42. Terms of reference of the CDDH for the biennium 2018-2019, November 2017: <https://rm.coe.int/terms-of-reference-of-the-cddh-for-the-biennium-2018-2019-as-adopted-b/168077b6b4>

43. Analysis of the Council of Europe legal framework for the protection of social rights in Europe, Steering Committee for Human Rights (CDDH), 2018: <https://rm.coe.int/improving-the-protection-of-social-rights-in-europe-volume-i-en/168097adf1>

44. Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe, Steering Committee for Human Rights (CDDH), 2019: <https://rm.coe.int/improving-the-protection-of-social-rights-in-europe-volume-ii-en/168097adf3>

As part of this persisting endeavour, at their Helsinki Ministerial Session in May 2019⁴⁵, the Council of Europe ministers of foreign affairs “reaffirmed the importance of social rights across the continent, and invited member states that have not yet done so to consider signing and/or ratifying the Revised European Social Charter and its Additional Protocol providing for a system of collective complaints”. Under the title “Effectively responding to a public health crisis in full respect for human rights, democracy and the rule of law”, in November 2020, the Committee of Ministers Chairmanship (Greece) issued the Athens Declaration⁴⁶, “stress[ing] the need to safeguard the right to health for all and other social and economic rights, such as the rights to social protection, to education, and to safe and healthy working conditions, on the basis of inclusiveness, non-discrimination, gender equality and women’s empowerment” and “underlin[ing] the importance of [their] cooperation to guarantee these, and other rights under the European Social Charter”.

Shortly after that, addressing the Committee of Ministers Deputies on 8 December 2020, Secretary General Marija Pejčinović Burić reminded them of the importance attached by member states to social and economic rights, and stated that “in order to improve the implementation of social rights in Europe, we must first of all strengthen the current system of the European Social Charter treaties and make it more effective.” She underlined the importance of making concrete progress and advanced her intention to present ahead of the next Ministerial Session (May 2021) “a consolidated overview of the progress achieved and possible options for the future”. On that occasion, she indicated her intention to set up a group of high-level experts, representing the different stakeholders and also independent experts, “to propose concrete actions to give coordinated follow-up at all levels to the CDDH recommendations, in the light of the ongoing work of the Social Charter bodies.”

The group of high-level experts subsequently set up was composed of (in alphabetical order):

- ▶ Marie-Caroline Bonnet-Galzy, Inspector General of Social Affairs, French Councillor of State in extraordinary service;
- ▶ Olivier De Schutter, Professor of Law, University of Louvain, Belgium, UN Special Rapporteur on Extreme Poverty and Human Rights;
- ▶ Joseph Faber, President of the Governmental Committee of the European Social Charter;
- ▶ Morten Kjærum, Director of Raoul Wallenberg Institute, former Director of the European Union Agency for Fundamental Rights;
- ▶ Michele Nicoletti, University Professor, former President of the Parliamentary Assembly of the Council of Europe, former General Rapporteur of the Turin Process for the European Social Charter;

45. 129th session of the Committee of Ministers, Helsinki, 17 May 2019: https://www.coe.int/en/web/cm/-/129th-session-of-the-committee-of-ministers-17-may-2019-#44140822_43507071_True

46. Athens Declaration by the Committee of Ministers Chairmanship on “Effectively responding to a public health crisis in full respect for human rights, democracy and the rule of law”, 130th Session of the Committee of Ministers, Athens (videoconference), 4 November 2020: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a03444

- ▶ Giuseppe Palmisano, Professor of International Law in Law Faculty of Roma Tre University, Italy, General Rapporteur of the European Committee of Social Rights;
- ▶ Monika Schlachter-Voll, Professor of Labour Law, University of Trier, Germany, former Vice-President of the European Committee of Social Rights; and
- ▶ Yuri Voronin, Commissioner for Finance and former Deputy Minister for Health and Social Development, Russian Federation.

Ambassador Ivan Orlić, Permanent Representative of Bosnia and Herzegovina before the Council of Europe, in his capacity as Chairman of the GR-SOC, followed the work of the group as an observer. The report of the Group was submitted to the Secretary General by Olivier De Schutter, who was designated General Rapporteur of the group, on 19 March 2021. At the time of writing, it was expected that the Secretary General would present her proposals to the Deputies in the Committee of Ministers in the course of the month of April 2021.

Aside from CDDH related decisions of the Committee of Ministers⁴⁷ (11 December 2019), this ongoing work includes steps taken by the European Committee of Social Rights to simplify and streamline the reporting procedure. To this end, in 2020 the ECSR focussed on 11 out of the 21 provisions scheduled for examination in 2020 (under the thematic group “employment, training and equal opportunities”). To the maximum extent possible, the Committee sought to provide shorter and more targeted analyses, providing explanations and using pedagogical language in the context of conclusions to aid states understanding what the specific Charter provisions require. Similarly, the questionnaire⁴⁸ submitted by the ECSR to States Parties in 2020 for the Conclusions 2021 also focused on a limited number of provisions, covering only around 60% of those in the group.

The ECSR also adopted, in October 2020, a position paper⁴⁹ on follow-up to the CDDH report and proposals. In the position paper, the Committee referred to the changes introduced to the reporting procedure and expressed its resolve to pursue and intensify the process of simplifying the reporting procedure, suggesting that the current system of thematic reports and reference periods could be rendered more flexible or that it could even be phased out. This would allow the ECSR to examine the issues that it considers to be of particular importance in view of the prevailing social, economic and policy considerations, or otherwise respond to emerging or urgent situations.

In its decision of 11 December 2019, the Committee of Ministers also “invited the ECSR to make full use of the opportunities for dialogue offered by Article 22 (non-accepted provisions) of the European Social Charter of 1961 (ETS No. 35), and to include in

47. Decisions of the Committee of Ministers following the CDDH report on identifying good practices and making proposals with a view to improving the implementation of social rights in Europe, 11 December 2019: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680993bba

48. Questionnaire submitted by the European Committee of Social Rights to States Parties in 2020 for the Conclusions 2021 on health, social security and social protection: <https://rm.coe.int/appendix-1961-charter-2021/16809efc6b> (1961 Charter) and <https://rm.coe.int/appendix-questions-rev-charter-2021/16809efaf1> (Revised Charter)

49. See Appendix 10: European Committee of Social Rights position paper on follow-up to the report and proposals of the Steering Committee for Human Rights (CDDH), 21 October 2021: <http://rm.coe.int/ecsr-position-paper-on-follow-up-to-the-report-and-proposals-of-the-cd/1680a0663a>

this exercise a dialogue with the member states that are not yet Party to the Revised Charter, with a view to encouraging them to ratify it". The ECSR welcomed this invitation which is consistent with its own understanding of Article 22 being part of the broader review or oversight procedures under the Charter intended to encourage full alignment of the situation of States Parties with all of the Charter provisions.

Indeed, the "Contracting Parties accept[ed] as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which [all of the] rights and principles [listed under Part I of the Charter] may be effectively realised". This general undertaking is consistent with the principles of universality, indivisibility and interconnectedness or interdependence of human rights, including in their social rights dimension, which the Charter's "a la carte" system does not set aside.

In its position paper, the ECSR expressed the view as regards reporting in the context of the collective complaints procedure and in order not to weaken it, that simplifying it further "should be coupled with the Committee of Ministers exercising effectively its own role in the follow-up of collective complaints by addressing recommendations to states as provided for in Article 9 of the 1995 Protocol".

The ECSR also welcomed the CDDH message that "European States should be proud of their traditional and consolidated high standards in the protection of social rights and that strengthening the system of the Charter, which reflects the most complete and up-to-date expression of the European perception of social rights, strengthens the European model" and expressed interest in "the question of accession by the European Union to the European Social Charter, not only raised by the CDDH but also encouraged by certain EU institutions". The Committee made concrete suggestions in respect of some of these matters and "invite[d] the Committee of Ministers and Council of Europe member states to translate their declared support for improving the implementation of social rights into action. A top priority should be to encourage member states that have not yet done so to ratify the Revised Charter, to accept additional Charter provisions (preferably all of them) and to embrace the collective complaints procedure." It also mooted a Conference of the parties that could include consideration of the desirability for a new Protocol to the Charter, expanding the Charter's "core provisions" and increasing the minimum number of such provisions to be accepted by States Parties, overcoming the optional nature of the collective complaints procedure and adding new rights to those listed in the Revised Charter (for example, the right to a healthy or decent environment).

The Governmental Committee of the European Social Charter and European Code of Social Security (GC) also expressed its views on the follow-up to the CDDH proposals and transmitted in December 2020 a brief statement to the Committee of Ministers confirming its commitment to simplifying and rationalising the reporting mechanisms, strengthening the follow-up to all conclusions of non-conformity, and to prompting a sustained dialogue with other stakeholders. The GC set up a working group to prepare a more detailed position paper on possible reform (expected in May 2021).

7. Relations with Council of Europe Bodies

7.1. Secretary General of the Council of Europe

In the context of her 2020 report “Multilateralism 2020”⁵⁰, the Secretary General of the Council of Europe, Marija Pejčinović Burić, declared that not only social rights should be better promoted, but they are also essential to human dignity and contribute to the social cohesion which is a measure of a democracy’s success. The Secretary General’s Report states that when social rights, which include the rights to health care, housing, fair remuneration and social assistance, are not delivered, trust in democratic systems is undermined. For this reason, they are embedded in many of the activities undertaken throughout the Council of Europe.

The Secretary General emphasised that the European Convention on Human Rights and the European Social Charter comprise the basis of human rights protection in Europe today. Accordingly, member states that have not ratified the Revised European Social Charter and its Additional Protocol providing for a collective complaints system are encouraged to do so with a view of increasing protection for some of the most vulnerable and marginalised people in Europe.

The Secretary General’s Report acknowledged that there has been long-term progress in the realisation of social rights in Europe and that in some cases this has been linked directly to the implementation of the European Social Charter or to the case law of the European Committee of Social Rights. However, “there has also been occasional but severe backsliding and social rights in Europe have not yet recovered from the impact of the subprime mortgage crash in 2008. Millions of people remain at serious risk of falling into poverty. Child poverty persists and, together with homelessness and inequality, the situation has worsened in some countries.”

The Secretary General’s Report also emphasised that the COVID-19 pandemic risks having a strong negative impact on social rights. Nonetheless, there is a need to put human and social rights at the heart of the coronavirus response and post COVID-19 reconstruction in order to ensure that member states are better enabled to build socially cohesive and sustainable societies. In this respect, the European Committee of Social Rights issued a Statement of interpretation on the right to protection of health in times of pandemic on 21 April 2020. It recalled the need for adequate public health provision and resourcing, including for research, vaccine development and prevention. It also pointed to a range of other social human rights affected by the pandemic, including the right to protection of health which includes the right of access to healthcare. The Committee also stated that pandemics – and state responses thereto – can pose significant risks to a wide range of rights set out under the Charter. Therefore, the Committee emphasised

50. “Multilateralism 2020” Report of the Secretary General of the Council of Europe Marija Pejčinović Burić: <https://rm.coe.int/annual-report-sg-2020/1680a05193>

that it would closely monitor the situation, and the measures taken by the States Parties, within the framework of the Charter's procedures, the reporting procedure and the collective complaints procedure.

Moreover, the Secretary General of the Council of Europe, issued in September 2020 the information document **"A Council of Europe contribution to support member states in addressing healthcare issues in the context of the present public health crisis and beyond"**⁵¹. She urged member states to engage in a new multilateral cooperation project to draw lessons from the pandemic crisis and enhance preparedness for addressing health concerns on the basis of common principles and best practices. The cooperation activities will be conducted on the ground in order to identify the most acute issues and effective solutions. The proposed action will promote and further develop the common European standards enshrined in the Council of Europe conventions including the European Social Charter.

7.2. Committee of Ministers

Political support for the Charter and the Charter monitoring system continued in 2020. Following the mandate given by the Committee of Ministers to the Steering Committee for Human Rights (CDDH) to identify good practices and to make proposals with a view to improving the implementation of social rights in Europe⁵², the European Committee of Social Rights considered ways in which to render the reporting procedure under the European Social Charter more effective and adopted in October 2020 a position paper⁵³ to this effect. In this paper, the ECSR welcomes the Committee of Ministers' determination to improve the implementation of social rights within the Council of Europe and invites the Committee of Ministers and Council of Europe member states to translate their declared support for improving the implementation of social rights into action. It also expresses interest about accession by the European Union to the European Social Charter. In addition, the ECSR underlines ongoing changes to the reporting procedure in order to focus on selected issues and provisions, and raises the question of phasing out the system of thematic reports. It also signals that there is room for improvement in the quality of national reports submitted to the ECSR and invites countries that have not accepted the collective complaints procedure to follow the informed advice of those that have a hands-on experience with the procedure. Finally, in view of the complexity of the issues involved, the ECSR proposes a Conference of the parties to the European Social Charter with a view to improving its "à la carte" system, overcoming the optional nature of the collective complaints procedure, and adding new rights to those already protected under the Charter (e.g. the right to a healthy or decent environment).

51. SG/Inf(2020)24: A Council of Europe contribution to support member states in addressing healthcare issues in the context of the present public health crisis and beyond, 15 September 2020: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809f953a

52. Second Report of the Steering Committee for Human Rights (CDDH), 2019: <https://rm.coe.int/droits-sociaux-volume-ii-eng/1680a0770c>

53. See Appendix 10: European Committee of Social Rights position paper on follow-up to the report and proposals of the Steering Committee for Human Rights (CDDH), 21 October 2021: <http://rm.coe.int/ecsr-position-paper-on-follow-up-to-the-report-and-proposals-of-the-cd/1680a0663a>

During his **exchange of views with the Ministers' Deputies** in November 2020, Giuseppe Palmisano, President of the European Committee of Social Rights, suggested that the time is ripe for improving, strengthening and widening the Charter system as a whole, through a reform process aimed at making it fit for the social challenges of the 21st century. The aim of this reform process is also to properly take into consideration the individual and collective social needs which are emerging with the COVID-19 crisis⁵⁴.

7.3. Parliamentary Assembly of the Council of Europe

The President of the European Committee of Social Rights, Giuseppe Palmisano, participated in a **hearing on "Overcoming the socio-economic crisis sparked by the COVID-19 pandemic"**, organised by the Sub-Committee on the European Social Charter of the Parliamentary Assembly of the Council of Europe on 7 October 2020 by videoconference.

In his intervention, Giuseppe Palmisano emphasised that the multiple crises Europe has been facing for more than 10 years, in particular economic, migrant and epidemic, reveal the gaps in the States' legal arsenal for the protection of social rights. The economic crisis of 2008 had an extremely negative impact on workers, families and the most vulnerable. Currently, "the COVID-19 related crisis is painfully revealing that pandemic-preparedness is all about social rights".

Giuseppe Palmisano stressed that effective and successful pandemic preparedness requires universal, resilient and resourced public health services, safe and healthy working conditions, protection of the rights of the elderly, adequate guarantee of the right to housing, secure employment, minimum income, strong and adequately resourced public education, and guaranteed protection of children and women from all forms of violence, abuse and exploitation.

The COVID-19 crisis has exacerbated existing vulnerabilities and deepened the already existing inequalities. The role of the State in securing social and economic rights is therefore crucial. The decisions and policies adopted and put in place by national authorities could be decisive in times of an emergency. Therefore, "compliance with the European Social Charter provisions should rather be a permanent feature, the default setting. Fulfilling them is necessary both in order to deal with the enduring effects of the crisis and the persistence of the coronavirus, and also to respond to the crises that the future holds in store", highlighted Professor Palmisano.

He called on national parliaments to take action in favour of the protection and promotion of social rights through proposing appropriate legislation and being a driving political force for national governments. He also invited the Parliamentary Assembly of the Council of Europe to take initiatives to promote a wider acceptance of the provisions of the European Social Charter and the collective complaints procedure.

54. See Appendix 11: Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights, before the Committee of Ministers of the Council of Europe, 25 November 2020: <https://rm.coe.int/exchange-of-views-palmisano-cm-25-11-2020/1680a081f9>

“The role of the State in securing social and economic rights across Europe, ... emerges from the provisions of the European Social Charter, as well as from the conclusions, decisions and findings of the European Committee of Social Rights”, pointed out Giuseppe Palmisano in his intervention⁵⁵.

Tatiana Puiu, member of the European Committee of Social Rights, participated in an **exchange of views on the impact of labour migration on left-behind children** on 27 January 2020, organised by the Parliamentary Assembly of the Council of Europe Committee on Social Affairs, Health and Sustainable Development. This exchange was organised as part of the preparation of the parliamentary report on the same topic by Viorel Riceard Badea, Rapporteur. The aim was to develop an in-depth understanding of the situation of children, raise awareness on the extent of the problem, explore the root causes, and propose possible ways of addressing the current challenges (both in the countries of origin and in the countries of destination of labour migration). In relation to this, Tatiana Puiu presented the conclusions of the European Committee of Social Rights 2019 relating to Article 19 (the right of migrant workers and their families to protection and assistance). The Parliamentary Assembly report⁵⁶ was adopted on 26 October 2020.

7.4. European Court of Human Rights

The European Committee of Social Rights often refers to the case-law of the European Court of Human Rights, both in the framework of the reporting procedure and its decisions concerning the collective complaints. Prominent examples in 2020, include the following decisions:

- ▶ European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic, Complaint No. 157/2017, decision on the merits of 17 June 2020
- ▶ International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium, Complaint No. 141/2017, decision on the merits of 9 September 2020
- ▶ Fédération de syndicats des métiers de l'ingénierie, de l'informatique, du conseil, de la formation, des bureaux et d'études (FIECI) and Syndicat National de l'Encadrement du Personnel de l'Ingénierie (SNEPI CFE-CGC) v. France, Complaint No. 142/2017, decision on the merits of 9 September 2020

Similarly, in 2020, the European Court of Human Rights referred to the European Committee of Social Rights and the European Social Charter in the following cases:

- ▶ Case Cînța v. Romania (Application No. 3891/19), Judgment of 18 February 2020
- ▶ Case G.L. v. Italy (Application No. 59751/15), Judgment of 10 September 2020
- ▶ Case Muhammad and Muhammad v. Romania (Application No. 80982/12), Judgment of 15 October 2020

55. See Appendix 12: Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights, at the hearing on “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic”, 7 October 2020

56. Report on “Impact of labour migration on left-behind children”, Viorel Riceard Badea, Rapporteur, Council of Europe Parliamentary Assembly Committee on Social Affairs, Health and Sustainable Development: <https://pace.coe.int/en/files/28741/html>

- ▶ Case Napotnik v. Romania (Application No. 33139/13), Judgment of 20 October 2020
- ▶ Case Pişkin v. Turkey (Application No. 33399/18), Judgment of 15 December 2020

7.5. Commissioner for Human Rights

Commissioner Dunja Mijatović and her team **visited Bulgaria** from 25 to 29 November 2019. During the visit, the Commissioner held discussions with the Bulgarian authorities, the Ombudsman, the Chair and members of the Commission for Protection against Discrimination, journalists, human rights defenders and other representatives of civil society.

In the report of 31 March 2020⁵⁷ following her visit to Bulgaria, regarding societal hostility and institutional discrimination against Roma, with a focus on the right to housing, the Commissioner recalled that Bulgaria was already found in violation of the European Social Charter in 2006, after carrying out forced evictions of Roma, insofar as the legislation limiting the possibility of legalising dwellings disproportionately affected Roma and the evictions did not satisfy the conditions required by the Charter, notably as they rendered the evicted persons homeless. The Commissioner was informed that even if the proportionality test was recognised by the Supreme Administrative Court, the application of this principle by lower courts was still inconsistent. The Commissioner was also informed that, with the aim of including a specific requirement for the examination of proportionality in the context of evictions, in addition to the proportionality test which already exists with respect to administrative decisions in general, the authorities had set up a working group to amend the domestic legislation.

Commissioner Dunja Mijatović and her team **visited the Republic of Moldova** from 9 to 13 March 2020. During the visit, the Commissioner held discussions with the Moldovan authorities, the People's Advocate (Ombudsman), the President of the Council for Prevention and Elimination of Discrimination and Ensuring Equality, human rights defenders and other representatives of civil society.

In the report of 25 June 2020⁵⁸ following her visit to the Republic of Moldova, noting the general shortage of social housing and limited access to water and sanitation, notably in rural areas, the Commissioner recommended that the authorities undertake a comprehensive needs assessment with a view to developing targeted housing interventions on the basis of updated information about individuals living in precarious housing conditions, and gradually allocating financial resources for the construction or renovation of social and affordable housing. The Commissioner further recommended that new housing projects and policies should be developed in close consultation with those in need of housing and all constructed or

57. Report of the Commissioner for Human Rights following her visit to Bulgaria from 25 to 29 November 2019: <https://rm.coe.int/report-on-the-visit-to-bulgaria-from-25-to-29-november-2019-by-dunja-m/16809cde16>

58. Report of the Commissioner for Human Rights following her visit to the Republic of Moldova from 9 to 13 March 2020: <https://rm.coe.int/report-on-the-visit-to-moldova-from-9-to-13-march-2020-by-dunja-mijato/16809ed0e4>

renovated housing should, to the maximum extent possible, be accessible to persons with disabilities. The Commissioner found as well that access to available housing options should be ensured on the basis of equal treatment for all disadvantaged and marginalised groups, and proposed that concrete measures should be developed to improve the quality of water and to increase investments in upgrading the existing housing stock.

In line with the above, the Commissioner remarked that whilst having accepted 63 of the 98 paragraphs of the European Social Charter, the Republic of Moldova did not accept neither Articles 31§1, 31§2 and 31§3 concerning adequate housing, the reduction of homelessness and affordable housing, nor the 1995 Additional Protocol providing for a system of collective complaints. The Commissioner took into account the third report on the non-accepted provisions of the European Social Charter from the Republic of Moldova (European Committee of Social Rights, December 2018), and called on the authorities to accept the non-accepted provisions of the European Social Charter (revised), notably those related to the right to housing, as well as the 1995 Additional Protocol providing for a system of collective complaints.

By the same token, during 2020 the Commissioner released **statements on the rights of vulnerable groups** also protected by the Charter which have been particularly affected by the COVID-19 pandemic (older persons, LGTBI groups, women, children, persons with disabilities and migrants). These statements are in line with the statements of the President of the European Committee of Social Rights regarding COVID-19 and social rights.

7.6. Council of Europe Conference of INGOs

On the occasion of the **International Day for the Eradication of Poverty** (17 October 2020), the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe organised an online event “Access to social and medico-social services for ALL: a springboard out of poverty” in presence of Gabriella Battaini-Dragnoni, Deputy Secretary General of the Council of Europe, Panayiotis Beglitis, Permanent Representative of Greece to the Council of Europe, Anna Rurka, President of the Conference of INGOs and Giuseppe Palmisano, President of the European Committee of Social Rights.

In his statement⁵⁹, the President of the European Committee of Social Rights emphasised that “the failure by the duty bearers to eradicate poverty, and their procrastination in taking action – or taking truly effective action – to make good the fundamental human right protected under Article 30 of the European Social Charter: namely the right to protection against poverty and social exclusion, is a truism”.

59. See Appendix 13: Statement by Giuseppe Palmisano, President of the European Committee of Social Rights, at the videoconference “Access to social and medico-social services for ALL: a springboard out of poverty”, 16 October 2020

During the event people experiencing poverty presented their experiences related to access to services and to their rights. INGOs stressed that the set of social rights included in the European Social Charter should be put at the centre of European public policies and urged all Council of Europe member states to ratify the European Social Charter in its entirety. In the same vein, the President of the European Committee of Social Rights added that States should accept the provisions of the Charter (preferably all of them), including in particular Article 30 on the right to protection against poverty and social exclusion, taking seriously their social rights responsibility and their obligations under the European Social Charter.

8. Relations with other international organisations

8.1. European Union

Giuseppe Palmisano, President of the European Committee of Social Rights, addressed⁶⁰ the participants at the online international conference “**Strengthening Older People’s Rights in Times of Digitalisation – Lessons learned from COVID-19**”, organised under the German Presidency of the Council of the European Union 2020, in collaboration with the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, AGE Platform Europe and the German National Association of Senior Citizens’ Organisations (BAGSO) on 28-29 September 2020.

He pointed out that the pandemic had and continued to have devastating effects on older persons, first of all in terms of their right to health, with consequences in many cases on their right to life, and on their dignity.

The Council of Europe is well equipped to tackle the current challenges posed by the COVID-19 pandemic, namely by proposing to European States a number of international instruments such as the European Convention on Human Rights and the European Social Charter, as well as several Committee of Ministers recommendations and other policy papers. In this respect, Giuseppe Palmisano underlined the fundamental aspect of the social rights of the elderly: namely, to ensure that they can play an active part in public, social and cultural life, whether they live independently, in a family setting, or within support structures when their condition so require. This right and the related requirements are set by the European Social Charter and must be fully guaranteed in future.

Giuseppe Palmisano called on the German government to support the Council of Europe’s work in the area of social rights of older persons and to contribute to the visibility and dissemination of a major publication - a manual on social rights of older persons - which is currently under preparation and due to be completed in 2021. He also asked Germany to confirm itself as a social state “role model” by asserting its leadership on social rights internationally, inter alia by supporting vigorously the European Social Charter and its monitoring mechanisms.

The Council of Europe Directorate General Human Rights and Rule of Law (DGI) made a **contribution to the European Commission consultation on the Action Plan to**

60. See Appendix 14: Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights, at the online international conference “[Strengthening Older People’s Rights in Times of Digitalisation – Lessons learned from COVID-19](#)”, German Presidency of the Council of the European Union, 29 September 2020

implement the European Pillar of Social Rights⁶¹. The Action Plan was presented by the Commission in March 2021⁶².

To realise Social Europe, the Council of Europe recommended giving absolute priority to the eradication of poverty, starting with child poverty. Closely related to this objective is the eradication of homelessness and ensuring the right to housing of an adequate standard. Similarly, inequalities must be overcome, including through ensuring equal opportunities for all and closing the gender pay gap as a matter of urgency.

The paper suggested that reinforcing Social Europe and implementing the European Pillar of Social Rights require action on all of the rights and principles sets out in the Pillar. To this end, full account should be taken of the European Social Charter and the conclusions, decisions and findings of the European Committee of Social Rights. The Charter and its monitoring procedures offer a tool that can assist and can be relied upon by States Parties in their endeavours to uphold human rights in the field of economic and social rights.

Implementing the European Pillar of Social Rights “building on the experience of the Council of Europe’s European Social Charter” features among the European Union priorities for cooperation with the Council of Europe 2020-2022⁶³.

Finally, the Council of Europe recalled that, in 2017, the European Parliament instigated the Commission to explore accession by the European Union to the European Social Charter.

8.2. United Nations

The European Social Charter and the UN Agenda 2030 for Sustainable Development

The European Social Charter and the standards developed by the European Committee of Social Rights are relevant and contribute to the implementation of Agenda 2030. There is a close link between the European Social Charter and the Sustainable Development Goals – such as for example:

- ▶ Goal 1 ‘End poverty in all its forms everywhere’ – Article 30 ESC (the right to protection against poverty and social exclusion), Article 17 ESC (the right of children and young persons to social, legal and economic protection);
- ▶ Goal 3 ‘Ensure healthy lives and promote well-being for all at all ages’ – Article 11 ESC (the right to protection of health);
- ▶ Goal 4 ‘Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all’ – Article 10 ESC (the right to vocational

61. See Appendix 15: Contribution of the Council of Europe DG Human Rights and Rule of Law to the European Commission consultation to implement the European Pillar of Social Rights: <https://rm.coe.int/dg1-submission-to-the-ec-consultation-on-social-europe/1680a090e1>

62. Action Plan to implement the European Pillar of Social Rights: https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights_en

63. European Union priorities for cooperation with the Council of Europe 2020-2022: https://eeas.europa.eu/delegations/council-europe/82788/european-union-adopts-new-priorities-2020-2022-its-cooperation-council-europe_en

training), Article 17 (the right of children and young persons to social, legal and economic protection);

- ▶ Goal 5 'Achieve gender equality and empower all women and girls' – Article 20 ESC (the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on grounds of sex);
- ▶ Goal 11 'Make cities and human settlements inclusive, safe, resilient and sustainable' – Article 16 ESC (the right of the family to social, legal and economic protection), Article 31 (the right to housing).

More information on the contribution of the European Committee of Social Right to the UN Agenda 2030 is available on the Council of Europe website⁶⁴.

Contribution of the European Social Charter to the call of the UN Special Rapporteur on the right to adequate housing to submit country evaluation reports

Following the call of the UN Special Rapporteur on the right to adequate housing to submit country evaluation reports on the right to housing, the Department of the European Social Charter provided information on article 31 (right to housing) and article 16 (the right of the family to social, legal and economic protection) of the European Social Charter. The contribution provided information on the latest conclusions of the European Committee of Social Rights on these provisions, as well as information on relevant collective complaints.

8.3. Academic Network on the European Social Charter and social rights (ANESC)

In 2020, the European Committee of Social Rights continued its cooperation with the Academic Network on the European Social Charter and Social Rights (ANESC)⁶⁵. The Committee welcomed the initiatives taken by ANESC to promote the European Social Charter and the respect for the values it defends. It noted that the ANESC activities have been negatively affected by the COVID-19 crisis, in particular because of the increased workload of its members due to the transition to distance learning and the need to adapt the way it operates to health restrictions.

As a result, the activities planned for 2020 could not take place under "normal" conditions and some were cancelled. Committee and Coordinating Council meetings, as well as the General Assembly, were held by videoconference.

64. Contribution of the Council of Europe to the United Nations 2030 Agenda for Sustainable Development Goals: <https://www.coe.int/en/web/un-agenda-2030>

65. ANESC is an association registered with the Strasbourg District Court (Tribunal d'Instance) and governed by Articles 21 to 79-III of the local Civil Code kept in force in the departments of Haut-Rhin, Bas-Rhin and Moselle by the Law of 1 June 1924, and by its statute. Its registered office is at the "Maison des associations", 1-a Place des Orphelins, 67000 Strasbourg. According to its statute, the main objective of ANESC is to promote the European Social Charter and social rights in Europe and to take every initiative conducive to publicising the European Social Charter and the other instruments for the protection of social rights in Europe, and to improving their implementation and protection both at the level of the Council of Europe and in its member states (see Article 2). For more information on ANESC, please consult the following website: <http://www.racse-anesc.org/>.

The RACSE was represented at the 10th meeting of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights on the theme: “Sustainable Economic and Social Recovery based on Equality and Human Rights”, which was held on 9 July 2020 via videoconference.

The national sections of ANESC undertook the following activities related to the promotion of the European Social Charter:

- ▶ The Belgian section participated in the study visit “Access to social protection for employed and self-employed workers in Belgium”, at the request of the Federal Public Service (FPS) Social Security. The final report refers, to a large extent, to the European Code of Social Security to which Article 12§2 of the European Social Charter makes reference.
- ▶ The Portuguese section delivered a 15-hour module on the “Multilevel protection of fundamental social rights” in English and Portuguese to master students and foreign students. In addition, the section participated, among others, in the International Conference on “Socialism and Constitutionalism”, organised by the Texas-Austin Law School and the International Forum on the “Future of Constitutionalism” on 2 October 2020, as well as in the webinar “Social Rights in times of crisis”, organised by the Universidade Federal de Pelotas (Brazil), on 2 December 2020.

Members of the Portuguese section delivered several presentations and courses related to the European Social Charter, in particular:

- ▶ Organisation of working time (Labour Law Course organised by the Centre for Judicial Studies in Porto, 6 March 2020);
- ▶ Gig economy: from an epiphenomenon to a pandemic issue - in relation to articles 1, 2, 3, 4 and 12 of the European Social Charter (VIII *Congreso Iberoamericano y Europeo de Derecho del Trabajo y de Seguridad Social*, 6 October 2020 and the Decent Work and Economic Growth Congress organised by ELSA on 25 November 2020);
- ▶ Discrimination (XI RECAJ-UFMG Congress organised by *Universidade Federal de Minas Gerais* on 19 November 2020, available at: https://youtu.be/u_rA0_NEJM8);
- ▶ Gig Economy and Poverty (Conference organised by *Associazione Italiana di Diritto del Lavoro e della Sicurezza Sociale* on 9 October 2020).

In the framework of the Observatory for the Protection of Social Rights in a European Context⁶⁶, several updates have been made under the aegis of the Portuguese section, both in English (<https://fd.porto.ucp.pt/analysis-decisions-and-reports-european-committee-social-rights-concerning-portugal>) and in Portuguese (<https://fd.porto.ucp.pt/pt-pt/analise-das-decisoes-e-relatorios-do-comite-europeu-de-direitos-sociais-relativas-portugal>), on the analysis of the decisions and reports of the European Committee of Social Rights concerning Portugal.

66. The Observatory for the protection of social rights in a European context was created by the Portuguese section of RACSE in 2015-2016.

The Committee noted with great satisfaction that ANESC is finalising its work on the 1st volume of the Commentary on the European Social Charter in which its current and former members are involved.

The Committee noted that the moot court competition based on the European Social Charter, launched by ANESC and which it fully supports, has been postponed for a year due to the impact of the current health crisis on the organisation of courses and examinations in universities. It noted that the competition will take place in April 2022 and that eight universities have committed to participate.

The Committee welcomed the establishment of the Polish section within ANESC and wished success in its work to strengthen respect for social rights in Poland and Europe. It noted with satisfaction that in 2020, 14 new members joined the Academic Network on the European Social Charter.

The Committee noted with great interest the publications on the European Social Charter by ANESC members, in particular:

► for the Greek section:

Christina Deliyanni-Dimitrakou, *Proceedings of the Conference on Current Issues of Non-Discrimination Law and the United Nations Convention on the Rights of Persons with Disabilities* (Thessaloniki, April 18-19, 2018), Sakkoulas Publications, October 2020.

Christina Deliyanni-Dimitrakou, *Proceedings of the International Conference on the Protection of Social Rights in Europe and the European Social Charter* (Thessaloniki, October 4 and 5, 2019), *Greek Journal of Labor Law Epithorisis Ergatikou Dikaiou*, December 2020.

► for the Portuguese section:

Filipe Venade, *“Os Direitos Sociais das Pessoas com Deficiência ea centralidade da Convenção das Nações Unidas sobre os Direitos das Pessoas com Deficiência”*, in OIT, *100 anos depois - Livro de Resumos da I Conferência Euroamericas Human paraos dos Desen*, (CEDH2019), Coimbra: JUSXXI, p. 41. ISBN 978-989-33-0509-6.

Milena Rouxinol, *“Algumas questões novas sobre a discriminação de género: o problema da identidade de género eo problema da diferenciação em função da aparência física”*, in *Constitucionalidade e (Com) temporaneidade - Estudos em Homenagem ao Católica Professor Vazidica Univers Afífisica Editora*, Porto, 2020, p. 545-574.

Milena Rouxinol, *“A violação do direito a férias - contributo para a leitura do artigo 246.º do Código do Trabalho”*, *Prontuário de Direito do Trabalho*, 2020-I, p. 253-269.

Ana Cristina Ribeiro Costa, *“Segurança e saúde no trabalho - particularidades e problemas no âmbito da Administração Pública”*, in AAVV, *Direito do Trabalho em Funções Públicas*, cadernos do CEJ, 2020, disponível em http://www.cej.mj.pt/cej/recursos/ebooks/Administrativo_fiscal/eb_DTTrabalhoFP2020.pdf

- ▶ for the Irish/United Kingdom section:

Stefano Angeleri, *“Salute e sicurezza per i lavoratori migranti nel diritto internazionale ed europeo dei diritti umani”*, in *Lavoro insicuro. Salute, sicurezza e tutele sociali dei lavoratori immigrati in agricoltura*, in Laura Calafà, Sergio Iavicoli and Benedetta Persechino (eds) (Il Mulino 2020) 23–59

Stefano Angeleri, “The Health, Safety and Associated Rights of Migrant Workers in International and European Human Rights Law”, in *Promoting the Health and Safety of Migrant Workers: Different Disciplines, A Shared Objective*, Stefano Angeleri, Laura Calafà and Venera Protopapa (eds), *Working Papers of the Centre for the Study of European Labor Law*, Massimo d’Antona, 2020 (9) 2–28
http://csdle.lex.unict.it/Archive/WP/WP%20CSDLE%20M%20DANTONA/WP%20CSDLE%20M%20DANTONA-Collective%20Volumes/20200617-093107_WP_CV_-9-2020pdf.pdf

Stefano Angeleri, “Undocumented Migrants Social Rights in the Time of Covid-19 in Ireland” (Global Initiative for Economic, Social and Cultural Rights BLOG, 6 July 2020)

<https://www.gi-escr.org/blog/category/Stefano+Angeleri>

Colin Harvey and Anne Smith, “Designing Bills of Rights in Contested Contexts: Reflections on the Northern Ireland Experience” (2020) *Fordham International Law Journal* (forthcoming).

Colin Harvey and Anne Smith, “Advancing a Bill of Rights for Northern Ireland” (OxHRH Blog, 17 August 2020)

<http://ohrh.law.ox.ac.uk/advancing-a-bill-of-rights-for-northern-ireland/>

Padraic Kenna, “Housing and Housing Rights in the EU Charter of Fundamental Rights” (2020) Briefing Paper of the Centre for Housing Law, Rights and Policy, NUI Galway. <http://www.nuigalway.ie/media/housinglawrightsandpolicy/files/Briefing-Paper-1.-Housing-and-Housing-Rights-in-the-EU-Charter-of-Fundamental-Rights.pdf>

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Marguerite Angelari and Padraic Kenna, “Your EU Consumer and Human Rights - A guide for people in Mortgage Distress”, (2020) Study, Center for Housing law, Rights and Policy NUI Galway and Open Society Foundations.

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Doherty, M. and Franca, V., “Solving the “Gig-saw”? Collective Rights and Platform Work” (2020) *Industrial Law Journal* 49 (3) 352–376.

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8.4. COE-FRA-ENNHRI-EQUINET Collaborative Platform on social and economic rights

Due to the COVID-19 restrictions, the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights⁶⁷ organised only one meeting in 2020.

The 10th meeting of the Platform, “Sustainable Economic and Social Recovery based on Equality and Human Rights”, was held on 9 July 2020. The objective was to identify, analyse and share new lines of thinking to strengthen equality and human rights in response to the profound and transformative societal challenges triggered by the COVID-19 epidemic. The role of National Human Rights Institutions and National Equality Bodies as key actors in recovery efforts was also discussed.

Keynote interventions were made by Aoife Nolan, member of the European Committee of Social Rights and Professor of International Human Rights Law, and Katarina Ivanković-Knežević, Director for Social Affairs, DG EMPL, European Commission.

Aoife Nolan encouraged National Human Rights Institutions and Equality Bodies to lobby at national level for broader acceptance of the European Social Charter provisions and the collective complaints procedure, to send additional information (“shadow reports”) to the European Committee of Social Rights on provisions of the European Social Charter accepted by the state of interest and to advise states on how to use and integrate Human Rights Impact Assessments in their economic reforms.

She pointed out that the COVID-19 crisis reflects long standing systemic shortcomings and therefore, it is essential to use the European Social Charter as a framework for a proactive design, implementation and monitoring of law, policy and budgeting.

The event brought together more than 40 participants, including from the European Union (EU) Fundamental Rights Agency, the United Nations Committee on Economic, Social and Cultural Rights (CESCR), national human rights institutions and equality bodies, trade unions and civil society.

67. COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights: <https://www.coe.int/en/web/european-social-charter/coe-fra-ennhri-equinet>

The meeting report⁶⁸ is available on the web page of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights.

In 2020, the Platform also initiated work on the publication “Against Ageism and Toward Active Social Citizenship for Older Persons. Current use and Future Potential of the European Social Charter”, which will be published in the course of 2021.

68. Report of the 10th meeting of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights: <https://rm.coe.int/coe-fra-ennhri-equinet-report-of-the-10th-online-meeting-/1680a0b82f>

9. Major events

The President of the European Committee of Social Rights, Giuseppe Palmisano, made an intervention⁶⁹ at the High-level Conference on Environmental Protection and Human Rights, organised by the Georgian Presidency of the Committee of Ministers of the Council of Europe on 27 February in Strasbourg.

Giuseppe Palmisano underlined the important contribution of the Committee to clarifying the complementarity and mutual relationship between environment and human rights. He emphasised that “deterioration of the environment has an undeniable impact on the enjoyment of many social rights”, that States must comply with their international obligations which include measures to avoid or reduce environmental damage in order to ensure the respect of specific social rights such as the right to health and to a healthy environment, the right to housing, the right to protection against poverty, etc. Moreover, the respect of social rights may in turn contribute to a better protection of the environment.

Giuseppe Palmisano expressed concern about the impact that climate change and natural disasters may have on people’s social rights such as the right to work and to earn a decent living, the right to safe and healthy working conditions, or the right of vulnerable groups to protection. Climate change can be expected to have alarming effects on the labour markets and on employment levels. Global warming related migration and “climate refugees” will raise a host of additional social rights issues in pace with accelerated demographic change.

Following the above, Giuseppe Palmisano made concrete proposals to the high-level conference:

- ▶ the European Committee of Social Rights can examine, under its reporting procedure and through targeted national reports, environment-related questions;
- ▶ the Committee can, in addition, examine environmental issues brought to its attention under the collective complaints procedure;
- ▶ in their follow-up to European Committee of Social Rights conclusions, the Committee of Ministers of the Council of Europe and the Governmental Committee of the European Social Charter and the European Code of Social Security must assume their responsibility and urge States to reverse situations of non-conformity with the Charter;
- ▶ the Committee of Ministers may take a leading role in the drafting of a new protocol to the European Social Charter to incorporate environmental issues into human rights protection.

In 2020, the COVID-19 pandemic led to a dramatic loss of human life worldwide and created an unprecedented challenge to public health systems, food and the world of work.

69. See Appendix 16: Intervention by Giuseppe Palmisano at the High-level Conference on Environmental Protection and Human Rights, 27 February 2020, Strasbourg: <https://rm.coe.int/palmisano-statement-environment-humanrights-27-02-20/16809cbfec>

The protection of social rights became a key issue for national governments and human rights defenders. The President of the European Committee of Social Rights, Giuseppe Palmisano, reminded on various occasions that the “COVID-19 crisis is a brutal reminder of the importance of ensuring lasting progress with respect to social rights enjoyment, particularly through the development of universal public health services.”

At a **high-level videoconference on “Protection of human life and public health in the context of a pandemic”**, organised in the framework of the Greek Chairmanship of the Committee of Ministers of the Council of Europe on 3 June 2020, Giuseppe Palmisano highlighted three main points in his intervention⁷⁰:

- ▶ pandemic-readiness requires States to ensure the enjoyment of a range of social rights: universal healthcare system, employment security, health and safety at work, protection of older people, solid public education, protection of children and women against violence and abuse, minimum income, and the right to housing;
- ▶ this virus is here to stay and there will be other viral or non-viral disasters: the future should be constructed with the European Social Charter in one hand, and with legislative, regulatory and funding mechanisms in the other. The Charter should inspire the new social contract that world leaders now demand;
- ▶ States should strengthen their commitment to the Charter, in particular as regards the Revised Charter and the collective complaints procedure which are good governance instruments helping States Parties take the best possible decisions in areas covered by the Charter. Accession by the European Union to the European Social Charter should be on the table.

As the COVID-19 pandemic imposed restrictions on human rights in Europe and worldwide, the European Committee of Social Rights reminded that the right to health is a fundamental human right and issued a **statement of interpretation on the right to protection of health**⁷¹ under Article 11 of the European Social Charter. The Committee reminded that the measures adopted by states in response to the pandemic such as “testing and tracing, physical distancing and self-isolation, the provision of masks and sanitiser, as well as the imposition of quarantine and lockdown” must be designed and implemented having regard to the current state of scientific knowledge and in accordance with relevant human rights standards.

Moreover, the European Committee of Social Rights addressed without delay the issues of pandemic threat and prevention within the framework of the reporting procedure. The targeted questions⁷² sent in 2020 to States Parties to the European

70. See Appendix 17: Statement by Giuseppe Palmisano, President of the European Committee of Social Rights, at the high-level videoconference on “Protection of human life and public health in the context of a pandemic”, Greek Chairmanship of the Committee of Ministers of the Council of Europe, 3 June 2020: <https://rm.coe.int/palmisano-statement-on-protection-of-human-life-and-public-health-in-t/16809e9325>

71. Statement of interpretation on the right to protection on health under Article 11 of the European Social Charter, April 2020: <https://rm.coe.int/statement-of-interpretation-on-the-right-to-protection-of-health-in-ti/16809e3640>

72. Targeted questions of the European Committee of Social Rights for Conclusions 2021 on health, social security and social protection: <https://www.coe.int/en/web/european-social-charter/national-reports>

Social Charter for **Conclusions 2021 relating to health, social security and social protection** are a clear example of the Committee's objective to address human rights shortcomings, but also identify good practices.

The European Committee of Social Rights took part in many other events, organised in 2020, a list of which can be found in Appendix 18⁷³.

73. See Appendix 18: List of events organised in 2020

10. Other important developments in 2020

The European Committee of Social Rights established and published **criteria for equal pay and equal opportunities for women in employment**⁷⁴. These criteria are based on the European Committee of Social Rights decisions on the merits in the collective complaints lodged by the international NGO University Women of Europe (UWE). The decisions concern the 15 States which have accepted the complaints procedure (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden). These decisions led the Committee of Ministers to address recommendations to the 14 countries which were found to be in violation of the Charter and to adopt a **Declaration on equal pay and equal opportunities for women and men in employment**⁷⁵.

In its criteria, the European Committee of Social Rights emphasises inter alia the need to recognise the right to equal pay in national legislation, the right to an adequate and effective remedy in case of alleged wage discrimination, the obligation to ensure wage transparency and the possibility of making job comparisons. States must also promote the establishment of independent equality bodies with adequate resources and a strong mandate.

In order to ensure and promote equal pay, “the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases are crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap”.

Other measures, such as adoption and implementation of national action plans for employment which effectively ensure equality between women and men, including pay, or to require individual undertakings to draw up enterprise or company plans to secure equal pay or the inclusion of equality issues in collective agreements, are also mentioned among the criteria.

The Committee also points out the importance of taking measures to ensure a balanced representation of women in decision-making positions in private companies.

The **European Social Cohesion Platform (PECS)**⁷⁶, a Council of Europe intergovernmental structure, continued its functioning under the renewed mandate for 2020-2021. Particular attention was paid to addressing the impact of the COVID-19

74. See Appendix 19: European Committee of Social Rights Criteria for equal pay and equal opportunities for women in employment, November 2020: <https://rm.coe.int/realising-equal-pay-and-equal-opportunity-for-women-in-employment-crit/1680a06673>

75. Decl(17/03/2021)1: Declaration by the Committee of Ministers on equal pay and equal opportunities for women and men in employment, 17 March 2021

76. European Social Cohesion Platform (PECS): <https://www.coe.int/en/web/european-social-charter/european-social-cohesion-platform>

pandemic on social rights and social cohesion. In this regard, the PECS initiated work on a concept paper on new trends and challenges for social cohesion due to the COVID-19 pandemic. Also, the issues concerning **computer-assisted or artificial-intelligence-enabled decision making in the area of social rights** were raised in a Committee of Ministers' declaration prepared in 2020 and adopted in 2021⁷⁷.

In 2020, the Department of the European Social Charter stepped up **cooperation activities** in member states, including needs assessments in the Republic of Moldova and in Ukraine where considerable work was conducted in the areas of the rights of people with disabilities and of older persons. A manual on the reporting procedure and a handbook on the procedure on non-accepted provisions under the European Social Charter were developed. New co-operation projects were discussed in respect of other countries in line with the proposals made by the Steering Committee for Human Rights. As a result, the Department of the European Social Charter launched a project on social rights in Georgia at the beginning of 2021.

In the framework of the Human Rights Education for Legal Professionals (HELP), the **course on Labour Rights**⁷⁸ was revised, integrating a new module on the European Social Charter and its monitoring procedures.

77. [Decl\(17/03/2021\)2](#): Declaration by the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net, adopted on 17 March 2021

78. Labour Rights as Human Rights Course Brief: <https://rm.coe.int/help-course-brief-labour-rights-as-human-rights/16809e2a3d>

11. Appendices

Appendix 1: Signatures and ratifications of the European Social Charter at 1 April 2021

Appendix 2: Composition of the European Committee of Social Rights at 1 January 2021

Appendix 3: List of collective complaints registered in 2020

Appendix 4: Number of decisions adopted by the European Committee of Social Rights 1998-2020

Appendix 5: Number of decisions adopted by the European Committee of Social Rights per country 1998-2020

Appendix 6: Summary of the Committee's Conclusions 2020

Appendix 7: Statement addressed by the Governmental Committee of the European Social Charter and European Code of Social Security to the Committee of Ministers on the follow-up to the Steering Committee for Human Rights (CDDH) report

Appendix 8: Number of accepted provisions by year since 1962

Appendix 9: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

Appendix 10: European Committee of Social Rights position paper on follow-up to the report and proposals of the Steering Committee for Human Rights (CDDH), 21 October 2021

Appendix 11: Intervention by Giuseppe Palmisano before the Committee of Ministers of the Council of Europe, 25 November 2020

Appendix 12: Intervention by Giuseppe Palmisano at the hearing on "Overcoming the socio-economic crisis sparked by the Covid-19 pandemic", 7 October 2020

Appendix 13: Statement by Giuseppe Palmisano, President of the European Committee of Social Rights, at the videoconference "Access to social and medico-social services for ALL: a springboard out of poverty", 16 October 2020

Appendix 14: Intervention by Giuseppe Palmisano at the online international conference "Strengthening Older People's Rights in Times of Digitalisation – Lessons learned from COVID-19, 29 September 2020

Appendix 15: Contribution of the Council of Europe DG Human Rights and Rule of Law to the European Commission consultation to implement the European Pillar of Social Rights

Appendix 16: Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights, at the high-level Conference on "Environmental

Protection and Human Rights”, Georgian Chairmanship of the Committee of Ministers of the Council of Europe, 27 February 2020

Appendix 17: Statement by Giuseppe Palmisano, President of the European Committee of Social Rights, at the high-level videoconference on “Protection of human life and public health in the context of a pandemic”, Greek Chairmanship of the Committee of Ministers of the Council of Europe, 3 June 2020

Appendix 18: List of events organised in 2020

Appendix 19: European Committee of Social Rights Criteria for equal pay and equal opportunities for women in employment, November 2020

Appendix 20: Selection of judicial decisions from 2020 referring to the European Social Charter

Appendix 21. Bibliography on the European Social Charter (recent publications)

Appendix 1

Signatures and ratifications of the 1961 European Social Charter, its Protocols and the European Social Charter (revised) as of 1st January 2021

| Member states | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|------------------------|--------------------------------------|--------------|----------------------------------|--------------|--------------------------------|--------------|---|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| Albania | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 21/9/98 | 14/11/02 |
| Andorra | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 4/11/00 | 12/11/04 |
| Armenia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 18/10/01 | 21/1/04 |
| Austria | 22/7/63 | 29/10/69 | 4/12/90 | | 7/5/92 | 13/7/95 | (2) | — | 7/5/99 | 20/5/11 |
| Azerbaijan | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 18/10/01 | 2/9/04 |
| Belgium | 18/10/61 | 16/10/90 | 20/5/92 | 23/6/03 | 22/10/91 | 21/9/00 | 14/5/96 | 23/6/03 | 3/5/96 | 2/3/04 |
| Bosnia and Herzegovina | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 11/5/04 | 7/10/08 |
| Bulgaria | (2) | (2) | (3) | (3) | | (2)(2) | | (4)(4) | 21/9/98 | 7/6/00 |
| Croatia | 8/3/99 | 26/2/03 | 8/3/99 | 26/2/03 | 8/3/99 | 26/2/03 | 8/3/99 | 26/2/03 | 6/11/09 | — |
| Cyprus | 22/5/67 | 7/3/68 | 5/5/88 | (3) | 21/10/91 | 1/6/93 | 9/11/95 | 6/8/96 | 3/5/96 | 27/9/00 |
| Czech Republic | 27/5/92* | 3/11/99 | 27/5/92* | 17/11/99 | 27/5/92* | 17/11/99 | 26/2/02 | 4/4/12 | 4/11/00 | — |
| Denmark | 18/10/61 | 3/3/65 | 27/8/96 | 27/8/96 | — | *** | 9/11/95 | — | 3/5/96 | — |
| Estonia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 4/5/98 | 11/9/00 |
| Finland | 9/2/90 | 29/4/91 | 9/2/90 | 29/4/91 | 16/3/92 | 18/8/94 | 9/11/95 | 17/7/98 | 3/5/96 | 21/6/02 |

| Member states | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|---------------------|--------------------------------------|--------------|----------------------------------|--------------|--------------------------------|--------------|---|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| France | 18/10/61 | 9/3/73 | 22/6/89 | (3) | 21/10/91 | 24/5/95 | 9/11/95 | 7/5/99 | 3/5/96 | 7/5/99 |
| Georgia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 30/6/00 | 22/8/05 |
| Germany | 18/10/61 | 27/1/65 | 5/5/88 | — | — | *** | (1) | — | 29/6/07 | — |
| Greece | 18/10/61 | 6/6/84 | 5/5/88 | 18/6/98 | 29/11/91 | 12/9/96 | 18/6/98 | 18/6/98 | 3/5/96 | 18/03/16 |
| Hungary | 13/12/91 | 8/7/99 | 7/10/04 | 1/6/05 | 13/12/91 | 4/2/04 | 7/10/04 | — | 7/10/04 | 20/4/09 |
| Island | 15/1/76 | 15/1/76 | 5/5/88 | — | 12/12/01 | 21/2/02 | (1) | — | 4/11/98 | — |
| Ireland | 18/10/61 | 7/10/64 | (3) | (3) | 14/5/97 | 14/5/97 | 4/11/00 | 4/11/00 | 4/11/00 | 4/11/00 |
| Italy | 18/10/61 | 22/10/65 | 5/5/88 | 26/5/94 | 21/10/91 | 27/1/95 | 9/11/95 | 3/11/97 | 3/5/96 | 5/7/99 |
| Latvia | 29/5/97 | 31/1/02 | 29/5/97 | — | 29/5/97 | 9/12/03 | (1) | — | 29/5/07 | 26/03/13 |
| Liechtenstein | 9/10/91 | — | — | — | — | — | — | — | — | — |
| Lithuania | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 8/9/97 | 29/6/01 |
| Luxembourg | 18/10/61 | 10/10/91 | 5/5/88 | — | 21/10/91 | *** | (1) | — | 11/2/98 | — |
| Malta | 26/5/88 | 4/10/88 | (3) | (3) | 21/10/91 | 16/2/94 | (2) | — | 27/7/05 | 27/7/05 |
| Republic of Moldova | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 3/11/98 | 8/11/01 |
| Monaco | (1) | — | (1) | — | (1) | — | (1) | — | 5/10/04 | — |
| Montenegro | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 22/3/05** | 3/3/10 |
| The Netherlands | 18/10/61 | 22/4/80 | 14/6/90 | 5/8/92 | 21/10/91 | 1/6/93 | 23/1/04 | 3/5/06 | 23/1/04 | 3/5/06 |
| North Macedonia | 5/5/98 | 31/3/05 | 5/5/98 | — | 5/5/98 | 31/3/05 | (2) | — | 27/5/09 | 6/1/12 |

| Member states | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|--------------------|--------------------------------------|--------------|----------------------------------|--------------|--------------------------------|--------------|---|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| Norway | 18/10/61 | 26/10/62 | 10/12/93 | 10/12/93 | 21/10/91 | 21/10/91 | 20/3/97 | 20/3/97 | 7/5/01 | 7/5/01 |
| Poland | 26/11/91 | 25/6/97 | (1) | — | 18/4/97 | 25/6/97 | (1) | — | 25/10/05 | — |
| Portugal | 1/6/82 | 30/9/91 | (3) | (3) | 24/2/92 | 8/3/93 | 9/11/95 | 20/3/98 | 3/5/96 | 30/5/02 |
| Romania | 4/10/94 | (2) | (3) | (3) | (2) | (2) | (2) | — | 14/5/97 | 7/5/99 |
| Russian Federation | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 14/9/00 | 16/10/09 |
| San Marino | (1) | — | (1) | — | (1) | — | (1) | — | 18/10/01 | — |
| Serbia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 22/3/05* | 14/9/09 |
| Slovak Republic | 27/5/92* | 22/6/98 | 27/5/92* | 22/6/98 | 27/5/92* | 22/6/98 | 18/11/99 | — | 18/11/99 | 23/4/09 |
| Slovenia | 11/10/97 | (2) | 11/10/97 | (3) | 11/10/97 | (2) | 11/10/97 | (4) | 11/10/97 | 7/5/99 |
| Spain | 27/4/78 | 6/5/80 | 5/5/88 | 24/1/00 | 21/10/91 | 24/1/00 | (1) | — | 23/10/00 | — |
| Sweden | 18/10/61 | 17/12/62 | 5/5/88 | 5/5/89 | 21/10/91 | 18/3/92 | 9/11/95 | 29/5/98 | 3/5/96 | 29/5/98 |
| Switzerland | 6/5/76 | — | — | — | — | — | — | — | — | — |
| Turkey | 18/10/61 | 24/11/89 | 5/5/98 | (3) | 6/10/04 | 10/6/09 | (2) | — | 6/10/04 | 27/6/07 |
| Ukraine | 2/5/96 | (2) | (3) | (3) | (2) | (2) | (2) | — | 7/5/99 | 21/12/06 |
| United Kingdom | 18/10/61 | 11/7/62 | (1) | — | 21/10/91 | *** | (1) | — | 7/11/97 | — |

*Date of signature by the Czech and Slovak Federal Republic.

** Date of signature by the State Union of Serbia and Montenegro.

***State whose ratification is necessary for the entry into force of the protocol.

Appendix 2

Composition of the European Committee of Social Rights at 1 January 2021 (in order of precedence⁷⁹)

| | Term of Office |
|--|----------------|
| Karin LUKAS, President (Austrian) | 31/12/2022 |
| Eliane CHEMLA, Vice-President (French) | 31/12/2024 |
| Aoife NOLAN, Vice-President (Irish) | 31/12/2022 |
| Giuseppe PALMISANO, General Rapporteur (Italian) | 31/12/2022 |
| József HAJDÚ (Hungarian) | 31/12/2024 |
| Barbara KRESAL (Slovenian) | 31/12/2022 |
| Kristine DUPATE (Latvian) | 31/12/2022 |
| Karin MØHL LARSEN (Danish) | 31/12/2020 |
| Yusuf BALCI (Turkish) | 31/12/2024 |
| Ekaterina TORKUNOVA (Russian) | 31/12/2024 |
| Tatiana PUIU (Moldovan) | 31/12/2024 |
| Paul RIETJENS (Belgian) | 31/12/2026 |
| George THEODOSIS (Greek) | 31/12/2026 |
| Mario VINKOVIĆ (Croatian) | 31/12/2026 |
| Miriam KULLMANN (German) | 31/12/2026 |

79. According to Article 7 of the Committee's Rules.

Appendix 3

List of collective complaints registered in 2020

In 2020, the European Committee of Social Rights registered the following nine complaints:

Validity v. Finland

Complaint No. 197/2020

Greek Bar Associations v. Greece

Complaint No. 196/2020

European Roma Rights Centre (ERRC) v. Belgium

Complaint No. 195/2020

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy

Complaint No. 194/2020

Union Syndicale Solidaires SDIS v. France

Complaint No. 193/2020

Confederazione Generale Sindacale CGS, Federazione GILDA-UNAMS and

Sindacato Nazionale Insegnanti Di Religione Cattolica v. Italy

Complaint No. 192/2020

European Federation of National Organisations working with the Homeless (FEANTSA) v. Czech Republic

Complaint No. 191/2020

European Roma Rights Centre (ERRC) v. Czech Republic

Complaint No. 190/2020

Confédération française démocratique du travail (CFDT) v. France

Complaint No. 189/2020

Appendix 4

Number of decisions adopted by the European Committee of social Rights 1998 – 2020

| Years | Registered complaints | Pending complaints on 1 st January | Decisions on admissibility | Decisions on the merits | Decisions on admissibility and the merits | Decisions on immediate measures | Decisions on admissibility and immediate measures | Striking off / inadmissible | Total decisions |
|-------|-----------------------|---|----------------------------|-------------------------|---|---------------------------------|---|-----------------------------|-----------------|
| 1998 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1999 | 5 | 1 | 2 | 1 | 0 | 0 | 0 | 0/1 | 3 |
| 2000 | 4 | 4 | 7 | 5 | 0 | 0 | 0 | 0 | 12 |
| 2001 | 1 | 3 | 2 | 3 | 0 | 0 | 0 | 0 | 5 |
| 2002 | 2 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 3 |
| 2003 | 10 | 2 | 8 | 2 | 0 | 0 | 0 | 0 | 10 |
| 2004 | 5 | 10 | 6 | 10 | 0 | 0 | 0 | 0 | 16 |
| 2005 | 4 | 5 | 5 | 4 | 0 | 0 | 0 | 0/2 | 9 |
| 2006 | 7 | 3 | 5 | 4 | 0 | 0 | 0 | 0/1 | 9 |
| 2007 | 7 | 5 | 7 | 5 | 0 | 0 | 0 | 0 | 12 |
| 2008 | 8 | 7 | 8 | 5 | 0 | 0 | 0 | 1/0 | 14 |

| | | | | | | | | | | | |
|---------------------|------------|----|------------|------------|----------|----------|----------|----------|-------------|-------------|------------|
| 2009 | 5 | 9 | 7 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 14 |
| 2010 | 4 | 7 | 3 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 9 |
| 2011 | 12 | 5 | 11 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 15 |
| 2012 | 13 | 13 | 9 | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 24 |
| 2013 | 15 | 11 | 18 | 9 | 4 | 4 | 0 | 0 | 0 | 0 | 27 |
| 2014 | 10 | 17 | 3 | 8 | 0 | 0 | 0 | 0 | 0 | 1/0 | 12 |
| 2015 | 6 | 18 | 11 | 5 | 1 | 0 | 0 | 1 | 0 | 0 | 15 |
| 2016 | 21 | 19 | 6 | 8 | 3 | 0 | 0 | 0 | 0/1 | 0/1 | 11 |
| 2017 | 18 | 31 | 31 | 6 | 1 | 0 | 0 | 0 | 0/1 | 0/1 | 36 |
| 2018 | 15 | 42 | 14 | 9 | 0 | 0 | 0 | 0 | 0/1 | 0/1 | 23 |
| 2019 | 15 | 47 | 11 | 20 | 0 | 0 | 0 | 3 | 0/3 | 0/3 | 31 |
| 2020 | 9 | 39 | 17 | 8 | 0 | 0 | 0 | 1 | 0/5 | 0/5 | 25 |
| Total period | 197 | | 193 | 145 | 9 | 4 | 4 | 5 | 2/15 | 2/15 | 335 |

Appendix 5

Number of decisions adopted by the European Committee of Social Rights by country 1999-2020

| | Registered complaints | Decisions on admissibility | Admissible | Inadmissible | Decisions on immediate measures / on admissibility and immediate measures | Decisions on admissibility and the merits | Decisions on the merits | Violation | Non violation | Striking-off |
|----------------|-----------------------|----------------------------|------------|--------------|---|---|-------------------------|-----------|---------------|--------------|
| Belgium | 13 | 12 | 11 | 0 | 1 / 1 | 1 | 10 | 9 | 1 | 0 |
| Bulgaria | 9 | 9 | 9 | 0 | 0 | 0 | 8 | 8 | 0 | 1 |
| Croatia | 4 | 4 | 4 | 0 | 0 | 0 | 4 | 4 | 0 | 0 |
| Cyprus | 2 | 2 | 2 | 0 | 0 | 0 | 1 | 1 | 0 | 1 |
| Czech Republic | 9 | 9 | 9 | 0 | 0 | 0 | 6 | 6 | 0 | 0 |
| Finland | 13 | 12 | 11 | 1 | 0 / 1 | 3 | 10 | 8 | 2 | 0 |
| France | 53 | 52 | 47 | 5 | 0 | 2 | 37 | 26 | 11 | 0 |
| Greece | 22 | 21 | 19 | 2 | 0 / 1 | 0 | 17 | 16 | 1 | 0 |

| | Registered complaints | Decisions on admissibility | Admissible | Inadmissible | Decisions on immediate measures / on admissibility and immediate measures | Decisions on admissibility and the merits | Decisions on the merits | Violation | Non violation | Striking-off |
|--------------|-----------------------|----------------------------|------------|--------------|---|---|-------------------------|------------|---------------|--------------|
| Ireland | 12 | 12 | 12 | 0 | 1 / 0 | 1 | 11 | 8 | 3 | 0 |
| Italy | 32 | 32 | 27 | 5 | 0 / 2 | 1 | 16 | 11 | 5 | 0 |
| Netherlands | 4 | 4 | 4 | 0 | 2 / 0 | 0 | 4 | 4 | 0 | 0 |
| Norway | 4 | 4 | 3 | 1 | 0 | 0 | 3 | 2 | 1 | 0 |
| Portugal | 13 | 13 | 12 | 1 | 0 | 0 | 11 | 5 | 6 | 0 |
| Slovenia | 3 | 3 | 3 | 0 | 0 | 0 | 3 | 3 | 0 | 0 |
| Sweden | 4 | 4 | 4 | 0 | 0 | 1 | 4 | 2 | 2 | 0 |
| Total | 197 | 193 | 177 | 15 | 8 / 5 | 9 | 145 | 113 | 32 | 2 |

Appendix 6

Summary of the European Committee of Social Rights' Conclusions for 2020

1961 European Social Charter (XXI-1) and Revised European Social Charter

| | Article 1§1 | Article 1§2 | Article 1§3 | Article 1§4 | Article 9 | Article 10§1 | Article 10§2 | Article 10§3 | Article 10§4 | Article 10§5 | Article 15§1 | Article 15§2 | Article 15§3 | Article 18§1 | Article 18§2 | Article 18§3 | Article 18§4 | Article 20 | Article 24 | Article 25 | TOTAL examined |
|-----|-------------|-------------|-------------|-------------|-----------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|------------|------------|------------|----------------|
| ALB | /-/ | /-/ | AJ | Nex | | | | | | | | | | | | | | | /-/ | /-/ | 6 |
| AND | /+/ | AJ | Nex | /+/ | Nex | /+/ | Nex | /+/ | /+/ | /-/ | /+/ | /+/ | AJ | | | | Nex | | | | 11 |
| ARM | /-/ | /-/ | /-/ | Nex | | | Nex | | | | | | /-/ | Nex | /-/ | Nex | Nex | | AJ | | 8 |
| AUT | /+/ | AJ | Nex | /+/ | Nex | /+/ | Nex | /+/ | /+/ | /-/ | /+/ | | AJ | Nex | Nex | | Nex | | | Nex | 10 |
| AZE | AJ | /-/ | /-/ | /-/ | /-/ | | | | | | | | | | | | | | /+/ | | 7 |
| BLG | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | Simpl | | Simpl | Simpl | 0 |
| BIH | /-/ | /-/ | Nex | /-/ | /-/ | | | | | | | | | | | | | | | | 5 |
| BGR | Simpl | Simpl | Simpl | Simpl | | Simpl | | Simpl | | | | | | Simpl | | | Simpl | | Simpl | Simpl | 0 |
| CYP | AJ | /-/ | /-/ | AJ | Nex | /-/ | Nex | AJ | AJ | /-/ | AJ | /-/ | /-/ | | | | Nex | | /-/ | Nex** | 13 |
| CZE | /+/ | AJ | /+/ | | | | Nex | AJ | | | | AJ | | | | | Nex | /-/ | | | 5 |
| DNK | /+/ | /+/ | /+/ | AJ | Nex | /+/ | Nex | /+/ | /-/ | | AJ | /+/ | | | Nex | Nex | Nex | | | | 10 |
| ESP | /-/ | AJ | /+/ | /-/ | Nex | /+/ | Nex | /-/ | Nex | | AJ | AJ | | /+/ | Nex | Nex | Nex | | | | 10 |
| EST | /+/ | AJ | Nex | /+/ | Nex | AJ | AJ | /+/ | AJ | | AJ | /+/ | /-/ | | Nex | Nex | Nex | | /-/ | /+/ | 12 |

Statement addressed to the Committee of Ministers of the Council of Europe on the follow-up to the Steering Committee for Human Rights (CDDH) report by the Governmental Committee of the European Social Charter and European Code of Social Security

16 December 2020

Today, we are facing challenges which remind us that it is essential to effectively protect social rights and that vigorous and resolute action is needed. All stakeholders who share responsibility for implementing social rights guaranteed by international and European human rights law and related case law must harness synergies to make these rights a reality for everyone, even more in the context of the Covid-19 pandemic.

The Governmental Committee, as a key monitoring body, has the task to contribute to the supervision of the respect of social rights in Europe as set out in the European Social Charter (of 1961 and Revised Charter of 1996) and in the European Code of Social Security (1964 and revised Code of 1990) which guarantee fundamental social and economic rights of all individuals in their daily lives. We, members of the Governmental Committee, are and remain committed to ensuring the effective implementation of social rights in law and practice. To further this collective goal, we have decided to revisit our treaty-based monitoring activities and, in this regard, we will submit in due course concrete proposals to the Committee of Ministers.

At its 1363rd meeting on 11 December 2019, when discussing the follow-up to the CDDH report(s)⁸⁰, the Committee of Ministers took note of the steps taken to simplify the reporting procedure under the European Social Charter. It further invited the Governmental Committee⁸¹ to:

- ▶ consider further ways of streamlining the reporting procedure, including the advisability of reviewing the current systems of thematic reports;
- ▶ consider, in particular, the advisability of reforming its working methods, and the need for adjusting its own procedures to focus on priority issues in the context of the follow-up to conclusions;
- ▶ enhance dialogue with national authorities and other stakeholders in relation to conclusions under consideration, and
- ▶ reflect, in dialogue with the European Committee of Social Rights (ECSR), on the desirability and potential modalities for the ECSR to have the assistance of

80. Council of Europe CDDH (2018), *Improving the protection of social rights in Europe*. Volume I. Analysis of the legal framework of the Council of Europe for the protection of social rights in Europe, adopted by the CDDH at its 89th meeting (19–22 June 2018), p.160; Council of European CDDH (2019) *Improving the protection of social rights in Europe*. Volume II. Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe, adopted by the CDDH at its 91st meeting (18–21 June 2019), p. 131

81. Decisions adopted by the Committee of Ministers during 1363rd meeting on 11 December 2019, CM/Del/Dec(2019)1363/4.1c

an ad hoc expert, who would satisfy the requisite criteria for ECSR membership, in proceedings concerning a specific collective complaint where no national of the respondent State is a member of the ECSR at the time.

Building on its **commitments to supervise and ensure the effective implementation of social rights and to further contribute to a move from words to action**, the Governmental Committee will **engage in a process to review, adapt and update its Rules of Procedures and Working Methods, focusing on ways to:**

- ▶ **Simplify and rationalise the reporting mechanisms⁸²** within the Charter for more flexibility, **while guaranteeing the effectiveness of the European Social Charter monitoring system**, as well as considering a **focus on priority issues and targeting specific questions and analysis** when processing conclusions;
- ▶ **Strengthen the follow-up to all conclusions of non-conformity, by proposing further and reasoned action**, including the proposal of recommendations in appropriate cases as stipulated in Article 27§3;⁸³
- ▶ **Prompt a sustained dialogue with other stakeholders**, in particular the ECSR, national authorities and European and national social partners with a view to sharing and supporting best practices, **with due respect for their specific roles and mandates**.

82. 1) Regular (thematic) reports, 2) Simplified reports and 3) Article 22 (non-accepted provisions) reports.

83. Article 27§3 reads as follows: “The Governmental Committee shall prepare the decisions of the Committee of Ministers. In particular, in the light of the reports of the Committee of Independent Experts and of the Contracting Parties, it shall select, giving reasons for its choice, on the basis of social, economic and other policy considerations the situations which should, in its view, be the subject of recommendations to each Contracting Party concerned, in accordance with Article 28 of the Charter. It shall present to the Committee of Ministers a report which shall be made public.”

Appendix 8

Number of accepted provisions by year since 1962

| Year of ratification | CHARTER 1961 | | REVISED CHARTER 1996 | | | Total of the accepted provisions |
|----------------------|-------------------|---------------------|----------------------|--------|---------------------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | |
| 1962 | 1. United Kingdom | 60 | 60 | | | 60 |
| | 2. Norway | 60 | 120 | | | 120 |
| | 3. Sweden | 66 | 186 | | | 186 |
| 1963 | | | 186 | | | 186 |
| 1964 | 4. Ireland | 63 | 249 | | | 249 |
| 1965 | 5. Germany | 67 | 316 | | | 316 |
| | 6. Denmark | 49 | 365 | | | 365 |
| | 7. Italy | 76 | 441 | | | 441 |
| 1966 | | | 441 | | | 441 |
| 1967 | | | 441 | | | 441 |
| 1968 | 8. Cyprus | 43 | 484 | | | 484 |
| 1969 | 9. Austria | 62 | 546 | | | 546 |
| 1970 | | | 546 | | | 546 |
| 1971 | | | 546 | | | 546 |
| 1972 | | | 546 | | | 546 |

| Year of ratification | CHARTER 1961 | | | REVISED CHARTER 1996 | | | Total of the accepted provisions |
|----------------------|-----------------|---------------------|-------|----------------------|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| 1973 | | | 546 | | | | 546 |
| 1974 | 10. France | 72 | 618 | | | | 618 |
| 1975 | | | 618 | | | | 618 |
| 1976 | 11. Island | 41 | 659 | | | | 659 |
| 1977 | | | 659 | | | | 659 |
| 1978 | | | 659 | | | | 659 |
| 1979 | | | 659 | | | | 659 |
| 1980 | 12. Netherlands | 75 | 734 | | | | 734 |
| | 13. Spain | 76 | 810 | | | | 810 |
| 1981 | | | 810 | | | | 810 |
| 1982 | | | 810 | | | | 810 |
| 1983 | | | 810 | | | | 810 |
| 1984 | 14. Greece | 71 | 881 | | | | 881 |
| 1985 | | | 881 | | | | 881 |
| 1986 | | | 881 | | | | 881 |
| 1987 | | | 881 | | | | 881 |
| 1988 | 15. Malta | 55 | 936 | | | | 936 |
| 1989 | 16. Turkey | 46 | 982 | | | | 982 |
| 1990 | 17. Belgium | 72 | 1054 | | | | 1054 |
| 1991 | 18. Finland | 66 | 1120 | | | | 1120 |

| Year of ratification | CHARTER 1961 | | | REVISED CHARTER 1996 | | | Total of the accepted provisions |
|----------------------|---------------------|---------------------|-------|----------------------|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| | 19. Portugal | 72 | 1192 | | | | 1192 |
| | 20. Luxembourg | 69 | 1261 | | | | 1261 |
| 1992 | | | 1261 | | | | 1261 |
| 1993 | | | 1261 | | | | 1261 |
| 1994 | | | 1261 | | | | 1261 |
| 1995 | | | 1261 | | | | 1261 |
| 1996 | | | 1261 | | | | 1261 |
| 1997 | 21. Poland | 58 | 1319 | | | | 1319 |
| 1998 | | -66 | 1253 | 1. Sweden | 83 | 83 | 1336 |
| | 22. Slovak Republic | 64 | 1317 | | | 83 | 1400 |
| 1999 | | -72 | 1245 | 2. France | 98 | 181 | 1426 |
| | | -76 | 1169 | 3. Italy | 97 | 278 | 1567 |
| | 23. Hungary | 44 | | | | | |
| | 24. Czech Republic | 56 | 1345 | 4. Romania | 65 | 343 | 1688 |
| | | -76 | 1269 | 5. Slovenia | 95 | 438 | 1707 |
| 2000 | | | 1269 | 6. Bulgaria | 61 | 499 | 1768 |
| | | | 1269 | 7. Estonia | 79 | 578 | 1847 |
| | | -43 | 1226 | 8. Cyprus | 63 | 641 | 1867 |
| | | -63 | 1163 | 9. Ireland | 93 | 734 | 1897 |
| 2001 | | -60 | 1103 | 10. Norway | 81 | 815 | 1918 |

| Year of ratification | CHARTER 1961 | | | REVISED CHARTER 1996 | | | Total of the accepted provisions |
|----------------------|---------------------|---------------------|-------|----------------------------|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| | | | 1103 | 11. Lithuania | 86 | 901 | 2004 |
| | | | 1103 | 12. Republic of Moldova | 63 | 964 | 2067 |
| 2002 | | -72 | 1031 | 13. Portugal | 98 | 1062 | 2093 |
| | | -66 | 965 | 14. Finland | 89 | 1151 | 2116 |
| | 25. Latvia | 25 | 990 | | | 1151 | 2141 |
| | | | 990 | 15. Albania | 64 | 1215 | 2205 |
| 2003 | 26. Croatia | 43 | 1033 | | | | 1033 |
| 2004 | | | 1033 | 16. Armenia | 67 | 1282 | 2315 |
| | | -72 | 961 | 17. Belgium | 87 | 1369 | 2330 |
| | | | | 18. Azerbaijan | 47 | 1416 | 1416 |
| | | | 961 | 19. Andorra | 75 | 1491 | 2452 |
| 2005 | 27. North Macedonia | 41 | 1002 | | | 1491 | 2493 |
| | | -55 | 947 | 20. Malta | 72 | 1563 | 2510 |
| | | | | 21. Georgia | 63 | 1626 | 1626 |
| 2006 | | -75 | 872 | 22. Netherlands | 97 | 1723 | 2595 |
| | | | | 23. Ukraine | 74 | 1714 | 1714 |
| 2007 | | -46 | 826 | 24. Turkey | 91 | 1888 | 2714 |
| | | -44 | 782 | 25. Hungary | 60 | 1948 | 2730 |
| | | | | Bulgaria | 1 | 1949 | 1949 |
| 2008 | | | | 26. Bosnia and Herzegovina | 51 | 2000 | 2000 |

| Year of ratification | CHARTER 1961 | | REVISED CHARTER 1996 | | | Total of the accepted provisions | |
|----------------------|--------------|---------------------|----------------------|------------------------|---------------------|----------------------------------|-------|
| | States | Accepted provisions | Total | States | Accepted provisions | | Total |
| 2009 | | -64 | 718 | 27. Slovak Republic | 86 | 2086 | 2804 |
| | | | | 28. Serbia | 88 | 2174 | 2174 |
| | | | | 29. Russian Federation | 67 | 2241 | 2241 |
| 2010 | | | | 30. Montenegro | 66 | 2307 | 2307 |
| 2011 | | -62 | 656 | 31. Austria | 76 | 2383 | 3039 |
| | | | | Cyprus | 9 | 2392 | 2392 |
| 2012 | | -41 | 615 | 32. North Macedonia | 63 | 2455 | 3070 |
| | | | | Estonia | 8 | 2463 | 3078 |
| 2013 | | -25 | 590 | 33. Latvia | 90 | 2553 | 3143 |
| 2015 | | | | Belgium | 4 | 2557 | 3147 |
| 2016 | | -71 | 519 | 34. Greece | 95 | 2652 | 3171 |
| 2017 | | | | Ukraine | 76 | 2654 | 3173 |

(*) By order of ratification, States Parties to the Revised Charter (on a grey background with the former States Parties to the ESC in italics), and States Parties to the 1961 Charter (on a white background).

Appendix 9 / Annexe 9

Acceptance of provisions of the Revised European Social Charter (1996) at 1 January 2021

Acceptation des dispositions de la Charte sociale européenne révisée (1996) au 1 janvier 2021

accepted/ accepté not accepted/ non accepté

| <i>Articles 1-4 Para.</i> | Article 1 | | | | Article 2 | | | | | | | Article 3 | | | | Article 4 | | | | |
|---|-----------|---|---|---|-----------|---|---|---|---|---|---|-----------|---|---|---|-----------|---|---|---|---|
| | 1 | 2 | 3 | 3 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/Azerbaïdjan | | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | | |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | | |
| Greece/Grèce | | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 1-4</i> <i>Para.</i> | Article 1 | | | Article 2 | | | | | | | Article 3 | | | | Article 4 | | | | | |
|--|-----------|---|---|-----------|---|---|---|---|---|---|-----------|---|---|---|-----------|---|---|---|---|--|
| | 1 | 2 | 3 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | |
| Netherlands/Pays-Bas ⁸⁴ | | | | | | | | | | | | | | | | | | | | |
| North Macedonia/ Macédoine du Nord | | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | | |
| Romania/Roumanie | | | | | | | | | | | | | | | | | | | | |
| Russian Federation / Fédération de Russie | | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | | | | |
| Ukraine | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 5-9</i> <i>Para.</i> | Art. | Article 6 | | | | Article 7 | | | | | | | | | | Article 8 | | | | | Art. |
|--|------|-----------|---|---|---|-----------|---|---|---|---|---|---|---|---|----|-----------|---|---|---|---|------|
| | 5 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 | 9 |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/ Azerbaïdjan | | | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie- Herzégovine | | | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | | | |

84. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the *Additional Protocol/Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

| Articles 5-9 Para. | Art. | Article 6 | | | | Article 7 | | | | | | | | | | Article 8 | | | | | Art. |
|---|------|-----------|---|---|----|-----------|---|---|---|---|---|---|---|---|----|-----------|---|---|---|---|------|
| | 5 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 | 9 |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | | | |
| Greece/Grèce ⁸⁵ | | | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | | | | | | | | | | | | |
| Netherlands/ Pays-Bas ⁸⁶ | | | | | | | | | | | | | | | | | | | | | |
| North Macedonia/ Macédoine du Nord | | | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | | | |
| Romania/ Roumanie | | | | | | | | | | | | | | | | | | | | | |
| Russian Federation / Fédération de Russie | | | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | 87 | | | | | | | | | | | | | | | | |

85. Ratification of Article 6 except for the right to establish and use arbitration mechanisms for the settlement of labour disputes, in particular as regards the right to unilateral access to arbitration in case of collective bargaining failure, as well as the employers' right to collective action, in particular the right to lockouts.

86. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

87. With the exception of professional military personnel of the Serbian Army / *A l'exception des militaires de carrière de l'Armée serbe.*

| Articles 5-9 Para. | Art. 5 | Article 6 | | | | Article 7 | | | | | | | | | | Article 8 | | | | | Art. 9 |
|--|--------|-----------|---|---|---|-----------|---|---|---|---|---|---|---|----|---|-----------|---|---|---|---|--------|
| | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 | 9 | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | | | |
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| Articles 10-15 Para. | Article 10 | | | | | Article 11 | | | Article 12 | | | | Article 13 | | | | Art. 14 | | Article 15 | | | |
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| Malta/Malte | | | | | | | | | | | | | | | | | | | | | | |

88. Sub-paragraphs a. and d. accepted/ Alinéas a. et d. acceptés.

89. Sub-paragraph a. accepted/ Alinéa a. accepté.

| <i>Articles 10-15</i> <i>Para.</i> | Article 10 | | | | | Article 11 | | | Article 12 | | | | Article 13 | | | | Art. 14 | | Article 15 | | |
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| <i>Articles 16-19</i> <i>Para</i> | Art. 16 | Art. 17 | | | | Article 18 | | | | Article 19 | | | | | | | | | | | | | | |
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| France | | | | | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 16-19</i> <i>Para</i> | Art. 16 | Art. 17 | | Article 18 | | | | Article 19 | | | | | | | | | | | |
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| Romania/Roumanie | | | | | | | | | | | | | | | | | | | |
| Russian Federation/ Fédération de Russie | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | 90 | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | |
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| <i>Articles 20-31</i> <i>Para.</i> | Art. 20 | Art. 21 | Art. 22 | Art. 23 | Art. 24 | Art. 25 | Art. 26 | | Art. 27 | | | Art. 28 | Art. 29 | Art. 30 | Art. 31 | | |
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| Armenia/Arménie | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | |

90. Sub-paragraphs 1b and 1c accepted / Alinéas 1b et 1c acceptés

91. Sub-paragraphs a. and b. accepted / Alinéas a. and b. acceptés

| Articles 20-31 Para. | Art. 20 | Art. 21 | Art. 22 | Art. 23 | Art. 24 | Art. 25 | Art. 26 | | Art. 27 | | | Art. 28 | Art. 29 | Art. 30 | Art. 31 | | | |
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| Ireland/Irlande | | | | | | | | | 93 | | | | | | | | | |
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| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | 94 | | | | | | | | | |
| Netherlands/ Pays-Bas | | | | | | | | | | | | | | | | | | |
| North Macedonia/ Macédoine du Nord | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | 95 | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | |
| Romania/ Roumanie | | | | | | | | | | | | | | | | | | |

92. Sub-paragraph b. accepted / Alinéa b. accepté

93. Sub-paragraphs a. and b. accepted / Alinéas a. et b. acceptés

94. Sub-paragraph a. accepted / Alinéa a. accepté

95. Sub-paragraph c. accepted / Alinéa c. accepté

| Articles 20-31 Para. | Art. 20 | Art. 21 | Art. 22 | Art. 23 | Art. 24 | Art. 25 | Art. 26 | | Art. 27 | | | Art. 28 | Art. 29 | Art. 30 | Art. 31 | | | |
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| | | | | | | | 1 | 2 | 1 | 2 | 3 | | | | 1 | 2 | 3 | |
| Russian Federation/ Fédération de Russie | | | | | | | | | | | | | | | | | | |
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Acceptance of provisions of the 1961 European Social Charter and of the Additional Protocol of 1988
Acceptation des dispositions de la Charte sociale européenne de 1961 et du Protocole additionnel de 1988

accepted/ accepté not accepted/ non accepté

| Articles 1-7 Para. | Article 1 | | | Article 2 | | | Article 3 | | | Article 4 | | | Art. | | | Article 6 | | | Article 7 | | | | | | | | | | |
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| Croatia/Croatie | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Czech Republic/ République tchèque | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Denmark/Danemark | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Iceland/Islande | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Luxembourg | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Poland/Pologne | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Spain/Espagne | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| United Kingdom/ Royaume-Uni | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| Articles 19 Para. | Article 19 | | | | | | | | | | Additional P rotocol Para. | | | Additional Protocol/ Protocole additionnel | | | | |
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| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | | | Art. 1 | Art. 2 | Art. 3 | Art. 4 | |
| Croatia/Croatie | | | | | | | | | | | | | | | | | | |
| Czech Republic/ République tchèque | | | | | | | | | | | | | | | | | | |
| Denmark/Danemark | | | | | | | | | | | | | | | | | | |
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| Iceland/Islande | | | | | | | | | | | | | | | | | | |
| Luxembourg | | | | | | | | | | | | | | | | | | |
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| United Kingdom/ Royaume-Uni | | | | | | | | | | | | | | | | | | |

European Committee of Social Rights (ECSR) position paper on follow-up to the report and proposals of the Steering Committee for Human Rights (CDDH)

21 October 2020

Preliminary remarks

The ECSR welcomes the Committee of Ministers' determination to improve the implementation of social rights within the Council of Europe. This determination had been evidenced by the Committee of Ministers repeated decisions, including at the 129th Ministerial Session (Helsinki, May 2019)⁹⁹ and, more specifically, by the terms of reference given to the CDDH to "make, as appropriate, proposals with a view to improving the implementation of social right".¹⁰⁰ The same commitment to the advancement of social rights within the Council of Europe system has been reflected in the work of successive chairmanships of the Committee of Ministers and by the Secretary General. The Parliamentary Assembly and the Commissioner for Human Rights have also repeatedly supported the case for the reinforcement of social rights.

The second report¹⁰¹ of the CDDH (a report adopted by the senior officials and human rights experts representing the governments of the 47 Council of Europe member states) clearly shows the need, the opportunity and also points to ways to improve the implementation of social rights in a Council of Europe context. This involves primarily reinforcing the European Social Charter system and encouraging state compliance. Moreover, the CDDH report shows broad and solid support of member states for this objective.

The ECSR will first offer some reactions in respect of the Committee of Ministers' decisions of 11 December 2019,¹⁰² and will then briefly make additional comments on the CDDH proposals.

Committee of Ministers decisions of 11 December 2019

In its decisions, the Committee of Ministers "took note with interest of the steps taken by the ECSR to **simplify the reporting procedure** under the European Social Charter, focusing on issue-based questions on selected provisions, and invited the ECSR and the Governmental Committee to consider further ways of streamlining

99. Decl(17/05/2019) and CM/Del/Dec(2019)129/2a https://www.coe.int/en/web/cm/-/129th-session-of-the-committee-of-ministers-17-may-2019-#44140822_43507071_True

100. Terms of reference adopted by the Committee of Ministers at its 1300th meeting, 21 to 23 November 2017.

101. The CDDH reports (Volume I, Analysis of the legal framework of the Council of Europe for the protection of social rights in Europe and Volume II, Report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe) can be downloaded from <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/human-rights-development-cddh/social-rights-in-europe>

102. CM/Del/Dec(2019)1363/4.1c https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680993bba

the procedure, including the advisability of reviewing the current system of thematic reports as detailed in document CM(2014)26” (emphasis added).¹⁰³

In practice, the ECSR has already taken a first step in this direction. It is currently working on conclusions that focus on 11 out of the 21 provisions scheduled for examination in 2020 (the thematic group “employment, training and equal opportunities”). To the maximum extent possible, the Committee is seeking to provide shorter and more targeted analyses. It is doing so through, amongst other things, the development of explanatory/pedagogical language in the context of conclusions to aid state understanding of what specific Charter provisions require.

The questionnaire submitted by the ECSR to States Parties in 2020 for the Conclusions 2021 also focussed on a limited number of provisions, covering only around 60% of those in the group.¹⁰⁴

The ECSR is resolved to pursue and intensify the process of simplifying the reporting procedure. It considers that the current system of thematic reports as set out in document CM(2014)26 could be rendered more flexible, perhaps even phased out. This would allow the ECSR to examine the issues that it considers to be of particular importance in view of the prevailing social, economic and policy considerations. This might sometimes involve addressing provisions across the four thematic groups rather than following the current supervision cycle approach. Urgent or emerging issues—of which the Covid-19 pandemic and the rapidly changing employment environments are examples—also require greater flexibility in respect of the reference periods. Setting priorities and identifying issues could involve consultation or dialogue with the Governmental Committee.

There is also room for improvement in the quality of national reports submitted to the ECSR. Reports should respond precisely to questions raised by the Committee and ensure the necessary level of detail, including as regards applicable legislation and policies. Access to the sources of information could also on occasion be helpful. To assist States Parties improve the quality of their reports, the ECSR used its latest questionnaire to provide those drafting reports with a clear understanding of key priority areas in terms of Charter realisation for the purposes of the provisions involved. The timeliness in the submission of national reports is also a relevant factor. Subject to availability of resources, capacity building could be offered to national administrations in this connection.

The ECSR would be pleased to **increase dialogue** with national authorities when necessary.¹⁰⁵ It would welcome the initiative of relevant national authorities when they feel that “enhanced dialogue” is desirable. It is also open to making “full use of existing modalities for receiving all information needed for the examination of a collective complaint”.¹⁰⁶ The Committee, with the assistance of the Secretariat, seeks out the

103. CM/Del/Dec(2019)1363/4.1c, paragraph 2, and also CDDH, Volume II, paragraphs 12, 121, 122.

104. <https://www.coe.int/en/web/european-social-charter/-/states-parties-to-the-european-social-charter-are-invited-to-report-on-health-social-security-and-social-protection-by-31-december-2020>

105. CM/Del/Dec(2019)1363/4.1c, paragraph 5 and 7, and also CDDH, Volume II, paragraphs 8, 96, 101, 133, 134, 135, 186

106. CM/Del/Dec(2019)1363/4.1c, paragraph 8, and also CDDH, Volume II, paragraphs 8, 97.

information it finds relevant and which is accessible, but would welcome additional input from the respondent state and other relevant actors in the process. The ECSR will consider the possibility of organising, in case of need, direct consultations with the parties to a collective complaint by the rapporteur, in particular when examining the merits of a complaint. It should, however, be borne in mind that increasing dialogue will have an impact on ECSR members' and the Secretariat's workload. This will in turn impact on the Committee's ability to carry out its other functions.

As regards knowledge and understanding of **admissibility criteria** and **legal standards** applied by the ECSR,¹⁰⁷ there is merit in making additional efforts to develop and keep the Charter **Digest** and other **communication** tools up to date,¹⁰⁸ and also to render accessible specific aspects of the ECSR's case law in separate reference documents such as fact sheets or general guidance for member states (and the international community). The latter could be achieved, for example, in the form of Committee of Ministers recommendations under the terms of Article 15. *b* of the Statute of the Council of Europe,¹⁰⁹ based on the Charter's case law.

The Committee of Ministers also invited the ECSR "to make full use of the opportunities for dialogue offered by **Article 22** (non-accepted provisions) of the European Social Charter of 1961 (ETS No. 35), and to include in this exercise a dialogue with the member states that are not yet Party to the Revised Charter, with a view to encouraging them to ratify it" (emphasis added).¹¹⁰ The ECSR welcomes this invitation which is consistent with its own understanding of Article 22 being part of the broader review or oversight procedures under the Charter intended to encourage full alignment of the situation of States Parties with all of the Charter provisions.

Indeed, the "Contracting Parties accept[ed] as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which [all of the] rights and principles [listed under Part I of the Charter] may be effectively realised".¹¹¹ This general undertaking is consistent with the principles of universality, indivisibility and interconnectedness or interdependence of human rights, including in their social rights dimension, which the Charter's "a la carte" system does not set aside.

The ECSR will continue its reflection on "how to **simplify follow-up reporting in the context of the collective complaints procedure**" (emphasis added).¹¹² A decision to limit the reporting on follow-up to two cycles could already be taken by the Committee of Ministers. However, the ECSR considers that this measure should be

107. CM/Del/Dec(2019)1363/4.1c, paragraph 7, and also CDDH, Volume II, paragraphs 8, 15, 96, 97, 133, 135.

108. CM/Del/Dec(2019)1363/4.1c, paragraph 11, and also CDDH, Volume II, paragraphs 18, 19, 21, 185, 188, 190, 191.

109. Statute of the Council of Europe (CETS 001), London, 5 May 1949, Article 15. b: "In appropriate cases, the conclusions of the Committee may take the form of recommendations to the governments of members, and the Committee may request the governments of members to inform it of the action taken by them with regard to such recommendations."

110. CM/Del/Dec(2019)1363/4.1c, paragraph 9, and also CDDH, Volume II, paragraphs 6, 92, 121.

111. European Social Charter, introductory paragraph to Part I. See also Part III, Article A.1.a of the Revised Charter (Part III, Article 20.1.a of the 1961 Charter).

112. CM/Del/Dec(2019)1363/4.1c, paragraph 3.

coupled with the Committee of Ministers exercising effectively its own role in the follow-up of collective complaints by addressing recommendations to states as provided for in Article 9 of the 1995 Protocol. To avoid weakening this follow-up, the Committee of Ministers should embrace fully its responsibility under Article 9.¹¹³ Inspiration could be drawn from the procedure followed in the execution of judgments of the European Court of Human Rights in order to reinforce the Committee of Ministers procedures under the Charter.

Some of the developments mentioned above and many other proposals made by the CDDH entail added costs. The CDDH referred several times the question of **adequate resources**,¹¹⁴ acknowledging in particular that the ECSR's monitoring activities require **additional staff**. Increasing the number of Committee members should not be discarded as a means of increasing the ECSR's capacity. It came to a similar conclusion as regards providing support to member states and developing visibility and awareness raising activities. Resources should indeed be central to any reform process designed to strengthen the Charter system and to improve the implementation of social rights.

At present, because of staff cuts and reliance by the Department of the European Social Charter on temporary staff, the Committee is facing significant challenges in terms of its resourcing. Under-resourcing limits considerably the Committee's operational capacity as well as its ability to implement other proposals made by the CDDH. Reforms and additional demands placed on the ECSR and its Secretariat without adequate resourcing threatens to overwhelm, weaken and ultimately undermine, rather than strengthen, the Charter system. This is particularly so given that the Committee's capacity is inevitably limited due to its status as a part-time body.

Other proposals made by the CDDH related to the work of the ECSR

Many of the proposals made by the CDDH which concern the ECSR's work (enhanced dialogue, simplifying procedures including as regards the reporting procedure, ...) are work in progress.

The CDDH reports and proposals assert that there is a need to **"reassure" member states** of the fair and efficient functioning of the collective complaints procedure and, to this end, increase both the legal certainty and the efficiency of that procedure to improve the implementation of social rights.¹¹⁵

More particularly, the CDDH encouraged the ECSR to consider: a more adversarial conduct of the collective complaints procedure; to increase the exchange of arguments with the parties on the admissibility of complaints; the possibility for States to comment on questions of admissibility; the possibility for States to comment on third-party interventions; increasing dialogue (in written and oral proceedings) on questions of fact and law; transmitting to the parties specific questions that require

113.Cf. Article 9 of the 1995 Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, incorporated into Part IV, Article D, of the Revised European Social Charter (1996).

114.Cf. CDDH, Volume II, paragraphs 12, 15, 124, 143, 223.

115.Cf. CDDH, Volume II, paragraph 96, and also paragraphs 8, 15, 133, 135.

clarification; relying on sufficient data and accurate information; encouraging written observations (Rule 32A) by the Commissioner and the Conference of INGOs.

The ECSR wishes to point out that it is already attentive to the adversarial nature of the collective complaints procedure and that many other of the CDDH's proposals are already in place, including a closer scrutiny of complaints at the admissibility stage.

It should also be recalled that, following the seminar on “reinforcing social rights protection in Europe to achieve greater unity and equality”, organised under the auspices of the French Presidency of the Committee of Ministers on 19 September 2019, representatives of the fifteen Council of Europe member states that already accept collective complaints prompted others to reinforce social rights protection by accepting this monitoring procedure.¹¹⁶ This public call shows a strong support for the collective complaints procedure. Other countries might wish to be “reassured” and inspired by, or follow the informed advice of, those that have a hands-on experience with the procedure.

That said, the ECSR is willing and it is permanently attentive to the possibilities to improve its working methods and to enhancing communication with member states and other interlocutors. As indicated earlier, it also considers that it will be useful to enhance the dissemination of information about criteria, standards and case law, activities that would benefit from additional resources.

The ECSR looks forward to pursuing its **dialogue with the Governmental Committee**, exchanges that were slowed down due to the pandemic. The range of topics is wide and includes the “desirability and potential modalities for the ECSR to have the assistance of an ad hoc expert, who should satisfy the requisite criteria for ECSR membership, in proceedings concerning a specific collective complaint where no national of the respondent State is a member of the ECSR at that time”.¹¹⁷

The CDDH suggested various ways of improving synergy and **coherence between different legal instruments or systems**, and avoid uncertainty.¹¹⁸ When interpreting and applying Charter provisions, while the ECSR is bound by and stays within its mandate, it is mindful of and relies where appropriate on EU, ILO and other relevant standards. Regard to other legal instruments or systems and “harmonisation” cannot be at the expense of undermining the Charter. As regards more particularly disagreement of some States Parties with the ECSR's interpretation of the personal scope of the Charter, it is the Committee's mandate to assess from a legal standpoint the compliance of national law and practice with the obligations arising from the Charter.

On the other hand, it would also be desirable that those other organisations and entities are aware of the European Social Charter provisions and the case law developed by the European Committee of Social Rights. There is already a growing body of case law at national level in some member states, and some—albeit scarce—references

116. Call by the representatives of the 15 States Parties to the European Social Charter having accepted the 1995 Additional Protocol and the collective complaints procedure to reinforce social rights protection in Europe <https://rm.coe.int/call-by-the-representatives-of-the-15-states-parties-to-the-esc-for-ac/1680983870>

117. CM/Del/Dec(2019)1363/4.1c, paragraph 8, and CDDH, Volume II, paragraph 143.

118. Cf. CDDH, Volume II, paragraphs 33, 34, 35, 249, 250, 251, 253, 254, 255.

to the Charter in the case law of the European Court of Human Rights. Reciprocal awareness is necessary.

Further remarks on matters raised by the CDDH

The CDDH strongly encouraged that concrete action be taken towards reinforcing the implementation of social rights. The senior officials and human rights experts who represent the 47 Council of Europe member states in the CDDH agreed that *“European States should be proud of their traditional and consolidated high standards in the protection of social rights and that strengthening the system of the Charter, which reflects the most complete and up-to-date expression of the European perception of social rights, strengthens the European model”*.¹¹⁹

The ECSR welcomes this positive message and is eager to be apprised of the follow-up given by the Committee of Ministers to the **CDDH’s calls for political support**, also in light of the declared EU priorities for cooperation with the Council of Europe (which include social rights and the Charter).^{120, 121, 122} The EU priorities resonate positively with the CDDH proposals.¹²³ The ECSR is also intrigued by the question of **accession by the European Union to the European Social Charter**, not only raised by the CDDH but also encouraged by certain EU institutions.¹²⁴

The ECSR has taken note of the many and valuable proposals made by the CDDH in respect of **follow-up to the Committee’s conclusions and decisions or findings**, and as regards **implementation of social rights by member states** generally.¹²⁵ While noting that much of the action proposed in this respect does not fall within the Committee’s own remit, it can broadly support these suggestions. The production of Charter related communication and training material, including further HELP modules, should be high on the priority list.¹²⁶ Knowledge sharing among member states and the dissemination of information on good practice can also contribute to improving the implementation of social rights.¹²⁷ As noted above, the possibility of providing general guidance to member states based on the Committee’s case law under the terms of Article 15. b of the Statute of the Council of Europe deserves consideration.

119.Cf. CDDH, Volume II, paragraphs 7, 91.

120.Cf. CDDH, Volume II, paragraphs 6, 92, 100, 221.

121.Council conclusions on EU priorities for cooperation with the Council of Europe 2020-2022, approved by the Council (Foreign Affairs) on 13 July 2020; the EU Council’s conclusions can be downloaded from <https://www.consilium.europa.eu/media/45002/st09283-en20.pdf>

122.Cf. also CDDH, Volume II, paragraphs 9, 37, 98, 142 (a concrete common work programme, or process, aimed at: obtaining further commitments by the member states under the treaty system of the Charter; further acceptance by member states of the collective complaints procedure; addressing queries on and objections to States’ further commitments; improving the implementation of social rights in Europe by a strengthened Charter treaty system; implementing the CDDH proposals based on a clear road map).

123.Cf. CDDH, Volume II, paragraphs 100, 251, 254, 255.

124.For example: European Parliament resolution of 19 January 2017 on a European Pillar of Social Rights; and FRA Director, Chairman’s statement, Fundamental Rights Forum, 2018.

125.Cf. for example, CDDH, Volume II, paragraphs 18, 19, 20, 21, 22, 23, 26, 27, 28, 99, 185, 188, 189, 190, 191, 192, 193, 211, 212, 214, 215, 216, 217, 218, 219, 220.

126.Cf. for example, CDDH, Volume II, paragraphs 28, 218.

127.Cf. CDDH, Volume II, paragraphs 18, 19, 20, 21, 185, 188, 190, 191, 192.

Finally, the ECSR strongly supports the suggestions concerning the European Court of Human Rights, in particular on **training and awareness raising on the Charter for ECHR judges and lawyers**, incorporating Charter issues into ECHR fact sheets and developing Charter information notes focussed on matters of potential interest for the Court. Further awareness raising is indeed necessary. The secondment of a lawyer from the Court to the Charter Department since mid-2019 was a welcome and valuable experience that should provide future returns. Further secondments might usefully be encouraged.

Conclusion

The European Committee of Social Rights (ECSR) will continue its efforts to simplify and improve the reporting and collective complaints procedures. In this connection it invites the Committee of Ministers to:

- ▶ Support the steps being taken by the ECSR with a view to offering more flexibility to the current system of thematic reports and reference periods provided for in document CM(2014)26 in order to allow the ECSR to set, in consultation with the Governmental Committee, priorities and targeting emerging issues which may sometimes involve provisions across the Charter and require further dialogue with States Parties.
- ▶ Reconsider the Committee of Minister's own approach to making recommendations to States Parties to the Charter when the ECSR has found grounds for non-conformity on serious or persistent matters (Article 28 of the 1961 Charter or Part IV, Article C, Article 28 of the Revised Charter) or when it found violations of the Charter in decisions on collective complaints (Article 9 of the 1995 Protocol), and instruct the Governmental Committee and GR-SOC (and the Secretariat) entrusted with the preparation of its decisions accordingly.
- ▶ Subject to implementing the preceding proposal so as not to weaken the follow-up process in respect of collective complaints, limit reporting to two cycles, or adjust the procedure in order to ensure enhanced dialogue with the authorities of the state party concerned during the preparation of Committee of Ministers decisions on follow-up.
- ▶ Increase the resources allocated to work related to the European Social Charter, especially the ECSR, as regards staff, so that resources and implementation capacity reflect the priority that the Council of Europe accords to this treaty system, to increasing the number of parties that accept collective complaints and to social rights generally.

The ECSR would also invite the Committee of Ministers and Council of Europe member states to translate their declared support for improving the implementation of social rights into action. A top priority should be to encourage member states that have not yet done so to ratify the Revised Charter, to accept additional Charter provisions (preferably all of them) and to embrace the collective complaints procedure.

Given the magnitude of the challenge to improve the implementation of social rights and the political complexity of these objectives, the ECSR would suggest that the Committee of Ministers consider pursuing the discussion on strengthening the Charter system through an ad hoc Conference of the parties aimed at giving impulse

to the reform process. The Conference could be invited to confirm ongoing developments, adopt decisions needed in the short term and set the bases for longer term developments. The agenda might also include consideration of the desirability for a new Protocol to the Charter, fit for the social challenges of the third decade of the 21st century. The following could be among the topics to address, with a possible new Protocol in mind:

- ▶ improving the “à la carte” system (under Part III, Article A, of the Revised Charter) by expanding the number of the Charter’s “core provisions” and increasing the minimum number of such provisions to be accepted by States Parties;
- ▶ overcoming the optional nature of the collective complaints procedure (under Part IV, Article D, of the Revised Charter);
- ▶ increasing the number of ECSR members and improving the shaping of their profile (under Part IV, Article C of the Revised Charter); and also
- ▶ adding new rights to those listed in the Revised Charter (for example, the right to a healthy or decent environment, and the right to food and water), and extending the scope of application of the Charter in terms of persons protected (Article 1 of the Appendix to the Charter).

Appendix 11

Exchange of views between Giuseppe Palmisano, President of the European Committee of Social Rights, and the Committee of Ministers of the Council of Europe

Strasbourg, 25 November 2020

Mr Chairman,

Permanent Representatives,

Madam Secretary General,

Mr Director General,

Ladies and Gentlemen,

First of all, let me thank you for confirming and maintaining, even at such a difficult time, this traditional appointment with the President of the ECSR. Our Committee attaches high importance to this annual exchange of views.

As you can imagine, the ongoing pandemic crisis has had and is having a big impact on the activities carried out by the monitoring body of the European Social Charter.

I refer first of all to our working methods and to how we communicate and present the outcomes of our monitoring work. For example, in March 2020, due to restrictions related to the Covid-19 outbreak, the Committee was unable to present its annual Conclusions at a press conference, as it usually does. The Conclusions concerned a number of crucial issues such as children's rights, domestic violence, the right to housing and homelessness, which would have deserved more attention by the media and civil society across Europe.

As the pandemic unfolded, the Committee was no longer able to hold its regular sessions in Strasbourg, as well as its usual meetings in other countries with the authorities of States Parties to the Charter within the framework of the procedure on non-accepted provisions. We decided to hold all our sessions and meetings entirely by remote participation and to intensify written exchanges by e-mail among the Committee members and, of course, with the Secretariat.

Despite this situation, we have nonetheless been able, in the last months, to make substantial progress in all our monitoring activities, thanks also to the remarkable commitment and untiring work of the Secretariat.

As regards our work on the Conclusions on the thematic group "employment, training and equal opportunities", being examined this year, I am confident that we will complete our assessment at the beginning of next year and that the Conclusions will be adopted no later than in March 2021.

With respect to collective complaints, after adopting in December 2019 the decisions concerning the 15 complaints on the gender pay gap, we have been able to adopt, during the pandemic, 12 decisions on admissibility and 7 decisions on the merits in important complaints. In this respect, let me just refer to Complaint n° 148, concerning the protection of children below the age of criminal responsibility in juvenile

justice procedures in the Czech Republic, to Complaint n° 142, about the freedom of a trade union to freely choose its own representatives in France, to Complaint n° 146, concerning the reiterated renewal of fixed-term employment contracts in the public sector in Italy, and to Complaint n° 157 concerning the institutionalisation of children under the age of three in the Czech Republic.

But the pandemic had and is having an impact not only on the timing and working methods of the ECSR, but also – and mostly, I would say – on the substantive agenda and contents of our activities.

Let me point out that already in March this year we adopted an insightful statement of interpretation on the right to protection of health in times of pandemic, where – on the one hand – we endorsed many measures adopted by states in response to COVID-19, but – on the other hand – we also warned States Parties that such measures must be designed and implemented in accordance with relevant human rights standards, recalling also the need for adequate public health provision and resourcing, including for research, vaccine development and prevention. We further noted, in that statement, that pandemics – and state responses thereto – can pose significant risks to many other rights set out under the Charter. These include, inter alia: the right to safe and health working conditions; the right of families and children to social legal and economic protection, including education, and the rights of the elderly. And the major impact of a pandemic, and of state measures in response to it, on employment and labour rights should also not be overlooked. Precisely for this reason, we have decided to elaborate a further statement of interpretation which will address these issues in greater detail. This statement will probably be ready at the beginning of next year.

Furthermore, the Committee decided to address without any delay the issues of pandemic threat and prevention within the framework of the reporting system. In fact, in the targeted questions sent earlier this year to States Parties to the Charter for Conclusions 2021, relating to the provisions belonging to the thematic group on health, social security and social protection, we have invited States to provide information on their responses to the pandemic crisis and on the (provisional) results achieved. Let me just add that the Committee expects that the pandemic will be a recurring theme in the reporting procedure over the coming years, when it will be examining other thematic groups of provisions, on labour rights, on the rights of children, family, women and migrants.

Despite the difficult times, the Committee does not stop its efforts in improving the effectiveness and efficacy of the monitoring system of the European Social Charter, along the lines of what we already started doing in the last two years and also on the basis of certain proposals made by the CDDH in its Report of June 2019 on “Improving the protection of social rights in Europe”.

In this respect, the Committee is striving to make the reporting procedure evolve from a general and rather formal exercise where States report on each Charter provision based on a standardised, and sometimes outdated or too generic questionnaire, and into a targeted and strategic exercise based on a selection of topical issues and questions relating to the thematic group under consideration. The targeted questions

sent to States earlier this year for their reports for Conclusions 2021 relating to health, social security and social protection is full of examples in this direction.

Moreover, our efforts to improve the quality of the Charter monitoring system also concern the collective complaints procedure. Our closer scrutiny of the admissibility of complaints, which in the last year led the Committee to declare 5 complaints inadmissible, out of 16 examined complaints – a much higher proportion than in any other preceding year –, is a clear example of this. Another example is the Committee's frequent request for observations under Article 32A of its Rules to organisations, institutions and experts, with a view to obtaining information and insights on the issues at stake in a complaint, and enabling the adoption of a decision on the merits with full enough knowledge of the legal and factual situation at stake.

I think this shows how seriously my Committee is taking the commitment to give a concrete follow-up to what you, I mean the Committee of Ministers, identified as crucial objectives first, in November 2017, when you charged the CDDH with the task of making proposals with a view to improving the monitoring and implementation of social rights within the framework of the Council of Europe, and then – in your Decision of 11 December 2019 – when you invited, inter alia, the ECSR “to consider further ways of streamlining the reporting procedure, including the advisability of reviewing the current system of thematic reports”, “to pursue its reflection regarding closer scrutiny of the admissibility of collective complaints”, and “to make full use of existing modalities for receiving all information needed for the examination of a collective complaint”.

In addition, let me say that the Committee, together with the Secretariat, continues to reflect on possible improvements and steps to be taken to make progress towards a more effective implementation of social rights, and in particular of the Charter system in Europe, on the basis of the proposals which are contained in the CDDH Report of June 2019.

In fact, just a few weeks ago we were able to adopt a “Position paper on follow-up to the report and proposals of the CDDH”, where we have tried to react constructively to the CDDH proposals, by highlighting what are, in the ECSR's view, the most important steps to be taken in the near future to strengthen and develop the protection of social rights in Europe by means of an improvement of the Charter monitoring system.

Let me recall some of these steps, for which explicit support from the Committee of Ministers would be highly desirable.

First, and I already referred to this, to make progress in providing the current system of thematic reports and reference periods with more flexibility, in order to allow the ECSR to set, in consultation with the Governmental Committee, priorities and targeting emerging issues which may sometimes involve provisions across the Charter or fall outside a strictly defined reference period.

Second, reconsider the Committee of Ministers own approach to its duties under the Charter, concerning the adoption of recommendations to States Parties to the Charter when the ECSR has found grounds for non-conformity on serious or persistent matters, or when it found violations of the Charter in decisions on collective

complaints, as it is clearly established under Part IV, Article 28, of the Charter, and respectively Article 9 of the 1995 Protocol on collective complaints.

Third, subject to implementing the preceding proposal so as not to weaken the follow-up process in respect of collective complaints, limit State reporting on follow-up to the ECSR decisions in collective complaints, and the consequent ECSR findings on such follow-up, to two examinations only.

Fourth, increase the resources allocated to work related to the European Social Charter, especially as regards staff, so that resources and implementation capacity actually reflect the priority that the Council of Europe accords to this treaty system, in particular with a view to increasing the number of States that ratify the Revised Charter, and accept the collective complaints procedure, and also accept a higher number of substantive social rights provisions.

With respect to these latter objectives I am pleased to point out that some remarkable political initiatives have occurred since our last exchange of views, in October 2019, which testify to the increasing importance that some European States indeed attach to the Charter system as an effective instrument for the protection of social rights in Europe. I refer notably to the decision of Spain and Germany to finally ratify the Revised European Social Charter, as well as to Spain's intention to also accept the collective complaints procedure.

But in addition to these steps, which deserve attention and support from the Committee of Ministers, the European Committee of Social Rights, and myself personally, are also convinced that the time is ripe for improving, strengthening and widening the Charter system as a whole, through a reform process aimed at making it fit for the social challenges of the 21st century, in order also to properly take into consideration the individual and collective social needs which are emerging in a changing world. A reform process similar to the one that more than twenty-five years ago led to the Revised Social Charter and the collective complaints Protocol.

For this reason, the ECSR would suggest that the Committee of Ministers pursue the discussion on strengthening the Charter system through an ad hoc Conference of the parties aimed at giving impulse to the reform process. The Conference could be invited not only to confirm ongoing developments and adopt decisions needed in the short term, but also to set the bases for longer term developments.

In particular, the agenda might include consideration of the desirability of a new Protocol to the Charter to possibly address some major topics, like

- ▶ improving the “à la carte” system (under Part III, Article A, of the Revised Charter) by increasing the minimum number of “core” provisions of the Charter to be accepted by States Parties;
- ▶ overcoming the entirely optional nature of the collective complaints procedure (under Part IV, Article D, of the Revised Charter);
- ▶ increasing the number of ECSR members and clarifying their desired profile (under Part IV, Article C of the Revised Charter); and also
- ▶ adding new rights or issues to those listed in the Revised Charter.

In this last respect, let me refer for example to the rights of gig economy workers, or the rights of workers in times of technological revolution, artificial intelligence and digitalisation. All issues that, as you know, are not covered neither by the 1961 Charter nor by the Revised Charter. Another example, possibly even more important, is environmental protection and the right to a decent or sustainable environment, which would really deserve – today more than 25 years ago – to be expressly included within the category of social human rights protected by the European Social Charter.

Let me add a short reflection and a suggestion in this respect. We all know that in recent months the idea of reinforcing the legal protection of the environment within the framework of the institutional tasks of the Council of Europe, and in particular of its human rights instruments, is rightly gaining attention and support. In this regard, there have been calls for a possible protocol to the European Convention on Human Rights on environmental human rights.

With all due respect, I do not think that this would be the best solution. As I had the opportunity to point out on the occasion of the High-Level Conference on environmental protection and human rights, organised earlier this year, in February, by the Georgian Presidency of the Committee of Ministers, the European Social Charter would be the Council of Europe human rights treaty most suited for inserting one or more provisions on the right to a decent or sustainable environment; more suited, in particular, than the European Convention on Human Rights which – as you know – relates essentially to individual civil and political rights and not to collective or solidarity rights.

Chairman, Ladies and Gentlemen, these are the few thoughts and proposals I wished to share with you. And looking forward to your reactions and views, let me conclude by expressing the hope that you will be able next year, in 2021, to worthily and concretely celebrate the 60th anniversary of the Charter and the 25th anniversary of the Revised Charter, by finally taking significant steps to strengthen and improve the Charter system.

Thank you for your attention.

Appendix 12

Committee on Social Affairs, Health and Sustainable Development
Sub-Committee on the European Social Charter

Hearing on “Overcoming the socio-economic crisis sparked by the COVID-19 pandemic”

7 October 2020

Session 1: The role of the State in securing social and economic rights across Europe: focus on the rights to work, social protection and equal opportunities

Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights

First of all, I would like to thank you for inviting me to this hearing, giving me the opportunity to offer a contribution to your important work on the European Social Charter (ESC) and the protection of social rights in Europe.

As you all know, in the last decade social justice and social rights – including the **right to work, social protection, and the right to equal opportunities** – are under big stress, mostly as a result of the crises that Europe has experienced in the last years. And I am referring to the economic crisis, of course, but also to the migration crisis, and now to the pandemic crisis.

Since 2008, the economic crisis had an extremely negative impact on workers, families and the most vulnerable. The measures adopted by States and EU institutions to cope with such crisis, in particular the so-called austerity measures, also disproportionately affected those who are most vulnerable – the poor, the elderly, the sick.

As for the refugee and migrant crisis, millions of migrants and refugees arrived in Europe in the last years, seeking protection from war, terror, torture, persecution and poverty, and creating division in Europe, namely in the EU and EU member states, over how best to deal with resettling people. Guaranteeing hospitality to these people, respect for their dignity and fundamental rights, prompt and proper social integration in host countries is a major challenge for the European civilization and European democracies, one that cannot be missed.

Such crises revealed and are still revealing the gaps in States’ legal arsenal for the protection of social rights.

Traditional and consolidated high standards in the protection of social rights, and some basic features of the welfare state – which are essential for the enjoyment of such rights, and of which European States should be proud – have been indeed put in danger.

Increasing poverty and unemployment rate – in particular youth unemployment –; social and economic inequalities; lack or shortcomings in migrant integration; job

insecurity for many categories of employees; regressive changes in social security schemes and benefits; cuts in public healthcare systems and increase in the cost of healthcare: these are – and they already were, before COVID-19 - among the most worrying signals about the state of health of social rights in Europe.

And now we have a pandemic crisis to deal with.

As I had the opportunity to say on other occasions, **the COVID-19 crisis is painfully revealing that pandemic-preparedness is all about social rights**. I did not mean it as a rhetorical statement, far from it.

Our unprepared and unprotected frontline workers, our defenceless older people in care homes, our children stranded for months without schooling, many workers losing their job, and many others are, to a large extent, the result of decisions that have been taken (or not taken) much earlier, sometimes years, sometimes more.

In fact, just to make a few important examples, an effective and successful pandemic-readiness requires:

- ▶ universal health care and well-equipped and resourced, resilient public health services,
- ▶ ensuring health and safety at work,
- ▶ arrangements to ensure protection of the rights of older people,
- ▶ employment security,
- ▶ a minimum income and adequate guarantee of the right to housing,
- ▶ adequately resourced and solid public education and protection of children from all forms of violence, abuse and exploitation.

Fulfilling all these requirements, which are inherent in the European Social Charter, is clearly crucial when confronted with a crisis such as the present one. But all this cannot be improvised, nor easily realised in times of serious and dramatic emergency. Compliance with such requirements should rather be a permanent feature, the default setting. Fulfilling them is necessary both in order to deal with the enduring effects of the crisis and the persistence of the coronavirus, and also to respond to the crises that the future holds in store.

So, if you ask me to speak about the role of the State in securing social and economic rights across Europe, with a focus on the rights to work, social protection and equal opportunities, I would just say that such role already emerges from the provisions of the Social Charter, as well as from the conclusions, decisions and findings of the European Committee of Social Rights. They are there, an impeachment of the inaction and the lack of preparedness, fundamental rights recipes that could have saved – and still can save – lives, that could spare suffering and preserve human dignity, for the current crisis and for the future.

Having said this, and in view of our times constraints, I shall now confine myself to only a few examples, concerning in particular the right to work, the right to social assistance and the right to equal treatment of women and men in matters of employment and occupation.

According to **Article 15§1 of the Charter**, “with a view to ensuring the effective exercise of the right to work, States Parties undertake to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible”.

So, in this case, the role of the State is to pursue a policy of full employment. This means that the State:

- ▶ must adopt and follow an economic policy which is conducive to creating and preserving jobs;
- ▶ and must take adequate measures to assist those who become unemployed in finding and/or qualifying for a job.

Of course, this is an obligation of conduct rather than of result, which means that failure to achieve full employment, not even the existence of high rate of unemployment will not as such be regarded as being a breach of the Charter. However, the efforts made by the State to reach the goal of full employment must be genuine and adequate, in the light - of course - of the economic situation and the level of unemployment.

This means that there are indeed some situations where the State does not properly play its role in securing the right to work under Article 15§1 of the Charter. I refer, for example, to cases:

- ▶ where there is an absence, on the part of the governmental authorities, both of a declaratory commitment to full employment and of any concerted employment policy;
- ▶ or, where unemployment, and notably youth unemployment and long-term unemployment, is extremely high and the measures taken are clearly insufficient (as indicated, inter alia, by a low number of participants in active measures and a low level of expenditure);
- ▶ or, where there are negative developments in the employment policy, both in terms of the extent of activation of unemployed persons and the level of overall expenditure, at a time when unemployment, despite economic growth, is increasing sharply;
- ▶ or situations where too few job seekers have access to training;
- ▶ or where public expenditure on active labour market policies amounts to a very low % of GDP.

I move now to the right to social assistance. According to **Article 13§1** of the Charter, “States Parties undertake to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, be granted adequate assistance”.

Article 13§1 does not indicate what form social assistance should take. It may therefore take the form of benefits in cash or in kind. In this respect, although a State is not obliged to introduce an income guarantee system, the European Committee of Social Rights has indeed observed that most Contracting Parties have established one. However, the situation of all States Parties which have not introduced a general income guarantee system has been judged by the Committee not to conform with

Article 13§1, on the ground that their systems of assistance have not proved to be able to cover everyone in need.

What is important is that social assistance guaranteed to persons in need must be “appropriate”, i.e. make it possible to live a decent life and 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, which is set at 50% of the median equivalised disposable income, and calculated on the basis of the Eurostat at-risk-of-poverty threshold. In the absence of this indicator, the national poverty threshold is taken into account, i.e. the monetary cost of the household basket containing the minimum quantity of food and non-food items which is necessary for the individual to maintain a decent living standard and be in good health. And assistance is appropriate where the monthly amount of assistance benefits – basic and/or additional – paid to a person in need living alone are not manifestly below the poverty threshold in the above sense.

In addition, the right to assistance may not depend solely on the discretion of the administrative authorities: it must constitute an individual right laid down in law and be supported by an effective right of appeal. The law must lay down objective criteria and phrase them in sufficiently precise terms. So as not to leave the assessment of the state of need and the necessity of assistance entirely in the hands of the competent authority, the law must define the elements taken into account in order to assess the state of need and make the criteria for assessment of that need clear, as well as the procedure for determining whether a person lacks adequate resources, including the methods used to investigate resources and needs.

My last example is the right of women and men to equal pay for equal work or work of equal value, which is enshrined in **Articles 4§3 and 20 of the Revised Social Charter**. In particular, according to Article 20, States are committed to legally recognising that right and to taking appropriate measures to ensure and promote its application.

As you probably know, in December 2019 the ECSR adopted 15 decisions on state compliance with the right to equal pay, following complaints lodged by the international NGO University Women Europe (UWE) against all the 15 States which have accepted the collective complaints procedure.

These decisions identify clear and strong standards in the field of equal pay and, more precisely, they clarify that the role of the State in this field is:

- ▶ to recognise the right to equal pay for equal work in their legislation;
- ▶ to ensure access to effective remedies for victims of pay discrimination;
- ▶ to ensure and guarantee pay transparency and enable pay comparisons;
- ▶ to maintain effective equality bodies and relevant institutions in order to ensure equal pay in practice.

Moreover, the right to equal pay under Article 20 of the Charter, implies the obligation to adopt measures to promote it. This obligation has two essential elements: on the one hand, collecting reliable and standardised data to measure and analyse the gender pay gap and, on the other hand, designing effective policies and measures aimed at reducing the gender pay gap on the basis of an analysis of the data collected.

Among other measures that States could adopt to reduce the gender pay gap and which the Committee considers as relevant indicators for assessing compliance with the obligations laid down by the Charter, you may find:

- ▶ adoption and implementation of national action plans for employment which effectively ensure equality between women and men, including pay;
- ▶ requiring individual undertakings to draw up enterprise or company plans to secure equal pay;
- ▶ encouraging employers and workers to deal with equality issues in collective agreements;
- ▶ and raising awareness of the equal pay principle among employers, organisations and the public at large, including through the activities of equality bodies.

So, if you consider the three examples I have just made (right to work, right to social assistance and right to equal pay), you may easily find three main different aspects of the role of the State in securing the rights in question, depending on the kind of State activities involved (whether legal activities, operational measures, or general policies).

To be more precise, I refer, first, to the **legal recognition and protection of the right**, or the legal regulation and monitoring of a given field or specified sector, within the national domestic legal order.

The second aspect is the adoption of **concrete, operational measures** (including creation of bodies or procedures) aimed at ensuring the effective enjoyment of the right in question, or at attaining a specific social objective.

And third, **formulation and implementation of general policies** aimed at the attainment of wide social objectives, such as, for example, achieving and maintaining a high and stable level of employment, with a view to the attainment of full employment.

Well, in addressing you, as national parliamentarians, let me say that the way in which the State plays its role in effectively securing the above mentioned rights (namely, right to work, right to social assistance and right to equal pay) largely depends on how seriously parliaments take economic and social rights in their involvement in each of the three kinds of activities I just referred to. I am of course thinking of the **legislative function of Parliaments**, but also of the function of **providing political directions to the Government** and the role of political supervision over Government activities.

In this last regard, I think for example that it could be useful, first, to put in place an **“early warning” procedure in the parliamentary context**, to monitor the compatibility of European and national legislation with the principles of the Social Charter, and second, to organise regular meetings at European level between the competent committees of the different national parliamentary assemblies.

Last, but not least, with a view to reinforcing the protection and fulfilment by States of social rights throughout Europe, let me say that it is very important that the Parliamentary Assembly of the Council of Europe continue supporting the good cause of the European Social Charter within the treaty system of the Council of Europe. This means not only paying attention to compliance by States Parties

with their obligations under the Charter and with the decisions and findings of the European Committee of Social Rights, but also – for example – taking initiatives to **promote a wider acceptance of the Charter provisions** by European States, and especially all the Charter core provisions, or to **accept the collective complaints mechanism**, which as you know, has been accepted only by 15 out of the 43 States Parties to the Charter.

This, in my view, would indeed be very important. Thank you!

Appendix 13

Access to social and medico-social services for ALL: a springboard out of poverty

International day for the eradication of poverty
Webinar, 16 October 2020

Statement by Giuseppe Palmisano, President of the European Committee of Social Rights

[Ambassador Panayiotis Beglitis, Permanent Representative of Greece to the Council of Europe and Mr Nikos Dendias, Chairperson of the Committee of Ministers,

Ms Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe,

Ms Anna Rurka, President of the Conference of International Non-Governmental Organisations of the Council of Europe,

Ladies and gentlemen, remote participants and viewers,]

When I think about the topic proposed for our reflection and discussion today, concerning access to social and medico-social services as a springboard out of poverty, I see in it a truism, a challenge and a conundrum.

The truism is the failure by the duty bearers to eradicate poverty, and their procrastination in taking action – or taking truly effective action – to make good the fundamental human right protected under Article 30 of the European Social Charter: namely the right to protection against poverty and social exclusion.

This is, I think, the fourth or fifth time that I take part, as President of the ECSR, in an event on the occasion of the international day for the eradication of poverty. The perseverance of the Conference of INGOs in organising these events and my presence here are witness to that failure. In fact, over three decades after the historical gathering in Trocadero around Father Wresinski (in 1987) and almost as much, since (in 1992) the UN declared 17 October international day for the eradication of poverty, we are still looking for a springboard out of poverty.

Poverty has not been eradicated, nor is it going to be eradicated, in Europe. And this clearly poses a human rights problem not only for the 18 States that are formally “bound” by Article 30 of the Revised Charter and are under a treaty obligation in this respect, but for all European States, independently of their ratification (or not) of the Charter or the Revised Charter.

In this respect, I take the liberty to read a few lines from the questionnaire sent earlier this year by the European Committee of Social Rights to States Parties to the Charter, for Conclusions 2021:

Living in a situation of poverty and social exclusion violates the dignity of human beings. Living at risk of falling into poverty and exclusion is damaging for the person, not only as regards dignity, but it also entails suffering, loss in cognitive function and social abilities.

Risk of poverty and actual poverty and exclusion also compromise the exercise of a range of other rights, both social and economic (employment, health, education, housing, etc.) and civil and political (...) and ultimately involves total disenfranchisement.

Let me add that in the last months, despite the legal obligation or moral duty of States to ensure for all an effective protection against poverty, the lack of preparedness for the COVID pandemic and the absence of suitable responses to the current crisis, have brought about vast increases in poverty.

But let me stop here on the truism and move to the challenge. The challenge is precisely the eradication of poverty. But let me say that this challenge should not be such.

Philip Alston, former United Nations Special Rapporteur on extreme poverty and human rights, stated that "Poverty is ultimately a political choice, and governments can, if they wish, opt to overcome it."

In fact, availability of resources, enough to eradicate poverty, is indeed a matter of political choice. Apart from choices about allocation of existing resources – for example to medical and social services for all –, there is evidence of spare capacity by looking, for example, at the dimension of tax and capital evasion, as well as the magnitude of corruption, especially in the countries where there is more want. If not more, recouping those resources would go a long way towards funding effective anti-poverty schemes and policies.

Regarding this issue of political choices and priorities, let me just recall that human rights law (in general) and the European Social Charter (in particular) entail legal obligations for European and other states. The Chairperson of the Parliamentary Assembly's Sub-Committee on the European Social Charter recently evoked a "disconnect" between rights – social rights – and policies. But this question is answered in both constitutional and international human rights law.

There is a hierarchy which is topped by *ius cogens* and international human rights law, and national constitutions, which include universal, indivisible and interconnected human and social rights. That is where Article 30 of the European Social Charter, and the right to protection against poverty are situated, beyond the Charter. Other laws must be aligned to, and respect what is higher up in the hierarchy. Subject to the hierarchical downward percolation, or trickle, policies must therefore be designed to implement the laws; and the services – in particular social and medical services – become the frontline delivery of the whole lot. It cannot be the other way around. It is not acceptable that services are arbitrarily chosen or terminated by decision of the politicians or administrators in office, which in turn shape policies and laws, disregarding the rights guaranteed by human rights and international law and by national constitutions. Legally speaking, this wrongful approach might well amount to "*détournement de pouvoir*" (or misuse of power).

The fact that the eradication of poverty should not be a challenge, but seems to be one, brings me to the conundrum.

In view of the persistent failure to make good the right to protection against poverty and the apparent difficulties in making meaningful progress, we are asked to turn the process upside down. We are invited to explore access to social and medico-social services as "a springboard out of poverty".

Of course, ensuring the enjoyment of other social rights would, by and large, overcome poverty, or at least provide for a good enough protection against poverty. Borrowing the words from Article 30 of the Charter, “with a view to ensuring the effective exercise of the right to protection against poverty”, every country is under a duty “to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty ... to, in particular, employment, housing, training, education, culture and social and medical assistance”.

So, this wording and the proposition in the title of our event, today, clearly reaffirm the close interdependence between the right to protection against poverty and the enjoyment of many other rights, including those concerning medical and social services.

Just to give you an example of this, let me refer again to the questionnaire sent earlier this year by the European Committee of Social Rights to States Parties to the Charter, for Conclusions 2021:

The Committee wishes to emphasise the very close link between the effectiveness of the right recognised by Article 30 of the Charter and the enjoyment of the rights recognised by other provisions, such as the right to work (Article 1), access to health care (Article 11), social security allowances (Article 12), social and medical assistance (Article 13), the benefit from social welfare services (Article 14), the rights of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) as well as of children and young persons (Article 17), right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20), the rights of the elderly (Article 23) or the right to housing (Article 31).

Furthermore, the group of provisions that will be examined in the Conclusions 2021 concerns, as you know, not only social security and social protection, but also protection of health.

So, also as regards the right to health, in the questionnaire, the European Committee of Social Rights made a clear link to poverty. It stated:

It is well known that members of certain groups enjoy poorer health and have shorter life expectancy, especially the poor, homeless, jobless or other underprivileged communities and also underprivileged ethnicities.

The opposite is also true. Making good on the right to health (and other social rights) can be a springboard out of poverty or a safety net protecting against poverty. In this connection, the questionnaire for Conclusions 2021 indicated, for example:

Mental health is an integral part of the right to health. [... As a result of], poorly implemented or insufficient resource[d community-based mental health care,] some persons in need of mental health care [are] neglected, drifting towards unemployment and poverty, homelessness or petty crime, and ultimately towards prison.

It follows that, for many persons (and we may be talking about several hundred thousand across Europe) poverty and exclusion could have been avoided should primary mental health care have been readily available in the community.

Let me conclude by saying that the answer to the conundrum is of course for States to take seriously their social rights responsibility and their obligations under the European Social Charter. There is also a case for States broadening their commitments

under the Charter, to accept more provisions (preferably all of them), including in particular Article 30. In fact, the monitoring procedures under the Charter offer many opportunities for States to identify areas where further progress is needed.

But, as you know, in such procedures, the social partners, including you – the members of the Conference of INGOs – also have an important role to play.

As regards more particularly the reporting procedure, it is hardly necessary to remind you that the Secretariat of the Council of Europe forwards a copy of the national reports of the Contracting Parties to the international NGOs which have consultative status with the Council of Europe and have a particular competence in the matters governed by the Charter. And the ECSR is really eager to receive your comments on such reports.

So, as regards the preparation towards Conclusions 2021 on health, social security and social protection, including Article 30 and the right to protection against poverty, I would just invite you to examine closely the questionnaire I have been referring to, which signals the issues on which the European Committee of Social Rights will focus. I would venture that, given the nature of the questions and issues raised which have not, in some cases, been addressed by the Committee until now, civil society organisations might wish to start considering at an early stage what information they will wish to submit and, if the state report is delayed, transmit them to the Secretariat without waiting (perhaps by end of April 2021).

Thank you.

Appendix 14

German Presidency of the Council of the European Union

Strengthening Older People's Rights in Times of Digitalisation - Lessons learned from COVID-19

International online conference, 28 - 29 September 2020

Statement by Giuseppe Palmisano, President of the European Committee of Social Rights

Ladies and gentlemen,

Let me start by saying that yours has really been an excellent choice of topic.

Aside from being topical and looking ahead, it also shows the interdependence of different areas of interest for the Council of Europe, and the need for an integrated approach. Unsurprisingly, the human rights of older persons have indeed been, for some time, a major topic for the Council of Europe.

For example, having in mind the changing demographic situation and the longer life expectancy, in 2014 the Committee of Ministers of the Council of Europe adopted a Recommendation on human rights of older persons. And earlier, in 2009, the Organisation had already adopted a Recommendation on principles concerning powers of attorney and the management of the affairs and assets of older persons.

So, I think that all European states and other stakeholders should be encouraged to draw on the Organisation's output in this area. It would therefore be a welcome subject, should it be included as one of the priorities for the upcoming German Chairmanship of the Committee of Ministers of the Council of Europe (which is due to start in November 2020 and to last for the following six months).

As for our today's subject - strengthening older persons' rights in times of digitalisation, especially when a connection is made to COVID-19 -, it is really vast. So, I will speak mainly from a social rights perspective, recalling that social rights are of course human rights, and therefore universal, indivisible and interdependent.

Social rights, which we sometimes refer to as everyday human rights, are hugely relevant for older persons. I will not go into the specific rights involved, but let me just mention:

- ▶ protection of health,
- ▶ social security and assistance,
- ▶ protection against poverty,
- ▶ housing ...

... all of them are fundamentally important, and all part and parcel in ensuring that older persons can enjoy a decent quality of life. And all of them are enshrined in the

Revised European Social Charter, the most important European social rights instrument adopted in 1996 within the institutional framework of the Council of Europe.

But, responding to the theme of this event, I will just focus on one fundamental aspect of the social rights of the elderly: namely, to ensure that they can play an active part in public, social and cultural life, whether they live independently, in a family setting, or within support structures when their condition so require. Such right and the related requirements are also set by the European Social Charter, in particular in the 1988 Protocol to the Charter, as well as in Article 23 of the Revised Charter.

To respect and fulfil the right to actively participate in the life of the community is of the utmost importance for older persons, especially in times of pandemic crisis.

The pandemic had devastating effects on older persons, first of all in terms of their right to health (Article 11 of the Charter), with consequences in many cases on their right to life (Article 2 of the European Convention on Human Rights), and on their dignity (for example, when they were left to die on their beds without basic care or assistance, or forced to contemplate their peers suffer, or when they were abandoned to their fears, in total solitude).

But apart from that, in many cases the elderly were also rendered *incommunicado*. Whether still living independently or in care, many were often brutally cut off from their next of kin, disconnected from their community, unable to participate in a modicum of social life. Even in benign cases, they suffered distress and anxiety; many will suffer the sequels for the rest of their lives.

But it didn't have to be like that.

Let me recall that, back in 2007, the Council of Europe adopted another Recommendation, on *the public service value of the Internet*. Collectively, the 47 member states of the Council of Europe recommended "promoting access to the Internet for individuals, irrespective of their age, gender, ethnic or social origin" including for persons of low income or with special needs.

The use of digital technologies was also signalled in the Committee of Ministers 2009 Recommendation on *ageing and disability in the 21st century: sustainable frameworks to enable greater quality of life in an inclusive society*. And there is also the 2014 Recommendation on the *human rights of Internet users*, which informs users:

"You should expect public authorities to make reasonable efforts and to take specific measures to facilitate your access to the Internet if you live in rural and geographically remote areas, are on a low income and/or have special needs or disabilities."

One should really understand all this as instrumental to ensuring a range of human rights of older persons (dignity, private and family life, and so on) and also as means to facilitate the enjoyment of their social right under Article 23 of the European Social Charter to "play an active part in public, social and cultural life".

Many of our elders across Europe were failed during confinement also on this account.

As I said, what happened during the worst of the pandemic was, in many respects, intolerable. Steps must be taken to ensure that those situations cannot occur again, also guided by the instruments adopted by the Committee of Ministers of

the Council of Europe and with the objective of ensuring the effective exercise of the right under Article 23 of the Social Charter. This right to participation should be fully guaranteed in the future.

But, as for the right of elderly persons to social protection under the Charter, I have to recall that, because of its “*a la carte*” approach and some states’ reluctance, Article 23 of the Revised Charter (and the matching Article 4 of the 1988 Protocol) has been accepted by only 21 out of the 43 European States Parties to the Charter, and Germany is unfortunately not one of them.

So, if I am asked about the way forward with regard to “Strengthening Older People’s Rights in Times of Digitalisation - Lessons learned from COVID-19” and to argue the case for Germany pursuing this topic also during its upcoming Chairmanship of the Committee of Ministers of the Council of Europe, I would essentially say this:

- ▶ Germany should confirm itself as a social state “*role model*” by asserting its leadership on social rights internationally, inter alia by supporting vigorously the European Social Charter which really is the Social Constitution of Europe,
- ▶ So, Germany should make the promotion of Article 23 of the Revised Charter (and the corresponding Article 4 of the 1988 Protocol) a German Chairmanship priority, and
- ▶ It should set the example, by ratifying the Revised European Social Charter, which Germany signed in 2007 but has yet to ratify, and by accepting in particular Article 23 of the Charter,
- ▶ Further, Germany could also support Council of Europe’s work in the area of social rights of older persons and might contribute to the visibility and dissemination of a major publication —a manual on social rights of older persons— which is currently under preparation and due to be completed during the German Chairmanship.

Last but by no means least,

I think that Germany should endorse the message that every state owes the best possible governance arrangements to its people and to all persons within its jurisdiction. Anything short of embracing the best instruments of democratic governance is unacceptable and amounts to government or legislators failing people.

I mentioned several Council of Europe valuable outputs in this area. Not only the European Social Charter, but also its supervision procedures are particularly important governance instruments for member states to be best informed and equipped for decision-making in all social areas which are covered by the Charter.

It is therefore desirable for Council of Europe member states to strengthen their commitment to the Charter by also accepting its most effective monitoring mechanism, namely the collective complaints procedure.

Consequently, Germany could also:

- ▶ Make the 1995 Protocol to the Charter on collective complaints part of its social rights priority, promoting its ratification (only 15 States Parties have done it so far) and setting the example by accepting itself the collective complaints procedure.

And as a very final remark, starting now, while still holding the Presidency of the Council of the European Union, Germany could also assume the leadership in advocating the accession by the European Union to the European Social Charter, a move that – as you know - some EU and Council of Europe entities have indeed already suggested.

Thank you for the attention.

European Commission consultation¹²⁸ on reinforcing Social Europe and the implementation of the European Pillar of Social Rights

A Council of Europe contribution
prepared by the Directorate General Human Rights and Rule of Law

Social rights are human rights

Social rights are human rights. As such, they are universal, indivisible and interconnected or interrelated. The delivery of social rights - and, in consequence, the realisation of Social Europe - is not only an international human rights requirement but also a condition for social and democratic sustainability.

The erosion of social rights or the failure to uphold social justice is a predictor of negative outcomes, whereas upholding them has far-reaching positive consequences on many fronts. More specifically, the respect of social rights contributes to good governance and enhances respect for democratic institutions.

Good governance is also closely related to the rule of law (and the principle of legality).¹²⁹ The alignment of policies with laws and of laws with human rights exigencies - including international human rights law and therefore with the European Social Charter - is a fundamental obligation of member states.

“The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.”

Treaty on the Functioning of the European Union

Article 151 (ex. Article 136 TEC)

The endeavours to reinforce the implementation of social rights should be pursued. The European Pillar of Social Rights and Social Europe are therefore of great importance. The 2016 opinion of the Council of Europe Secretary General on the European

128. European Commission consultation on Social Europe : <https://ec.europa.eu/social/main.jsp?catId=1487>

129. See also Council of Europe’s secretariat comment to the Communication from the Commission on Further strengthening the Rule of Law within the Union - State of play and possible next steps (download at: https://ec.europa.eu/info/sites/info/files/stakeholder_contribution_on_rule_of_law_-_council_of_europe_secretariat.pdf)

Union's initiative to establish a European Pillar of Social Rights should be recalled.¹³⁰ Social rights are at the heart of the European project, of which the Council of Europe is a fundamental component.

"nothing in the European Pillar of Social Rights shall be interpreted as restricting or adversely affecting rights and principles as recognised, in their respective fields of application, by Union law or international law and by international agreements to which the Union or all the Member States are party, including the European Social Charter"

European Pillar of Social Rights

Preamble, paragraph 16

Priority areas

Without neglecting other rights, particular attention should be paid to gateway rights (rights that are *sine qua non*) for the exercise or enjoyment of other social rights as well as civil and political rights. From this perspective, absolute priority must be given to the eradication of poverty, starting with child poverty. Closely related to this objective is the eradication of homelessness and ensuring the right to housing of an adequate standard. These are absolute enablers - or, their absence, an absolute disabler - for the enjoyment of other rights. Similarly, inequalities must be overcome, including through ensuring equal opportunities for all and closing the gender pay gap as a matter of urgency.

The European Social Charter and its procedures

Reinforcing Social Europe and the implementation of the European Pillar of Social Rights require action on all of the rights and principles sets out in the Pillar. To this end, full account should be taken of the European Social Charter and the conclusions, decisions and findings of the European Committee of Social Rights.

The European Social Charter, in its 1961 version and as revised in 1996, provides a reference legal framework for social human rights. All European Union member states are parties to the Charter.¹³¹

The Charter and the procedures it establishes (reports concerning respectively accepted and non-accepted provisions, as well as the facultative collective complaints procedure) offer a tool that can assist and can be relied upon by States Parties in their endeavours to uphold human rights in the field of economic and social rights.

The Council of Europe has initiated a process for improving the procedures under the Charter and the implementation of social rights. Progress in this respect is expected

130. See opinion issued on 2 December 2016 on the European Union's initiative to establish a European Pillar of Social Rights <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dd0bc>

131. All 47 Council of Europe member states have signed the 1961 or the 1996 (revised) Charter. Thirty-four of them are parties to the Revised Charter and nine to the 1961 Charter. Fifteen have accepted the collective complaints procedure. At the time of writing, Germany and Spain are taking steps to ratify the Revised Charter and Spain has indicated its intention to accept in due course the collective complaints procedure.

in 2021, a year when the European Social Charter will celebrate its 60th anniversary as well as the 25th anniversary of the Revised Charter.

Cooperation between the Council of Europe and the European Union

As in respect of human rights generally, in this specific area, Council of Europe - European Union cooperation is important, in line with the Memorandum of Understanding signed between the two organisations on 11 May 2007.¹³²

Implementing the European Pillar of Social Rights “building on the experience of the Council of Europe’s European Social Charter” features among the European Union Priorities for Cooperation with the Council of Europe 2020-2022.¹³³ The words of the then Prime Minister of Luxembourg and later President of the Commission, Jean-Claude Juncker, in his 2006 Report “Council of Europe-European Union: a sole ambition for the European Continent” might be recalled in this connection:

“It would thus seem appropriate [...] that EU bodies should give formal effect to the spirit of Article 6.2 of the Treaty on the European Union, on which co-operation with the Council of Europe is based, by making it a [...] rule that the decisions, reports, conclusions, recommendations and opinions of these monitoring bodies:

- 1. will be systematically taken as the first Europe-wide reference source for human rights;*
- 2. will be expressly cited as a reference in documents which they produce.”*

The Council of Europe stands ready to cooperate with the European Union and its institutions so that the European Social Charter and the conclusions, decisions and findings of the European Committee of Social Rights can best contribute to reinforcing Social Europe

and to the implementation of the European Pillar of Social Rights. The above-mentioned priority areas should feature high on the agenda for cooperation between the Council of Europe and the European Union.

Finally, it is recalled that, in a resolution of 19 January 2017, the European Parliament “encourage[d] the Commission to examine the steps required for accession by the European Union to the Revised Charter and to propose a time-line for this objective”.¹³⁴

132. Memorandum of Understanding between the Council of Europe and the European Union <https://rm.coe.int/mou-en/1680597b32>

133. The European Union Priorities for Cooperation with the Council of Europe 2020-2022 were adopted by the Council of the European Union on 13th July 2020 https://eeas.europa.eu/delegations/council-europe/82886/european-union-priorities-cooperation-council-europe-2020-2022_en

134. Cf. European Parliament resolution of 19 January 2017 on the European Pillar of Social Rights, paragraph 32 https://www.europarl.europa.eu/doceo/document/TA-8-2017-0010_EN.html

Appendix 16

High-level Conference “Environmental Protection and Human Rights”

Organised under the aegis of the Georgian Presidency
of the Committee of Ministers of the Council of Europe

27 February 2020, Strasbourg

Intervention by Giuseppe Palmisano, President of the European Committee of Social Rights

First of all, let me express my gratitude to the Georgian Presidency of the Committee of Ministers for organising this important high-level Conference on environmental protection and human rights, and for inviting me, in my capacity as President of the European Committee of Social Rights, to propose some reflections on this topic.

From a social rights perspective, that is from a “human rights in everyday life” perspective, I would say that the answer to the question raised in the title of this session of the Conference — “Environmental protection and protection of human rights: contradictory or complementary?” — is relatively simple, and even quite obvious. Environmental protection and protection of social rights are indeed complementary, and closely — mutually — linked to each other.

Such a complementarity and mutual relationship emerges clearly when considering, first, that the deterioration of the environment has an undeniable impact on the enjoyment of many social rights. Neglect by States of environmental issues therefore amounts to not complying with their obligation to fulfil such rights. Second, that not taking measures to avoid or reduce deterioration of the environment may amount, in itself, to infringing some specific social rights (such as the right to protection of health, or the right to adequate housing). By contrast, adequately respecting social rights obligations may indeed contribute to improving environmental protection by States.

The European Committee of Social Rights is well aware of this and, in its activity of monitoring and interpreting the European Social Charter, it has made an important contribution to clarifying and putting into practice such a complementarity and mutual relationship, to the benefit of both social rights and environmental protection.

This has been possible, in particular, with regard to the application and interpretation of the right to protection of health, which is enshrined in Article 11 of the European Social Charter.

Let me provide you with some examples.

Under Article 11 of the Charter, States are obliged to take appropriate measures to remove as far as possible the causes of ill health, and to prevent epidemic, endemic and other diseases. This means that health systems must respond appropriately to avoidable health risks, i.e. risks that can be controlled by human action.

Since the beginning of this Century, the Committee has repeatedly pointed out that avoidable risks include those which result from environmental threats, and that the right to protection of health does therefore include the right to a healthy environment.

Following such an approach, the Committee has clarified that measures should be designed to remove the causes of ill health resulting from environmental threats such as pollution.¹³⁵

For example, the Committee found a violation of State's obligations with respect to the right to protection of health under the Charter in a situation where the State had not managed "to strike a reasonable balance between the interests of persons living in the lignite mining areas and the general interest"¹³⁶ or when the authorities had failed to take appropriate measures to remove, as far as possible, the causes of ill-health and to prevent, as far as possible, diseases in view of pollution of a river due to discharge of industrial waste¹³⁷. Other cases concerned the failure of the authorities to take appropriate measures to address the environmental hazards and unhealthy living conditions faced by Roma communities¹³⁸ or the lack of protective measures to guarantee clean water in Romani neighbourhoods, as well as inadequacy of measures to ensure public health standards in housing in such neighbourhoods.¹³⁹

Further, according to the Committee's conclusions, under Article 11, States are under an obligation to protect their population against nuclear hazards and against the consequences of nuclear accidents¹⁴⁰ as well as against health risks related to asbestos¹⁴¹. And a situation where availability of drinking water represents a problem for a significant proportion of the population is considered to be in breach of Article 11 of the Charter.¹⁴²

As regards States' obligations related to tackling pollution or the protection of the environment more generally, which are clearly obligations of progressive realisation, the Committee clarified that States must nevertheless strive to attain this objective within a reasonable time, by showing measurable progress and making best possible use of the resources at their disposal.¹⁴³

More specifically, in order to combat air pollution States are required to implement an appropriate strategy which should include the following measures: develop and

135. Conclusions XV-2 (2001), Poland, Article 11 §1; and Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 202

136. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 221

137. International Federation of Human Rights Leagues (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013, §§ 153-154 and §§159-160

138. European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, §§ 49-51, violation of Article 11

139. European Roma and Travellers Forum (ERTF) v. Czech Republic, Complaint No. 104/2014, decision on the merits of 17 May 2016, §§ 124 and 127, violation of Article 11 and 16

140. Conclusions XV-2 (2001), France

141. Conclusions XVII-2 (2005), Portugal; Conclusions XVII (2005), Latvia

142. Conclusions 2017, Georgia, Article 11 §3: "The Committee concludes that the situation in Georgia is not in conformity with Article 11 §3 of the Charter on the ground that the measures taken to ensure access to safe drinking water in rural areas have been insufficient."

143. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 204

regularly update sufficiently comprehensive environmental legislation and regulations¹⁴⁴; take specific steps to prevent air pollution at local level, such as modifying equipment, introducing threshold values for emissions and measuring air quality,¹⁴⁵ and, on a global scale, help or contribute to efforts towards reducing pollution¹⁴⁶; ensure that environmental standards and rules are properly applied through appropriate supervisory machinery¹⁴⁷; inform and educate the public, including pupils and students at school, about both general and local environmental problems.¹⁴⁸

The European Committee of Social Rights has also stressed that when a preliminary scientific evaluation indicates that there are reasonable grounds for concern regarding potentially dangerous effects on human health, the State must take precautionary measures consistent with the high level of protection provided for in Article 11 aimed at preventing those potentially dangerous effects.¹⁴⁹

In light of the above, I can say that something positive has indeed been done by the European Committee of Social Rights with a view to reinforcing environmental protection through the protection of social rights, and vice versa. Of course, much has still to be done, and should be done, especially if we consider the increasingly worrying environmental situation.

In fact, as our natural habitat is depleted and climate change advances as a result of poor governance, neglect and inaction, many other human social rights protected by the European Social Charter will be affected: the right to work and to earn a decent living, the right to safe and healthy working conditions, the rights of children, women, the family and older persons. Social protection may also be compromised, or even the right to protection against poverty and exclusion and the right to housing. We are already witnessing the dramatic consequences of natural disasters partly caused by climate change on the right to adequate housing and other fundamental social rights.

Climate change can be expected to have alarming effects on the labour markets and on employment levels. Global warming related migration and “climate refugees” will raise a host of additional social rights issues in pace with accelerated demographic change. Philip Alston, the UN Special Rapporteur on extreme poverty and human rights, forecasted that climate change would drive, in the best case scenario, tens of millions of people into poverty.

So, what is the way forward? What can realistically be done by the Council of Europe to improve the protection of the environment by means of the protection of social rights?

From a European Social Charter and “human rights in everyday life” perspective, I would advance the following.

144. Conclusions XV-2 (2001), Addendum, Slovak Republic

145. Conclusions 2005, Republic of Moldova, Article 11§3

146. Conclusions XV-2 (2001), Italy, Article 11§3

147. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §§ 203, 209, 210 and 215

148. Conclusions 2005, Republic of Moldova, Article 11§2

149. International Federation of Human Rights Leagues (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013, §§ 150-152

The monitoring arrangements under the Charter include a reporting system that is evolving from formal detailed reporting on all provisions to a targeted and strategic choice of issues that states are called upon to report on and that the European Committee of Social Rights will examine. This could —and in my opinion should, even must— in the future include issues related to the environment and social human rights.

Monitoring arrangements also include, as you know, collective complaints, a mechanism that allows social partners —trade unions and employers organisations, as well as civil society organisations— to take the initiative in raising issues about compliance by states of their social rights commitments. I hope that in the near future, collective complaints will seek to articulate and plead issues related to the environment and social human rights.

On this, I have to recall that only 15 countries have accepted the collective complaints procedures, but the 15 have recently encouraged others to enrol themselves in the collective complaints system that was designed to assist states to enhance implementation of social rights and assist them in their endeavours to comply with their social rights commitments, including the right to a healthy environment.

I would also add that, when conclusions under the reporting procedure and decisions concerning collective complaints in respect of social rights related to the environment start reaching a follow-up stage, involving the Governmental Committee and the Committee of Ministers of the Council of Europe, it is crucial that they live up to their responsibilities by recommending that the situation be brought into conformity with the European Social Charter and the findings of the European Committee of Social Rights.

And another step that the Committee of Ministers could take —picking the gauntlet thrown by its Georgian Chairmanship— in order to respond to the challenge that environmental issues pose to human rights, is to make arrangements for drafting a new protocol to the European Social Charter to incorporate (as has already been done in the Americas) environmental issues into human rights protection.

In this respect, I really believe that the European Social Charter would be the most appropriate legal framework to do this, more so than the European Convention on Human Rights, which, as we all know, focuses on civil and political rights with an “individual protection” approach.

To conclude, Mr President, ladies and gentlemen, supporting the human rights dimension of environmental issues and climate change within the European Social Charter framework would be the right thing to do and it would be applauded by all sensible stakeholders in Europe and worldwide

Appendix 17

Protection of human life and public health in the context of a pandemic

High-level videoconference
Greek Chairmanship of the Committee
of Ministers of the Council of Europe

3 June 2020

Statement by Giuseppe Palmisano, President of the European Committee of Social Rights

Minister Varvitsiotis,

Secretary General,

Ladies and Gentlemen,

First of all, I wish to thank the Greek chairmanship of the Committee of Ministers for organising this much needed initiative and for giving me the opportunity to make a statement on the sanitary crisis and social rights.

I would like to focus my intervention on three points:

First:

As the COVID-19 crisis painfully revealed, **preparedness is all about social rights** and therefore about the European Social Charter, which is the major European instrument for the protection of such rights.

In fact, **Pandemic-readiness requires:**

- ▶ universal health care and well-equipped and resourced, resilient – I would say – public health service,
- ▶ health and safety at work,
- ▶ arrangements to ensure protection of the rights of older people,
- ▶ employment security,
- ▶ a minimum income and adequate guarantee of the right to housing.
- ▶ adequately resourced and solid public education and the protection of children,

All these requirements are inherent in the Social Charter and fulfilling them is crucial when confronted with a crisis such as **COVID-19**.

This is why the European Committee of Social Rights has already adopted - on the 21st of April - a **statement of interpretation** on the right to protection of health in a time of pandemic (related to Article 11 of the Charter), and we have also announced a more general statement on COVID-19 and social rights, which will be ready in the near future.

Let me say that while the first statement was essential as it has explained what does it mean implementing the right to protection of health, and giving priority to such right in the event of a pandemic like COVID-19, and during the pandemic threat and crisis, the second statement will be equally important as it will try to clarify how to properly safeguard many fundamental social rights that are under stress in the aftermath of a pandemic, also due to possible measures taken by States to cope with the pandemic crisis.

Second point, but closely related to the first one:

The outcomes that countries have experienced are not aleatory - or random - they are rather the result of **good practice**, or sometimes less good practice, and people have felt those outcomes directly on their lives.

It is therefore necessary to draw the **lessons**, in terms of:

- ▶ improving and investing in public health and making it truly universal,
- ▶ ensuring safe and healthy working conditions.
- ▶ care arrangements for the elderly,
- ▶ services for and the protection of children,
- ▶ modernising education to ensure its sustainability and universality,
- ▶ employment security,
- ▶ reducing social and economic inequalities,

Given that this **virus is here to stay** and that it is likely, unfortunately, that **there will be other viruses**, or other non-viral disasters, it is fundamental to draw such lessons and to **construct our future** with the necessary national legislative, regulatory and funding mechanisms in one hand, of course, but also with the European Social Charter in the other.

The Charter is a unique instrument at European level. It is alive and well and has potential to continue developing and growing. The Charter should be the lighthouse guiding the development of a new (or renewed) social contract fit for the 21st century which many world leaders and reputed personalities now demand.

And, the third aspect I would like to touch upon:

The Charter and its procedures are key **governance instruments** for member states to be best informed and equipped to take the best possible decisions in all areas which are covered by the Charter and relevant for responding to pandemic, sanitary, or other general social crises.

Each state owes the best possible governance arrangements to its people and to all persons within its jurisdiction. Anything short of embracing the best instruments of democratic governance is unacceptable, and amounts to government or legislators failing people.

It is therefore necessary to **step up efforts to strengthen commitment to the Charter** and strongly argue in favour of member states that have not yet done so **ratifying the Revised Charter, accepting more provisions (preferably all) and accepting the collective complaints procedure**. In particular, the collective complaints procedure

is not only a good governance tool for member states, but also a good democratic tool giving the fundamental role of social partners and civil society at large in identifying the issues that require special attention and scrutiny.

In the same vein and for many reasons, the Council of Europe, alongside member states that are also members of the European Union, should **put on the table the question of accession by the European Union to the European Social Charter**.

To sum up, I propose urgent and vigorous action

- ▶ first, to ensure that the European Social Charter (and the case law and findings of the European Committee of Social Rights) is fully relied upon as a key governance tool for responding to the current crises and that it inspires changes—and a new social contract that will allow for improved risk management and sustainability—after the emergency is over,
- ▶ and, second, to strongly encourage member states that have not yet done so to ratify the Revised Charter, to accept more provisions (preferably all), and to accept the collective complaints procedure.

Lastly, given the welcome forward-looking reflection that you have proposed under the Greek Chairmanship of the Committee of Ministers, dear Minister, I would like to add a very final suggestion.

The current crisis has already had a significant impact on the wellbeing and the lives of people, I dare say of everyone in our societies. There has been and there continues to be so much suffering and so much loss that people (communities and also millions of individuals) will have to be given the opportunity to engage with, understand and mourn their losses and their suffering. People will need to come to terms with all this. If people's needs are not satisfied and there is no opportunity to rebuild trust, the damage will persist and the ripples will destabilise communities and countries, and possibly threaten social and democratic sustainability. In order to mitigate these risks, I think that there will be a need for some form of social dialogue to enable "reconciliation" after COVID-19. I am thinking, for example, of an ad hoc public platform or forum; and the Council of Europe could and should play, in my humble view, a part in such a reconciliation process and organised social dialogue.

Thank you for your attention.

Appendix 18

Selection of activities organised in 2020

Strasbourg (France), 4-6 February 2020

1st plenary meeting of the Steering Committee for the Rights of the Child (CDENF)

M. GALSTYAN

Paris (France), 10 February 2020

Meeting with the General Directorate of Labour at the French Ministry of Labour

C. POIREL, J. MALINOWSKI, L. VIOTTI

Strasbourg (France), 10-14 February 2020

Induction course – Roma Women’s Access to Justice (JUSTROM)

H. KRISTENSEN

Strasbourg (France), 27 February 2020

High level conference on human right and environment

G. PALMISANO

Strasbourg (France), 9-10 March 2020

Meeting on HELP course

K. DUPATE, A. UBEDA DE TORRES

Strasbourg (France), 25 March 2020

Meeting on a new HELP course related to the European Social Charter and the European Committee of Social Rights module

K. LUKAS, A. UBEDA DE TORRES

Strasbourg (France), 8 April 2020

Meeting of the Bureau of the European Committee of Social Rights

Strasbourg (France), May 2020

Meeting on a new HELP course related to the European Social Charter and the European Committee of Social Rights module

K. LUKAS, A. UBEDA DE TORRES

3 June 2020

High-level videoconference on “Protection of human life and public health in the context of a pandemic”

G. PALMISANO

Strasbourg, 23 June 2020

Exchange of the Presidents of the ECSR and the PECS with the Chair of GR-SOC on the impact of COVID-19 crisis on social rights

G. PALMISANO

Strasbourg, 29 June 2020
Meeting of the Chairs of the Council of Europe Monitoring and Advisory Bodies
E. CHEMLA

Strasbourg, 29-30 June 2020
Videoconference on the HELP course
K. DUPATE, A. UBEDA DE TORRES

Online, 9 July 2020
Online meeting of the CoE-FRA-ENNHRI-Equinet Platform on social and economic right
A. NOLAN, T. MONTANARI

Strasbourg, 9 July 2020
Meeting of the Bureau of the Governmental Committee
A. UBEDA DE TORRES, L. MIARA

Strasbourg (France), 11 September 2020
Joint meeting of the Governmental Committee's and ECSR's bureaus
G. PALMISANO, E. CHEMLA, K. LUKAS, F. VANDAMME, J. MALINOWSKI,
H. KRISTENSEN, A. UBEDA DE TORRES, L. MIARA

Strasbourg, 9-10 September 2020
Visit to the Council of Europe by Philippe Boillat and Lawrence Early, independent person and alternate to the FRA Board, respectively.
E. MALAGONI, A. UBEDA DE TORRES

Webinar, 15 September 2020
FEANTSA Webinar "Advocacy and Strategic Litigation on Housing Rights in Europe"
A. NOLAN

Webinar, 15 September 2020
University of Nottingham webinar "After the First Wave? Initial Conclusions on the Human Rights Impacts of COVID-19"
A. NOLAN

Strasbourg (France), 22-23 September 2020
HELP course, module on forced labour for human trafficking (update of the Labour rights course)
A. UBEDA DE TORRES

Strasbourg (France), 24-25 September 2020
5th meeting of the European Social Cohesion Platform (PECS)
M. GALSTYAN

Online, 28-29 September 2020
Online international conference "Strengthening Older People's Rights in Times of Digitalisation – Lessons learned from COVID-19", organised under the German Presidency of the Council of the European Union 2020
G. PALMISANO

Madrid (Spain), 28 September 2020

Virtual hearing at the Spanish Parliament *“Los derechos sociales de las personas con discapacidad en el contexto del COVID-19 y sus repercusiones”*

R. CANOSA USERA

Strasbourg (France), 5-9 October 2020

142th meeting of the Governmental Committee

J. MALINOWSKI, H. KRISTENSEN, A. UBEDA DE TORRES, L. MIARA

Strasbourg (France) online conference, 7 October 2020

PACE Sub-Committee of the European Social Charter hearing on *“Overcoming the socio-economic crisis sparked by the COVID-19 pandemic”*

G. PALMISANO

Strasbourg (France), 8-9 October 2020

Committee of Experts on Roma and Travellers Issues (Adi-Rom)

M. GALSTYAN, A. UBEDA DE TORRES

Strasbourg (France), 16 October 2020

International Day of Eradication of Poverty, webinar on *“Access to social and medico-social services for ALL: a springboard out of poverty”*

G. PALMISANO

Strasbourg, 12-13 October, 7 December 2020

HELP Module on Trafficking for the purposes of labour exploitation

V. MANTOVALOU, A. UBEDA DE TORRES

Strasbourg (France), 9 October 2020^{1st} virtual meeting of the ECSR COVID-19 Working Group

J. HAJDU, B. KRESAL, A. NOLAN, J. MALINOWSKI, H. KRISTENSEN, N. CASEY

Madrid (Spain), 20 October 2020

Inter-American Court of Human Rights webinar on the protection of Social Rights

A. UBEDA DE TORRES

Strasbourg (France), 22 October 2020

Gender Equality Commission meeting

P. STANGOS

Strasbourg, 27 October, 17 November and 2 December 2020

Meetings of the Working group of the Governmental Committee for the follow up of the CDDH report

C. POIREL, J. MALINOWSKI, H. KRISTENSEN, A. UBEDA DE TORRES, L. MIARA

Strasbourg, 24 November 2020

Meeting of the Bureau of the Governmental Committee

A. UBEDA DE TORRES, L. MIARA

Strasbourg, 24 November 2020

Conference in cooperation with the Ministry of Health, Labour and Social Protection of the Republic of Moldova, a Stakeholder under the project *“Framing cooperation for social rights development in the Republic of Moldova”*

J. MALINOWSKI, M. GALSTYAN

Kiev (Ukraine), 25 November 2020

Webinar “Respect for and promotion of social rights is essential in attaining sustainable democracy in Ukraine”, organised by the Projects “Social rights protection of internally displaced people and other vulnerable groups: European Social Charter, other European standards and administrative courts case law in Ukraine”
G. PALMISANO

Madrid (Spain), 24-26 November 2020

Seminar on the European Social Charter and its impact in Spain held at Complutense University of Madrid
K. LUKAS, R. CANOSA USERA, A. UBEDA DE TORRES, G. CANO-PALOMARES

Webinar, 30 November 2020

Etkiniz Webinar “Poverty and Child Rights: The Role of the Council of Europe in Advancing Child Rights”
A. NOLAN

Paris, 23 and 30 November 2020,

The 41st session of the Working Party on Social Policy of the OECD (online). Housing, pension reviews, employment of young people, family policies and services

T. MONTANARI, M. GALSTYAN

Ljubljana (Slovenia), 30 November – 1 December 2020

Academy of European Law webinar, Recent UWE decisions of the European Committee of Social Rights
B. KRESAL

Strasbourg (virtual), 15, 16 and 18 December 2020

Presentation on the Charter to Strasbourg University students of Master of *Droit des libertés*

A. UBEDA DE TORRES, L. VIOTTI

Realising equal pay and equal opportunities for women in employment

Criteria developed by the European Committee of Social Rights (ECSR)

17 November 2020

Compilation prepared by the Secretariat of the European Social Charter, Directorate General of Human Rights and Rule of Law (DGI), Council of Europe, based on the ECSR's decisions on the merits in the collective complaints lodged by the international NGO University Women Europe (UWE).

The decisions concern the 15 States which have accepted the complaints procedure (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden). The decisions were adopted by the ECSR on 5 and 6 December 2019 and became public on 29 June 2020.

I. RECOGNITION AND ENFORCEMENT OF THE RIGHT TO EQUAL PAY

Recognition of the right to equal pay in legislation

Under Articles 4§3 and 20.c of the Charter (and Article 1.c of the 1988 Additional Protocol), the right of women and men to equal pay for work of equal value must be expressly provided for in legislation. The equal pay principle applies both to equal work and work of equal or comparable value. The concept of remuneration must cover all elements of pay, that is basic pay and all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment.

The States Parties are obliged to enact legislation explicitly imposing equal pay. It is not sufficient to merely state the principle in the Constitution. States must ensure that there is no direct or indirect discrimination between men and women with regard to remuneration.

The principle of equal pay precludes unequal pay irrespective of the mechanism that produces such inequality. The source of discriminatory pay may be the law, collective agreements, individual employment contracts, internal acts of an employer.

Any legislation, regulation or other administrative measure that fails to comply with the principle of equal pay must be repealed or revoked. The non-application of discriminatory legislation is not sufficient for a situation to be considered in conformity with the Charter. It must be possible to set aside, withdraw, repeal or amend any provision in collective agreements, individual employment contracts or internal company regulations that is incompatible with the principle of equal pay (Conclusions XIII-5, Statement of Interpretation on Article 1 of the 1988 Additional Protocol).

Effective remedies

Domestic law must provide for appropriate and effective remedies in the event of alleged pay discrimination. Workers who claim that they have suffered discrimination must be able to take their case to court. Effective access to courts must be guaranteed for victims of pay discrimination. Therefore, proceedings should be affordable and timely.

Anyone who suffers pay discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and to act as a deterrent. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and from being sufficiently dissuasive is contrary to the Charter.

The burden of proof must be shifted. The shift in the burden of proof consists in ensuring that where a person believes she or he has suffered discrimination on grounds of sex and establishes facts which make it reasonable to suppose that discrimination has occurred, the onus is on the defendant to prove that there has been no infringement of the principle of non-discrimination (Conclusions XIII-5, Statement of interpretation on Article 1 of the 1988 Additional Protocol).

Retaliatory dismissal in cases of pay discrimination must be forbidden. Where a worker is dismissed on grounds of having made a claim for equal pay, the worker should be able to file a complaint for dismissal without valid reason. In this case, the employer must reinstate her/him in the same or a similar post. If reinstatement is not possible, the employer must pay compensation, which must be sufficient to compensate the worker (i.e. cover pecuniary and non-pecuniary damage) and to deter the employer.

Pay transparency and job comparisons

Pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities.

States should take measures in accordance with national conditions and traditions with a view to ensuring adequate pay transparency in practice, including measures such as those highlighted in the EU Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender.

In order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, educational and training requirements must be taken into account. The notion of equal work or work of equal value has a qualitative dimension and may not always be satisfactorily defined, thus undermining legal certainty. States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law. In this respect, job classification and evaluation systems should be promoted and where they are used, they must rely on criteria that are gender-neutral and do not result in indirect discrimination.

Moreover, such systems must consider the features of the posts in question rather than the personal characteristics of the workers (Conclusions XV-2, Article 4§3, Poland).

The possibility of making job comparisons is essential to ensuring equal pay. Lack of information on comparable jobs and pay levels could render it extremely difficult for a potential victim of pay discrimination to bring a case to court. Workers should be entitled to request and receive information on pay levels broken down by gender, including on complementary and/or variable components of the pay package. However, general statistical data on pay levels may not be sufficient to prove discrimination. Therefore, in the context of judicial proceedings it should be possible to request and obtain information on the pay of a fellow worker while duly respecting applicable rules on personal data protection and commercial and industrial secrecy.

Moreover, national law should not unduly restrict the scope of job comparisons, e.g. by limiting them strictly to the same company. Domestic law must make provision for comparisons of jobs and pay to extend outside the company concerned where this is necessary for an appropriate comparison. This is an important means of ensuring that the equal pay principle is effective under certain circumstances, particularly in larger companies or specific sectors where the workforce is predominantly, or even exclusively, of one sex (see Statement of interpretation on Article 20, Conclusions 2012). In particular, job comparisons should be possible across companies, where these form part of a group of companies owned by the same person or controlled by a holding or a conglomerate.

Equality bodies and other institutions

The satisfactory application of the Charter cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised (International Commission of Jurists (ICJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32). Measures to foster the full effectiveness of the efforts to combat discrimination include setting up of a specialised body to monitor and promote, independently, equal treatment, especially by providing discrimination victims with the support they need to take proceedings (Conclusions XVI-1, Article 1§2, Iceland). The status of such equality bodies in terms of their mandate, their independence and resources must be clearly defined. In this context, the criteria for national human rights institutions set out in the so-called Paris Principles adopted in 1993 by the United Nations General Assembly are also relevant.

As regards the mandate of equality bodies, it should include provision for functions such as the following:

- ▶ monitoring and promotion: in cooperation with labour inspectorates or other relevant bodies, monitor the situation regarding gender discrimination, including in respect of pay, and produce regular reports; conduct inquiries at their own initiative and make recommendations; raise awareness of the equal pay principle across society;
- ▶ decision-making: receive, examine, hear cases of discrimination; issue binding or authoritative decisions on complaints concerning alleged discrimination and ensure the implementation of such decisions;

- ▶ assistance to victims: provide personal and legal support to complainants; mediate settlements in cases of discrimination; represent victims in cases of discrimination; and monitor the implementation of decisions in such cases;

In addition to having a clear and comprehensive mandate, these specialised equality bodies must be equipped with the necessary human and financial resources as well as infrastructure to ensure that they can effectively combat and eliminate pay discrimination.

II. MEASURES TO PROMOTE EQUAL OPPORTUNITIES BETWEEN WOMEN AND MEN IN RESPECT OF EQUAL PAY

In order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases are crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap. The gender pay gap is one of the most widely accepted indicators of the differences in pay that persist for men and women doing jobs that are either equal or of equal value. In addition, to the overall pay gap (unadjusted and adjusted, more specific data on the gender pay gap by sectors, by occupations, by age, by educational level, etc. might also be considered, where appropriate.

States are under an obligation to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it. Collection of data with a view to adopting adequate measures is essential to promote equal opportunities. Indeed, where it is known that a certain category of persons is, or might be, discriminated against, it is the duty of the national authorities to collect data to assess the extent of the problem (*European Roma Rights Centre v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and to avoid abuse) is indispensable to the formulation of rational policy (*European Roma Rights Centre v. Italy*, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).

The aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact (*ICJ v. Portugal*, Complaint No. 1/1998, op.cit., §32). Conformity with the Charter cannot be ensured solely by legislation and States Parties must take measures to actively promote equal opportunities. Besides the fact that legislation must not prevent the adoption of positive measures or positive action, the States are required to take specific steps aimed at removing *de facto* inequalities that affect women's and men's chances with regard to equal pay.

While the realisation of the obligation to take adequate measures to promote equal opportunities is complex, the States Parties must take measures that enable the achievement of the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources (*International Association Autism-Europe (AIAE) v. France*, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

Under Article 20.c of the Charter the obligation to take appropriate measures to promote equal opportunities entails gender mainstreaming which is the internationally recognised strategy towards realising gender equality. It involves the integration of a gender perspective into the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and spending programmes, with a view to promoting equality between women and men, and combating discrimination. Gender mainstreaming, as recommended in particular by the Committee of Ministers of the Council of Europe (Recommendation Rec(1998)14), should cover all aspects of the labour market, including pay, career development and occupational recognition, and extending to the education system (Conclusions XVII-2, Article 1 of the 1988 Additional Protocol, Greece).

States should assess the impact of the policy measures adopted in tackling vertical or horizontal occupational gender segregation in employment, improving women's participation in a wider range of jobs and occupations.

Among other measures that States could adopt to reduce the gender pay gap and which may be regarded as relevant indicators for assessing compliance with the obligations laid down by the Charter the following are highlighted:

- ▶ adoption and implementation of national action plans for employment which effectively ensure equality between women and men, including pay;
- ▶ requiring individual undertakings to draw up enterprise or company plans to secure equal pay;
- ▶ encouraging employers and workers to deal with equality issues in collective agreements;
- ▶ raising awareness of the equal pay principle among employers, organisations and the public at large, including through the activities of equality bodies.

III. BALANCED REPRESENTATION OF WOMEN IN DECISION-MAKING POSITIONS WITHIN PRIVATE COMPANIES

Article 20.d of the Charter imposes positive obligations on States to tackle vertical segregation in the labour market, by means of, inter alia, promoting the advancement of women in decision-making positions in private companies. This obligation may entail introduction of binding legislative measures to ensure equal access to management boards of companies. Measures designed to promote equal opportunities for women and men in the labour market must include promoting an effective parity in the representation of women and men in decision-making positions in both the public and private sectors (Conclusions 2016, Article 20, Portugal).

According to the European Commission's 2019 Report on equality between women and men, the proportion of women on management boards of the largest publicly listed companies in countries with binding legislative measures has risen from an average of 9.8% in 2010 to 37.5% in 2018. In countries with non-binding measures, including positive action to promote gender balance, the corresponding percentages were 12.8% in 2010 and 25.6% in 2018, whereas in countries where no particular action (apart from self-regulation by companies) has been taken, the situation remained almost stagnant with 12.8% on average in 2010 and 14.3% in 2018.

The overall EU-28 average was 26.7% in 2018. In addition, PACE Resolution 1715(2010) recommends that the proportion of women on management boards of companies should be at least 40%.

Finally, in respect of Article 20.d, as for Article 20.c, States must take measures that enable the achievement of the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.

Appendix 20

Selection of judicial decisions from 2020 referring to the European Social Charter

BELGIUM

- ▶ **Judgment no. 39/2020 of 12 March 2020 of the Constitutional Court**, in case 6919, concerning the appeal for total or partial annulment of the Belgian law of 18 October 2017 “on illegitimate entry, occupation or residence in the property of others”, brought by the ASBL “Woningen 123 Logements” and others.

Reference to the European Social Charter is made with regard to the respect of fundamental rights and the grounds for the violation of certain articles of the Constitution, read in combination with Article 30 of the Revised European Social Charter and/or in combination with Articles 5 and 6, point 4 of the Revised Charter:

- (a) references in Part A of the judgment, with the development of the parties’ arguments: see at A.3.1.1, A.3.1.3, A.4.1.1, A.5.1 and A.6.1
- (b) references in part B of the judgment with the Court’s assessment: see at points B.10, B.11, B.13.1 and B.17.1

- ▶ **Judgment no. 67/2020 of 14 May 2020 of the Constitutional Court**, in joined cases (6988 and 6990), concerning the appeals for total or partial annulment (articles 2 and 4) of the Belgian law of 29 November 2017 “on the continuity of the rail transport service for persons in the event of a strike”, lodged by trade union organisations (the ASBL “Syndicat pour la Mobilité et Transport Intermodal des Services Publics - Protect” and by the “Cheminots” sector of the Centrale générale des services publics and others).

Reference to the European Social Charter is made with regard to the freedom of association and the right to collective bargaining and the pleas of violation of certain articles of the Belgian Constitution, read in conjunction with Article 6 of the Revised European Social Charter:

- a.1) references in part A of the judgment, with the development of the parties’ arguments: see at A.6.1, A.6.2, A.9.6, A.15.2, A.16.2 and A.21;
- a.2) references in Part B of the judgment with the Court’s assessment: see at points B.4.1, B.4.2, **B.6.5** (in particular), **B.6.8** (see below), B.8.2 (reference to Article G of the Revised Charter)

(excerpt from B.6.8.) “Such a minimum service may be introduced in particular in public services which, although not essential, are nevertheless of primary importance, such as the railways (*ibid.*, p. 131, nos. 619 and 621) (see also **European Committee of Social Rights, Confederation of Independent Trade Unions of Bulgaria, Confederation of Trade Unions “Podkrepa” and European Trade Union Confederation v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, point 34).**”

(b) as regards the standstill obligation, the principle of equality and non-discrimination and the pleas alleging infringement of certain articles of the Belgian Constitution, read in conjunction with Article 6 of the Revised European Social Charter;

(b.1) references in part A of the judgment, with the development of the parties' arguments: see points A.22.2 and A.35 respectively;

(b.2) references in part B of the judgment, with the Court's assessment: see points B.32.2 and B.44 respectively.

► **Constitutional Court of 9 July 2020**, case no. 101/2020 (recitals B.8.1. and B.8.2.)

The respondent executive argued that Articles 16 and 30 of the Revised European Social Charter do not have direct effect in the domestic order, so that the Constitutional Court could not take them into consideration among the reference norms with regard to which it exercises its control. However, the Court rejected this objection to admissibility, on the grounds that, as it is competent to assess whether a legislative norm violates Articles 10 and 11 of the Constitution, the Court must, when asked about a violation of these provisions combined with an international convention, not examine whether the latter has a direct effect in the domestic order but assess whether the legislator has not disregarded Belgium's international commitments in a discriminatory manner (www.const-court.be).

► Judgment of the **Labour Court of Liège**, Third Chamber, of 5 February 2020, which asks the Constitutional Court two questions for a preliminary ruling.

a) First question put to the Constitutional Court concerning the conformity of the law of 11 April 1995 aimed at instituting the "charter" of the socially insured and of the Walloon Code of Social Action, with Articles 10 and 11 of the Belgian Constitution combined with the Revised European Social Charter, insofar as they establish a difference in treatment between disabled persons: see point 1 on page 12.

b) second question put to the Constitutional Court concerning the conformity of the Walloon decree of 30 March 1995 on the publicity of the administration with Articles 10 and 11 of the Belgian Constitution combined with the Revised European Social Charter, insofar as it does not provide for the time limit for lodging an appeal to be suspended if the administrative decision does not contain the prescribed information: see point 2 on page 12.

► **Council of State 12 June 2020**, no. 247.784, consideration 12; Council of State 12 June 2020, no. 247.787, consideration 12. According to the Administrative Litigation Section of the Belgian Council of State, as the social objective referred to in Article 17 of the European Social Charter is formulated in general terms, this article does not contain a sufficiently precise right, so that it has no direct effect in the domestic order and the plea alleging violation of this article is inadmissible (www.raadvst-consetat.be).

► In an opinion no. 66771/1 given on **4 March 2020**, the **Legislation Section of the Belgian Council of State** formulated a series of remarks and objections to a bill whose purpose was to have the law itself guarantee a minimum average hourly wage of 14 euros for workers aged 18 or over, performing services under an employment contract, with the exception of persons employed in a family business within the meaning of the bill. The Legislation Section recalled, among other things, that in Belgium the amount of pay is already subject to binding minimum standards, laid down in collective labour agreements (hereinafter: CCT), concluded at sectoral or interprofessional level, which take

precedence over the will of the parties and from which neither the individual employment contract nor the company CCT can derogate. Minimum wages are therefore not set by the authorities, but by the employers and workers or their organisations. For the Council of State, such a regime, “which provides that the setting of minimum wages in the private sector is left to the representative organisations of employers and workers”, “can be deemed to be in line with a number of relevant international and constitutional law standards in this area. For example, Article 4 of the European Social Charter recognises the right to equitable remuneration and provides that the exercise of this right must be ensured ‘either by means of freely concluded collective agreements, or by statutory methods of wage determination, or in any other manner appropriate to national conditions’. The association of the above-mentioned representative organisations in the elaboration and implementation of a system of minimum wages is also specified in Convention No. 131 ‘concerning Minimum Wage Fixing, with particular reference to Developing Countries’, adopted in Geneva on 22 June 1970 by the International Labour Conference at its 54th Session” (Conseil d’Etat, opinions No. 66.771/1 and 66.771/2 given on 4 March 2020, available at www.raadvst-consetat.be).

CROATIA

- ▶ Decision U-I-5918/2020 of the **Constitutional Court** of the Republic of Croatia (reference to Article 11 of the Charter - “...The European Committee of Social Rights emphasized that the right to health care must be protected in real and practical, not theoretical sense...”)
- ▶ Decision U-III-858/2020 of the **Constitutional Court** of the Republic of Croatia (reference to Article 6 of the European Social Charter)

FRANCE

- ▶ **Douai Administrative Court of Appeal**, 1st Chamber, 15/09/2020, 19DA00477: rejection of the invocability of Article 4§4 ESC Revised for lack of direct effect: “7. These stipulations, which commit the States Parties to the international conventions concerned to take measures to ensure the realisation of the right to housing, do not produce direct effects with regard to individuals.
- ▶ **Bordeaux Administrative Court of Appeal**, 3rd Chamber, 18/12/2020, 18BX02283: rejection of the direct effect of Article 31 ESC Revised “7. These stipulations, which commit the States Parties to the international conventions concerned to take measures to ensure the realisation of the right to housing, do not produce direct effects with regard to individuals.
- ▶ **Court of Cassation, Soc.** 22 January 2020, 19-13219, Unpublished: control of compliance with articles 5 and 6 of the Revised ESC, even without explicit recognition of their direct effect (in line with previous case law).
- ▶ **Cour de cassation, Civ.**, 1st, 12 February 2020, 18-24.264, Unpublished: reaffirmation by the first civil chamber of the absence of direct effect of article 17§1 ESC Revised.

“These stipulations, which require the intervention of additional acts to produce effects with regard to individuals, are not of direct effect.”

Next paragraph:

“ 5. Consequently, in the absence of reasonable doubt as to the interpretation of Article 17(1)(c) of Part II of the Revised European Social Charter, there is no need to refer a question to the Court of Justice of the European Union for a preliminary ruling.” This is a misunderstanding of European law, as there is confusion between the European Social Charter and European Union law...

GREECE

► **Court of Cassation**, Decision No 366/2020

Article 24 of the Revised European Social Charter: the valid reason, in the sense of the Revised Charter, does not constitute a precondition for the termination on the part of the employer of the open-ended employment contract. Even after the ratification of the Revised European Social Charter by the Law 4359/2016, the dismissal without a valid reason, in principle, is not null and void. The prerequisites for termination remain the written notification of the employee, the payment of the statutory severance pay and the non-abuse of the employer's right to dismiss an employee.

ITALY

► **Constitutional Court**, Judgement NO. 254 of 2020 (Inadmissibility)

Questions of constitutional legitimacy raised by the Corte d'appello di Napoli (Court of Appeal, Naples) which doubts the constitutionality - for infringement of Articles 3, 4, 24, 35, 38, 41, 111, 10 and 117, first paragraph, of the Constitution, the latter two in relation to Arts. 20, 21, 30 and 47 of the Charter of Fundamental Rights of the European Union (CDFUE), proclaimed in Nice on 7 December 2000 and adapted in Strasbourg on 12 December 2007, and of Article 24 of the Revised European Social Charter, with annex, done at Strasbourg on 3 May 1996, ratified and made enforceable by Law no. 30 of 9 February 1999 30 -, of art. 1, paragraph 7, of Law No. 183 of 10 December 2014 (Delegations to the Government on the reform of social security, employment services and active policies, as well as on the reorganisation of the regulation of labour relations and inspection activities and on the protection and reconciliation of care, life and work needs) and of arts. 1, 3 and 10 of Legislative Decree No 23 of 4 March 2015 (Provisions on open-ended employment contracts with increasing protections, in implementation of Law No 183 of 10 December 2014).

► **Constitutional Court**, Judgment NO. 123 of 2020 (Inadmissibility)

Issues of constitutional legitimacy raised by the Ordinary Court of Vibo Valentia, acting as labor judge, on art. 55-quater, paragraph 1, letter a), of Legislative Decree no. 165 (General rules on the organization of work employed by public administrations), inserted by art. 69, paragraph 1, of the legislative decree 27 October 2009, n. 150 (Implementation of law no. 15 of 4 March 2009, on the optimization of the productivity of public work and the efficiency and transparency of public administrations), with reference to arts. 3, first paragraph, 4, first paragraph, 24, first paragraph, 35, first paragraph, and 117, first paragraph, of the Constitution, the latter in relation to art. 24 of the Revised European Social Charter, with annex, made in Strasbourg on May 3, 1996, ratified and made executive by law no. 30.

Recognition of the indirect effect of Article 24 of the European Social Charter:

- ▶ **Tribunale Roma**, ord. February 24, 2021, question of constitutionality of Article 9 of Legislative Decree No. 23/2015 in relation to Article 3 Cost. (principle of equality) and art. 117 Cost. (for violation of art. 24 CSE); the indemnity compensating for illegitimate dismissal in small companies (between 3 months and 6 months of salary) is in violation of the Italian Constitution because it is too small and is not dissuasive towards the illegitimate behavior of employers, light of the decision of the CEDS CGIL c. Italy from February 11, 2020.
- ▶ **Tribunale Lecce**, June 19, 2020, n ° 1402, in the matter of dismissal for just cause objective: to calculate the indemnity compensating the illegitimate dismissal in must take into account not only the seniority of the employee, but also the behavior of the employer with regard to the possibility of saving the workstation and the condition of each part. All these elements must be evaluated globally in order to establish a compensation having an effective dissuasive function, in the light of the decision of the CEDS CGIL c. Italy from February 11, 2020.

THE NETHERLANDS

Rechtbank (Court of first instance) Amsterdam of 28/01/2020. Reference to Article 31 (ECLI:NL:RBAMS:2020:540)

Afdeling Bestuursrechtspraak van de Raad van State (Administrative Section of the Council of State) of 01/04/2020. Reference to Article 30 and 31 of the European Social Charter (ECLI:NL:RVS:2020:922)

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Rechtbank (Court of first instance) Den Haag of 24/09/2020. No specific article referenced (ECLI:NL:RBDHA:2020:9624)

Rechtbank (Court of first instance) Noord-Holland of 21/01/2020. No specific article referenced (ECLI:NL:RBNHO:2020:700)

Gerechtshof's-Hertogenbosch (Appeals Court) of 06/02/2020. Reference to Article 16 and 17 of the European Social Charter (ECLI:NL:GHSHE:2020:398)

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POLTUGAL

Ruling of the **Portuguese Constitutional Court** no. 262/2020, of 13 May 2020.

The decision quotes the Revised European Social Charter as *obiter dictum*, to stress the relevance of the minimum age for admission to employment (Article 7 - The right of children and young persons to protection).

ROMANIA

► **Constitutional Court**, Decision 46/4 February 2020

Considering that the obligation of part-time workers, as established by the Emergency Ordinance no. 79/2017, to pay social contributions calculated by reference to the full amount of the basic minimum wage (even when their income is lower than the latter and even if such a contribution might be disproportionate compared to that corresponding to the full-time workers) aims at encouraging the option for full-time employment contracts, the Court cited Article 1§1 of the European Social Charter ("*With a view to ensuring the effective exercise of the right to work, the Parties undertake to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment*").

- **Bucharest Court of Appeal**, Decision n° 427/6 November: Article 4 ESC cannot be used as grounds to reject the application of a national provision that was declared constitutional by the Romanian Constitutional Court.
- **Decisions referring to Article 15** (persons with disabilities rights, state duty to provide reasonable accommodation)

The High Court of Cassation and Justice, Decision no1261/25 June; Argeş Court: Decision no 580/16 Oct.; Braşov Court: Decisions no: 55/31 Jan., 199/26 March, 233/8 April, 316/11 June, 517/23 July, 791,793,794/29 Oct., 899/11 Nov., 914,915/12 Nov., 1023/10Dec., 1060/18 Dec.; Cluj Housecourt: Decisions no: 1511/15 March, 2549/19 June; Constanţa Court: Decisions no: 624/15 June; 1148/21 Sept., 1438/9 Nov.; Craiova Court: Decision no: 1204/20 Oct. (the offense of abusive conduct toward a disabled child); Vrancea Court: Decision no180/16 July.

► **Decisions referring to Article 24§a** of the European Social Charter

Bucharest Court: Decision no 135/10 Jan.; Alba Court: Decision no: 326/13 May; Buzău Court: Decision no364/2 July; Galaţi Court: Decisions no : 353/25 June, 478/23 July, 740/6 Oct; Iaşi Appeal Court: Decision no 287/16 July; Iaşi Court: Decisions no: 867, 870/17 July, 1468/15 Oct., 1534/26 Oct., 1645/13 Nov.; Sibiu Court: Preliminary decision no310/15 July; Decision 711/8 Dec.

- **Decisions referring to Article 5** of the European Social Charter and to the European Committee of Social Rights Conclusions XVII, Poland (2004) (determining the membership of trade union for a person that is no longer employed)

Iași Court of Appeal, Decisions no: 41/6 Feb., 78/18 Feb./29 Oct. (the Court makes also reference to ECtHR decisions Demir and Baykara vs. Turkey and Schmidt And Dahlstrom v Sweden)

- ▶ **Decision referring to Article 23** of the European Social Charter and to the European Committee of Social Rights interpretation of Art. 16 in European Roma Rights Center (ERRC) vs. Bulgaria (Complaint no. 31/2005) (state authorities' duty to ensure the connection to water supply)

Craiova Courthouse, Decision no 8704/22 Oct.

- ▶ **Decision referring to Article 25** of the European Social Charter

Galați Court of Appeal, Decision no 312/5 June.

- ▶ **Decision referring to Article 26** of the European Social Charter and to the European Committee of Social Rights Conclusions Slovenia (2003) (workplace harassment)

Iași Court of Appeal, Decision no 385/29 Sept.

SLOVENIA

Higher Labour and Social Court, No Pdp 783/2019, 16.4.2020, ECLI:SI:VDSS:2020:PDP.783.2019 – Referred to Article 4 of the Charter (remuneration and promotion of public employees, not relevant), <http://www.sodisce.si/vdss/odlocitve/2015081111437548/>

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- ▶ Case Cînța v. Romania (Application No. 3891/19), Judgment of 18 February 2020
- ▶ Case G.L. v. Italy (Application No. 59751/15), Judgment of 10 September 2020
- ▶ Case Muhammad and Muhammad v. Romania (Application No. 80982/12), Judgment of 15 October 2020
- ▶ Case Napotnik v. Romania (Application No. 33139/13), Judgment of 20 October 2020
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Appendix 21

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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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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.



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