

High-Level Conference on the European Social Charter (ESC)

3-4 July, Vilnius (Lithuania)

PACE contribution to the preparation of the programme of the Conference and the elements /messages for the political declaration

The Parliamentary Assembly has consistently called for a more complete ratification of the ESC and its protocols, as well as the implementation of the ESC by the member States through legislation and practice.

Over the 2018-2023 period, the PACE has made a series of proposals on the substantive and procedural aspects of the ESC which could be relevant for the programme and the political declaration of the Conference.

PACE Recommendation 2205 (2021) on “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic” asked member States to “invest more in the effective implementation of social rights” and “highlighted the relevance of the European Social Charter as a benchmark for human development”, paid tribute “to the ability of this living instrument to gradually embrace new socio-economic developments in member States” and noted that the UN has, in the last ten years, recognised a series of new rights as fundamental human rights” which could “also be reflected in the European Social Charter”.

The Assembly thus asked the Committee of Ministers to:

“3.1 mandate the European Committee of Social Rights to study the feasibility of adding new rights to the catalogue of rights already protected by the Charter and of expanding the reach of existing rights to all persons living under the jurisdiction of States parties;

3.2 call on the four countries which have not yet ratified the Protocol amending the European Social Charter (ETS No. 142, “Turin Protocol”) to do so as soon as possible and, regarding the election of the members of the European Committee of Social Rights by the Assembly, to ensure, in the absence of rapid progress, that the Assembly can fully discharge its appointed function in the Charter’s monitoring mechanism by adopting a unanimous decision to that effect;

3.3 call on all member States to sign, ratify and fully implement as many provisions of the European Social Charter and its protocols as possible and to accept in particular

the system of collective complaints provided for under the Additional Protocol to the European Social Charter (ETS No. 158)."

GT-CHARTE postponed the issues raised by the Assembly under points 3.1. and 3.2. for later consideration at the High-level Conference.

PACE Recommendation 2210 (2021) "Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights" asked "to study the feasibility of adding new clauses to the Charter on the social protection of workers in non-standard forms of work". It also asked to pursue efforts to promote the EU's accession to the revised European Social Charter and thus seek greater complementarity between the Charter system and the European Pillar of Social Rights".

PACE Recommendation 2211 (2021) "Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe" asked, amongst other, the CM to "draw up an additional protocol to the European Social Charter [...] on the right to a safe, clean, healthy and sustainable environment". This proposal is now examined by the CDDH-ENV together with other PACE proposals, such as drawing up an additional protocol to the ECHR and a "5Ps" convention on environmental threats and technological hazards threatening human health, dignity and life.

As **PACE Resolution 2312 (2019) on "The Assembly's vision on the strategic priorities for the Council of Europe"** reminds us, "The Council of Europe has to address existing and emerging threats to democratic societies and democratic security, by promoting a contemporary and holistic vision of human rights, including new generation rights such as the right to a safe, healthy and sustainable environment, and by assessing the impact of the inherent relationship between human rights and development. As a recognised international standard-setter in the field of human rights protection, the Council of Europe should focus on devising common replies and establishing new standards to protect human rights vis-à-vis new and evolving challenges."

With regard to the right to health and emerging challenges such as the use of artificial intelligence applications for healthcare, PACE stressed the need to "reflect on modern challenges and member States' obligations under the European Social Charter" and to revise the Committee of Ministers' Recommendation CM/Rec(2016)3 on human rights and business. (based on PACE **Recommendation 2185 (2020) on "Artificial intelligence in health care: medical, legal and ethical challenges ahead"** and **Recommendation 2166 (2019) "Human rights and business – what follow-up to Committee of Ministers Recommendation CM/Rec(2016)3?"**)

PACE Recommendation 2239 (2022) on “The future of work is here: revisiting labour rights” refers to the feasibility of adding new provisions to the Charter for the enhanced protection of workers in non-standards forms of employment, in platform work and in work involving artificial intelligence.

Finally, **Recommendation 2255 (2023) on “Health and social protection of undocumented workers or those in an irregular situation”** reiterates the problem of the restriction of the scope of application of the Charter concerning the exclusion of persons from countries that have not ratified it, and of those not lawfully resident or working regularly on the territory of the party concerned. It also suggests adding new provisions to the Charter on enhanced protection of workers in non-standard forms of employment.

Among the issues to be raised at the High-Level Conference in 2024:

- **The scope of the application of the Charter’s provisions:** currently, the rights set out in the Charter are guaranteed for the citizens of States parties to this treaty; PACE **Recommendation 2205 (2021)** and **Recommendation 2255 (2023)** insist on the need “of expanding the reach of existing rights to all persons living under the jurisdiction of States parties”.
- We should plead for the **acceleration of the procedure for implementing the “Turin Protocol”** so that the PACE could elect members to the ECSR (as per PACE **Recommendation 2205 (2021)**). The CM could take a unanimous decision to this end and the Conference could welcome this development enabling the Turin Protocol to be applied fully 30 years after its adoption in 1991!
- **Addition of new rights to the Charter:** right to a healthy environment; enhanced protection of workers in of workers in non-standards forms of employment, in platform work and in work involving artificial intelligence and consider possible new provisions on the right to health as regards emerging challenges such as the use of artificial intelligence applications for healthcare. This could possibly be done through the political declaration of the Conference by asking to consolidate the various instruments of the ESC into one single treaty and add new rights in response to emerging challenges.
- **Pursue efforts to promote the EU’s accession to the revised European Social Charter** and thus seek greater complementarity between the Charter system and the European Pillar of Social Rights.