



## **Rapporteur Group - Social and Health Questions (GR-SOC)**

### **Exchange of views on the impact of the COVID-19 crisis on social rights with the President of the European Committee of Social Rights (ECSR) and the Chair of the European Platform for Social Cohesion (PECS)**

23 June 2020

### **Initial statement by Giuseppe PALMISANO, President of the European Committee of Social Rights**

Chairperson,  
Ambassadors,  
[Mr Leite Ramos, Chair of the Parliamentary Assembly Committee on Social Affairs  
Mme Rita Skrebiškienė, Chair of the European Social Cohesion Platform]  
Ladies and gentlemen,

Discussions and exchanges on Covid-19 are taking place all the time, in all sorts of fora. I have participated in debates and discussion, including more recently in a high-level event organised by the Greek chairmanship of the Committee of Ministers. I am aware that the Parliamentary Assembly Committee on Social Affairs also held a hearing on the subject and a PACE report on Covid-19 is under preparation.

A number of Council of Europe bodies and personalities, including the Secretary General, have issued meaningful statements and guidance. The European Committee of Social Rights adopted – on 21 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 announced a more general statement on Covid-19 and social rights, which will be ready in the near future.

A lot has been written, reported and analysed while member states, governments and authorities, civil servants, health care professionals, frontline staff, volunteers and the population at large have been out there valiantly wrestling with the virus, with the pandemic, with the crisis and with the effects of this unprecedented – yet not entirely unforeseen or unforeseeable – situation.

States' preparedness and responses to Covid-19 will be examined by the Committee in the future, certainly under the reporting procedure and possibly also in the framework of collective complaints.

Those actually wrestling with the virus, fighting the pandemic, dealing with the crisis and with their effects were often unprepared, unprotected, poorly equipped and defenceless. Improvisation, stop-gap and make-shift were on the menu, we have all seen reports and images of health-care staff pitifully

attempting to protect themselves from the virus with ill-fitting or worn-out masks, or in DIY hazmat outfits made up of garbage bags.

We have all seen the footage, heard the accounts, read the writing, scrolled through the statistics, and been inspired by the heroism and by the promises. The conclusion appears to be clear: social rights took a blow, across the Charter. But the big questions remain. And **some of those questions are for you to answer**, for you and for the Delegations and Deputies sitting in the Committee of Ministers.

At the Greek chairmanship high-level event I said that the Covid-19 crisis painfully revealed that preparedness is all about social rights and therefore about the European Social Charter. I did not mean it as a rhetorical statement, far from it. Those in the frontlines were often unprepared not out of their own choice, or because of their incompetence, and not only because a pandemic hit the world unexpectedly in the first weeks and months of 2020.

At the Greek chairmanship high-level event I said that, in fact, pandemic-readiness requires:

- universal health care and well-equipped and resourced, resilient public health services,
- 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 this one. Compliance should be the default setting. Because fulfilling them is necessary 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. **Here – precisely – is the crux of the problem.**

Our unprepared and unprotected frontline workers, our defenceless older people in care homes, our children stranded for months without schooling (which for many meant without the security of a meal a day, or without a temporary haven against abuse or violence at home), people sleeping rough persecuted for not going into lockdown, communities suffering from extreme deprivation under curfew in settlements or shantytowns without access to running water, 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.

But this is the thing. The human rights are there, the positive obligations have been outlined, the social rights remain – as other human rights – universal, indivisible and interdependent. And you can check the provisions of the European Social Charter (sometimes referred to as the Social Constitution of Europe). The conclusions, decisions and findings of the European Committee of Social Rights are easily accessible in a Digest that has been updated to the end of 2018. They are there, an impeachment of the inaction and the lack of preparedness, fundamental rights recipes that could have saved lives, that could have spared suffering and preserved human dignity.

It is time to translate Charter provisions and ECSR findings into action.

As I said during the Greek chairmanship high-level event in the beginning of June, **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, on their social rights, on their human rights.

Some countries were better prepared in social rights terms, they had better and tighter knit social safety nets, public health services, etc. Others reacted positively and promptly, imposed social distancing, facilitated telework or other modalities of work that ensured safety, secured employment through furlough schemes, provided unemployment benefits or guaranteed an income to those forced to discontinue their professional activities.

In the midst of the crisis, some countries announced the suspension of restrictions on access for undocumented foreign nationals to essential services, or even gave them temporary residence, others quickly provided shelter to the homeless, or phased in longer-term measures to reinforce social rights or even proclaimed a guaranteed basic income.

Other authorities procrastinated or disregarded the best scientific advice available. There were examples of politically motivated obstructionism by the opposition which may have had dire consequences for some people, and sometimes the health-care needs of some of the most exposed, vulnerable or defenceless members of the community were disregarded – like the elderly.

The European Social Charter provides answers to many of the situations that occurred. I cannot give details now — but the European Committee of Social Rights has announced a further statement of interpretation that will address a wide range of rights set out under the Charter that are affected by a pandemic. These include: the right to safe and health working conditions (Article 3); the right of children to protection from physical and moral hazards (Article 7§10); the right to social security (Article 12); the right to social and medical assistance (Article 13); the rights of persons with disabilities (Article 15); the right of families and children to social legal and economic protection, including education (Articles 16 and 17) and the rights of the elderly (Article 23); the right to freedom from poverty and social exclusion (Article 30); and the right to housing (Article 31). The impact of the pandemic on employment and labour rights, both individual and collective, should also not be overlooked.

To sum up, the message is this: 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. The Charter and its case law constitute a repository of standards and norms that assist member states in their response to the – or any – pandemic and sanitary or other general social crises. And the results of the supervision mechanisms are there, country-specific in conclusions, decisions and findings and neatly collected in general – not-country specific – and available online in the Digest of the case law of the European Committee of Social Rights.

So, what has prevented member states of the Council of Europe from having better outcomes, and what will help them provide better results to the people within their jurisdictions in the future? I come back to my earlier hint about the question that is for you to answer, for you and for the Delegations and Deputies sitting in the Committee of Ministers – **what can you do to improve member states' preparedness for the crises to come based on the European Social Charter and its monitoring mechanisms?**

The answer I hinted during the Greek Chairmanship event on 3 June was that each state owes the best possible governance arrangements to its people and to all persons within its jurisdiction. This translates into the need to step up efforts to strengthen commitment to the Charter and strongly argues 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.

But above everything else, it is essential that states parties are resolved to follow the spirit of the Charter and the Committee's findings to improve social rights and implement changes in order to bring the situations of non-conformity detected by the Committee into line with the Charter. That would add to their preparedness for any crisis.

Let me turn briefly to the role of the Committee of Ministers itself in the monitoring procedures. I have evoked this previously when speaking to you and when addressing the Deputies in the Committee of Ministers. The Committee of Ministers could make more effective use of its power to address recommendations to states parties concerned by negative decisions (in a collective complaint) or by conclusions of non-conformity (in the reporting procedure) with a view to bringing the situation into conformity with the Charter. I trust that, learning from the lessons of Covid-19, and inspired by the evolving reporting procedure, the Committee of Ministers will embrace its responsibility and follow more robustly the monitoring conclusions and the decisions in the collective complaints.

Almost a year and a half ago, in front of you, I supported the Governmental Committee's suggestion of "a process towards elaborating through multi-stakeholder dialogue a common understanding of the social contract fit for the 21st century." This proposal has also been reflected in the initial suggestion prepared by the Secretariat for your consideration on the follow up to the CDDH report identifying good practices and making proposals with a view to improving the implementation of social rights in Europe and is now demanded by many world leaders and reputed personalities. I reiterate that the Charter – a unique instrument of vital importance in the human rights field – should be the lighthouse guiding the development of a new (or renewed) social contract fit for the 21st century.

**To conclude, I would refer yet again to my messages during the Greek chairmanship event:**

- The European Social Charter (and the case law of the European Committee of Social Rights) should be fully relied upon as a key governance tool for responding to the current crises and it should inspire changes – and a new social contract that will allow for improved risk management and sustainability – after the emergency is over.
- Member states that have not yet done so ought to seriously consider ratifying the revised Charter, accepting more provisions (preferably all), and embracing the collective complaints procedure. This is about good democratic governance, and anything short of embracing the best instruments of governance is unacceptable and amounts to failing people. The Committee of Ministers, embracing its own responsibility and making recommendations in the follow-up process to collective complaints and to the reporting procedure, should contribute to this governance, not weaken it.
- Last but not least, 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.