

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



## **A rights-based approach to guarantee the right to housing in Europe: between policy and (good) practice**

6<sup>th</sup> Meeting

of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform

on Social and Economic Rights

**16 May 2018**

Titanic Hotel

8 Queens Rd

Belfast, United Kingdom

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***MEETING REPORT***

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## **Introduction**

The [Collaborative Platform on Economic and Social Rights](#) between the Council of Europe (CoE), the [European Network of National Human Rights Institutions](#) (ENNHRI), the [European Network of Equality Bodies](#) (EQUINET) and the [European Union Agency for Fundamental Rights](#) (FRA) held its 6<sup>th</sup> meeting in Belfast, Northern Ireland, at the initiative of the [Northern Ireland Human Rights Commission](#) (NIHRC). In order to ensure continuity with the meeting on legal protection of Roma and Travellers' housing and accommodation, held on 15 May 2018 (see Appendix IV), the 6<sup>th</sup> Platform's meeting focused on the right to housing and in particular on Articles 16 and 31 of the [European Social Charter](#) (ESC). It aimed at familiarising participants with the conclusions and decisions of the [European Committee of Social Rights](#) (ECSR) related to the right to housing. The meeting also continued the discussion on the [European Pillar of Social Rights](#) by examining how it can be linked to human rights standards and elevated to more than a political declaration regarding the right to housing. Finally, participants discussed further capacity building needs to be followed and the outline for the next meeting.

## **Opening Session**

**Les Allamby**, Chief Commissioner of the Northern Ireland Human Rights Commission, welcomed the participants. He recalled some historical facts relating to housing in Northern Ireland stressing that the history of Northern Ireland is entwined with housing issues. Housing in Northern Ireland is characterised by what is called the 'single identity estate'. In other words, estates are either overwhelmed with protestant or overwhelmed with catholic signs and every territory is marked by flags and emblems, by different painting of curb stones etc. He also recalled that one of the key issues for which the civil rights associations and organisations were fighting in the late 1960s was housing because in Northern Ireland, in that time, allocating a house also meant giving a vote. As a result, the allocation of housing was not based on need, but on other considerations.

Les Allamby suggested discussing economic and social rights and housing from the perspective of tax justice and the concept of human rights-based participation, where the idea of a stable and decent quality of housing also affects the ability to participate fully in society. Living in poor housing conditions has a negative impact on people's health and wellbeing, education achievements, on the ability to participate in society and public discourse, on the likelihood of finding a job or keeping it.

With regard to tax justice, Les Allamby mentioned the work of Philip Alston, UN Special Rapporteur on extreme poverty. Alston pioneered looking at social protection in a much broader sense, not just the right to an adequate standard of living, social security, the right to housing, but also recognising that economic and social human rights should be progressively realised. Taking into account the

principle of non-regression of human rights, societies should in fact never start to back slide and if they do so, it must be because of a very clear economic imperative that can objectively be justified and that must be on a temporary basis. Alston also recognises that tax justice could be realised through progressive tax regimes and the treatment of tax avoidance by corporations. Looking at the history of housing provision in Northern Ireland, Les Allamby recognised that investing more money in housing to tackle a number of issues is certainly a solution, but it is not the only solution. The question is where does that money come from? And how to decide where to allocate funds: in housing, mental care or other areas? Given the linkages between housing and many other economic and social rights, it is probably a rather short-term way of trying to solve problems. Les Allamby concluded by saying that the right to housing should be seen in a broader context of economic and social rights in general in order to find long-term solutions to the problems of respect for this right.

**Danuta Wiśniewska-Cazals** from the Department of the European Social Charter, Council of Europe, welcomed the participants and thanked the Northern Ireland Human Rights Commission for hosting the meeting. She also summarised the main outcomes of the previous Platform meeting, devoted to Article 30 of the Charter – the right to protection against poverty and social exclusion.

Danuta Wiśniewska-Cazals made an overview of the international human rights instruments which recognize the right to housing:

- Article 25 of the [Universal Declaration of Human Rights](#) recognises the right to housing as part of the [right to an adequate standard of living](#);
- Article 11(1) of the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) also guarantees the right to housing as part of the [right to an adequate standard of living](#);
- There are many other examples of the right to adequate housing in other international treaties, such as the Convention on the Rights of the Child ([Article 16 and 27](#)), the Convention on the Rights of Persons with Disabilities ([Article 9 and 28](#)) or the Convention on the Elimination of All Forms of Discrimination against Women ([Article 14 and 15](#)).
- Article 16 of the [European Social Charter](#) and Article 31 of the Revised European Social Charter guarantee the right to housing.

The European Committee of Social Rights closely monitors the compliance of State parties with the right to housing as guaranteed in the European Social Charter. Monitoring is nevertheless possible only in member States which have accepted Articles 16 and /or 31<sup>1</sup>. The situation is as follows:

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<sup>1</sup> Acceptance of the provisions of the European Social Charter: <https://www.coe.int/en/web/turin-european-social-charter/provisions-of-the-charter>

- Art. 16 has been accepted by 29 countries;
- Art. 31§1 (adequate housing) has been accepted by 14 countries;
- Art. 31§2 (reduction of homelessness) has been accepted by 12 countries;
- Art. 31§3 (affordable housing) has been accepted by 10 countries;
- Four countries did not accept any of these provisions (Albania, Armenia, Cyprus and Georgia).

In this context, pointed out Danuta Wiśniewska-Cazals, the Platform should take action to encourage countries to accept the provisions of the European Social Charter protecting the right to housing.

Finally, Danuta Wiśniewska-Cazals referred to the particular financial situation of the Council of Europe which could lead to a suspension of certain activities. She therefore invited the Platform to work on building closer cooperation among partners in order to improve the implementation by member States of the rights enshrined in the Charter.

### **Ensuring the effective exercise of the right to housing**

*Protection of the right to housing in the light of the decisions and conclusions of the European Committee of Social Rights*

**Professor Lauri Leppik**, lecturer at Tallinn University and former General Rapporteur of the European Committee of Social Rights, presented the right to housing as guaranteed in the ESC. The Charter in its revised version (1996) is the only legally binding European standard-setting instrument that contains a provision specifically and exclusively addressing the right to housing – Article 31. Most of the case law of the Committee stems from the collective complaints procedure, which provides opportunity to take a closer look at specific issues. In addition to the Committee’s strict legal assessment, the collective complaints themselves contain information on the housing situation in the given countries and can be treated as sources of information and case studies of specific features of the right to housing.

With a view to ensuring the effective exercise of the right to housing, Parties that have partially or fully accepted Article 31, undertake to promote access to housing of an adequate standard, to prevent and reduce homelessness with a view of its gradual elimination and to make the price of housing accessible to those without adequate resources. In particular, according to Article 31§1, they shall promote access to housing for different groups of vulnerable persons, such as low-income persons, unemployed persons, single- parent households, young persons, persons with disabilities, including those with mental health problems. This is meant to protect anyone who may have difficulty in accessing a home on the free market. The Committee also states that adequate housing should be safe from the sanitary and health points of view, that it should not be overcrowded and that its tenure should be secured by law. The collective complaint lodged by International

Federation for Human Rights (FIDH) v. Ireland (Complaint No 110/2014) dealt specifically with the provision on the adequacy of housing under Article 16 of the Charter<sup>2</sup>. In order to ensure adequate housing, the Parties should also complete inventories of the housing stock, sanction owners who disregard their obligations, ensure essential services such as water, electricity, telephone lines etc.

Moreover, States must take action to prevent categories of vulnerable people from becoming homeless, in particular by ensuring access to social housing for all disadvantaged groups and by setting up procedures to limit the risk of eviction (Article 31§2). Evictions, in particular, should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules. Professor Leppik underlined that the Committee recognises that evictions may be unavoidable in some cases, but when they occur, further safeguards and procedures must be in place. In addition, the conditions in which the eviction is carried out should respect the dignity of those concerned and an alternative should be proposed. Therefore, to reduce homelessness, States must introduce emergency measures, such as immediate shelter with enough places and of adequate quality to respect the human dignity of the person.

Paragraph 3 of Article 31 stipulates that an adequate supply of affordable housing must be ensured for persons with limited resources and social housing should target the most disadvantaged. In addition, waiting periods for the allocation of housing must not be excessive and when waiting periods are too long, legal and non-legal remedies must be available. Besides, housing benefits shall be available at least for low-income and disadvantaged groups.

The European Committee of Social Rights stressed in its interpretation of Article 31, that the right to housing must be guaranteed without discrimination.

Article 16 of the European Social Charter also gives the possibility to examine the right to housing, but it is slightly more restricted in scope than Article 31.

Professor Leppik underlined that the acceptance of Article 31 is not very broad: only 10 countries have accepted Article 31 in full (Finland, France, Greece, Italy, the Netherlands, Norway, Portugal, Slovenia, Sweden and Turkey) out of the 34 State Parties to the Revised Social Charter. Andorra, Latvia, Lithuania and Ukraine have accepted certain paragraphs. Therefore, emphasized Professor Leppik, a concerted action both at national and European level is needed to promote further acceptance of these provisions.

The full presentation of Professor Lauri Leppik can be found [here](#).

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<sup>2</sup> Ireland has not accepted Article 31 of the European Social Charter. Table of accepted provisions of the European Social Charter by Ireland: <https://www.coe.int/en/web/turin-european-social-charter/ireland-and-the-european-social-charter>

*Presentation of Complaint No. 110/2014 International Federation for Human Rights (FIDH) v. Ireland*

**Cecilia Forrestal** from [Community Action Network](#) (CAN), Ireland, presented [Collective Complaint No. 110/2014](#), lodged by the International Federation for Human Rights (FIDH) v. Ireland<sup>3</sup>, showing how a community action initiative used the collective complaints procedure to argue for and achieve changes in policies, laws and circumstances that perpetuate inequality. Cecilia Forrestal explained that the work started in the second largest housing estate of Dublin, known as the Dolphin House, built in the 1950s with a population of 900 persons. Housing conditions in the area were deemed to be substandard already in 2002. The regeneration of the House went on hold during the economic crisis in 2008. People were left with the prospect of living with damp and mould on the walls, waste water coming up through the sinks and the bathrooms and blocked drains. At the same time, the local authorities held the tenants responsible for causing the condensation in the building.

Being aware of the housing conditions in Dolphin House, CAN decided first to start working, in collaboration with human rights and legal experts, directly with tenants. The goal was to empower people, to move them from an isolated and individualised experience into a collective experience. The aim was to break the cycle of silence regarding the reality of people's living conditions. In principle, people who experience inequalities live very much in shame and a sense of failure, particularly in a context where they are constantly blamed for what is not their responsibility.

The second major step was to connect people with human rights. This was done by using cartoons to explain the legal framework, by using Article 11 of the [International Covenant on Economic, Social and Cultural Rights](#) and Article 25 of the [Universal Declaration of Human Rights](#), by analysing the spores and waste water to prove that these were harming the health of the tenants. A technical expertise on the structure of the buildings was provided by architects. As a consequence, a significant body of evidence was built. Cecilia Forrestal emphasized that the expertise proved that, given the structure of the buildings, it was inevitable that there was dampness, mould and that it was not a problem of condensation.

Additional statistics on other social housing communities with similar conditions were also collected. These attested that, since the housing estates were difficult to heat, they were highly expensive for both the State and the tenants. Moreover, people living in such conditions also suffered from poor health, physical or mental,

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<sup>3</sup> The complaint, registered on 18 July 2014, relates to Articles 11 (the right to protection of health), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons to social, legal and economic protection) and 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E of the Revised European Social Charter.

low school attendance, poverty and social exclusion. Finally, the concept of “progressive realisation of rights” was introduced.

CAN had afterwards to identify who was responsible for changing the living conditions of the community. It appeared that it was the government’s responsibility and not the responsibility of the interlocutors with whom the tenants were dealing. To take action, CAN involved media in a very strong way through interviews and reports, and monitoring hearings. Moreover, the Irish Human Rights Commission visited the housing estate and declared in a press statement that living conditions were a violation of human rights and there was no excuse to justify these conditions. In addition, this was costly for the State. Cecilia Forrestal admitted that no improvements had been made until the problem was addressed by Ireland’s largest news programme (prime time) and the involvement of the Prime Minister and other officials, which took two more years. A short term agreement included the up-grade of four homes to an adequate standard. The long term agreement included the regeneration of buildings. Although Dolphin House became an example and led to larger alliances of communities with similar living conditions, Cecilia Forrestal underlined that it will take 10 years at this rate of change before all the tenants are rehoused. She stressed that for a small NGO like CAN, collecting evidence in each community (additional evidence was collected across 20 other communities) was too challenging, time consuming and with enormous resource implications. Besides, the members of CAN realised that other NGOs were frightened to take action that is called human rights.

Finally, the case of Dolphin House was brought before the European Committee of Social Rights by the [International Federation for Human Rights](#) (FIDH), an INGO entitled to lodge a collective complaint before the Committee. The complaint was registered on 18 July 2014 and it was declared admissible by the European Committee of Social Rights on 17 March 2015. The complainant organisation, FIDH, alleged that Irish legislation, policy and practices on social housing do not comply with European standards on housing, social protection and anti-discrimination , and it was therefore in breach of Article 11 (the right to protection of health), Article 16<sup>4</sup> (right of the family to social, legal and economic protection), Article 17 (right of children and young persons to social, legal and economic protection) and Article 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E of the Revised Charter.

The ECSR adopted its [decision on the merits](#) on 12 May 2017, declaring that Ireland was in violation of Article 16 of the Charter because the government had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for a non-insignificant number of families living in local authority housing.

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<sup>4</sup> Ireland has not accepted Article 31 of the European Social Charter relating to the right to housing and therefore the complainant organisation used Article 16.



Moreover, no evidence of progressive realisation of rights was registered having in mind that the State was aware of the situation since 2002.

In its decision, the Committee also said that an independent evidence for each article had to be submitted which was not the case with regard to Articles 11, 17, 30 and E. This is the reason why the ECSR did not consider that the other articles were substantiated. Cecilia Forrestal underlined this was an important lesson for CAN and for the complainant organisation. She also added how difficult was to keep tenants engaged for such a long period, having in mind that CAN have started working with one community in 2009 and with the others in 2011. Tenants have made a substantive progress in understanding and defending their rights, but it was very difficult to maintain their commitment as they did not form a collective organisation. Therefore, CAN regularly organised information meetings with tenants in order to empower them to engage and to monitor their situation. Besides, even if the local authorities have accepted the decision of the ECSR and recognised that the living conditions in Dolphin House are due to structural problems, the tenants had been told that this was their problem. For an NGO as CAN, talking to tenants and saying that new arguments have to be found, new engagement has to be made, is a huge work of persuasion, pointed out Cecilia Forrestal. In order to engage the government in the process, CAN has again involved the Irish Human Rights and Equality Commission and is trying to link the Committee's decision to the human rights and equality duty of the public sector (need for public bodies to respect human rights and equality). Many learning and media events have been organised. A DVD was produced with the participation of tenants talking about their experience. The collective complaint was also promoted to other groups, as well as through media events. The organisation also worked with one local authority to try to put pressure on the system from outside by using the collective complaint, and from inside by trying to engage every perspective of that system in the process of dialogue with the participation of all. The result of this approach was that the Lord Mayor of Dublin had called for a dialogue meeting with officials, but also legal and technical experts and human rights defenders and tenants to see how all together would find a solution to such a long standing issue.

The lessons learnt from this experience are multiple. The impact on tenants as rights holders has been significant in terms of self-esteem and identity, and the sense of empowerment. During the process, the focus was put on the system that has failed and stopped stigmatizing individuals who were victims of these stigmas. In addition, framing the lived experience as evidence gave people a great way to resume dialogue with duty bearers. Cecilia Forrestal emphasized the importance to create an environment of equal power relationships and to give people the opportunity to take power from within themselves. Taking into account the difficulties for tenants to engage with the local authorities, the collective complaint was a mean of claiming a space of commitment and participation. CAN believes that if people start claiming rights and holding States to account, they will begin to

move in that direction.

Cecilia Forrestal pointed out that in order to achieve all this, strong coalitions were necessary: tenants and community organisations, national and international human rights experts that gave legitimacy to the narrative, local legal experts, technical experts, architects, NGOs and INGOs. Traditional media were involved, but the message needed to be managed and controlled to achieve results. On the contrary, social media were avoided as they spread negative comments that would further oppress and stigmatize the rights holders. To conclude, Cecilia Forrestal underlined how important is for someone leading such a process to maintain a vision that a solution is possible. Any community experiencing inequality has to be convinced that all the efforts will make sense in the end.

The presentation of Cecilia Forrestal could be found [here](#).

**Laurence Bond**, Chair of the [ENNHRI Working Group on economic, social and cultural rights](#), underlined the crucial role of civil society, its dedication and commitment in bringing rights forward. He referred to the above-mentioned complaint emphasizing that there needs to be a wider acceptance of the collective complaints procedure by states and, in addition, an increased acceptance of the provisions of the European Social Charter, and that national human rights institutions and national equality bodies have a role to play in this respect.

Laurence Bond recalled that the European Committee of Social Rights needs to see strong evidence of each point being made in order to be able to take a decision. The Committee's decision includes a reaffirmation of the importance of the provision on non-discrimination (Article E) but it was not able to uphold it in this specific case due to lack of evidence.

Laurence Bond also mentioned the inequality in resources between an NGO and the State, which is able to mobilize more resources in much shorter time than an NGO. In this context he said, it might be worth thinking about whether this inequality might be counterbalanced by providing NHRIs and NEBs with space to engage further by lodging complaints with the Committee.

He also pointed out how helpful in this particular case was the position of the [Irish Human Right and Equality Commission](#) which publicly supported the action and set up some funding streams for the implementation of particular human rights actions. Following the two interventions, participants agreed that NHRIs and NEBs should play an important role in framing the discourse related to rights, assisting NGOs by offering research and policy assistance and knowledge, organising learning events and bringing together different stakeholders. National human rights institutions and national equality bodies should also work more closely with duty bearers to promote a human rights message and move things forward.

## *Indicators on housing rights - Measurement Framework for Equality and Human Rights*

The [Measurement Framework for Equality and Human Rights](#) was presented by **Heather Williams** from the [Equality and Human Rights Commission](#) (EHRC), which covers England, Scotland and Wales. The Measurement Framework was established to monitor social outcomes from an equality and human rights perspective by developing indicators and reporting on progress. It covers 6 major domains: education, work, living standards, health, justice and personal security and participation. Each domain has 3-4 indicators which are broken down into topics. Indicators are meant to measure progress, not just to show a situation of violation or not, so they include both quantitative and qualitative data, as well as already existing data from different sources (NGOs, parliament, local authorities, government, statistical agencies).

The Framework provides a rigorous structure, focus and consistency for continuous collection of evidence covering Great Britain. The collected data provides information on how to tackle inequalities across Great Britain and address cases of human rights violations. The data of the Framework can be used by governments and statutory bodies, local authorities, international organisations, research institutions, academia, media etc.

Heather Williams explained that, under the “Living standards” domain, progress is measured with three indicators: poverty, housing and social care. Housing is then broken into several topics which provide data on homelessness, housing benefits, housing tenure, etc. There is also a specific topic on housing for Roma and Travellers and persons with disabilities. According to the indicative findings, which will be published in the 2018 review “Is Britain fairer?”, levels of homelessness continue to be a serious concern:

- in England, numbers been rising each year since 2010;
- in Wales, estimates suggest that numbers have increased;
- in Scotland, the number of people applying to local authorities for support with homelessness has decreased, but the number of people being placed in temporary accommodation has increased.

In England and Wales for example, new evidence shows that people from ethnic minorities are disproportionately more likely to be homeless compared to White British population<sup>5</sup>. Single parents, young care leavers, young offenders, LGBT young people, trans people, people with mental health conditions, women at risk of domestic abuse, ex-services personnel, and those living in material deprivation are all at higher risk of homelessness. Gypsies and Travellers, as well as refugees and asylum seekers continue to be particularly affected by poor housing. The review will

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<sup>5</sup> Terms used by Heather Williams in her presentation.

be published in October 2018 and it will provide a robust evidence base to influence Government(s), statutory bodies and others to improve equality and human rights outcomes. It will also inform the strategic direction of the EHRC. For the first time, this publication will make use of the Measurement Framework.

The presentation of Heather Williams can be found [here](#).

### **Building a fairer Europe and strengthening its social dimension under the European Pillar of Social Rights**

Ursula Till-Tentschert from the FRA, Moderator of the session, asked the participants to split into groups and discuss to what extent the European Social Charter and the European Pillar of Social Rights are present in their work. At the end of the discussion it became clear that NHRIs and NEBs regularly refer to the Charter in their work and much less to the Pillar. The Charter is quoted in opinions to Parliaments, in human rights discourse, reports, etc. Anete Ilves from the [Ombudsman's Office of the Republic of Latvia](#) stressed that the Pillar was not a binding instrument and therefore did not reinforce the work of the Latvian Ombudsman for the time being when social rights were at stake. At the same time, the Charter and the case law of the European Committee of Social Rights are used in cases before national courts. In addition, the Ombudsman drafts reports and opinions on the implementation of the Charter by the government.

#### *Monitoring the performance of the States in the field of social rights: Social Scoreboard and the European Semester*

**Krzysztof Stefan Iszkowski** from the European Commission presented the economic and social context which led to the proclamation of the [European Pillar of Social Rights](#) in November 2017 and the tools for its implementation. The European Pillar of Social Rights has been developed to respond to the new realities of the labour market and the changing attitudes of employees and employers by delivering new and more effective rights for citizens. The Pillar is supposed to address the problems of unemployment and the type of employment, poverty and social exclusion, demographic changes, the aging of the population, the marginalisation of youth etc. According to data of the European Commission and Eurobarometer 2017, citizens are concerned about their social situation. More than 8 out of 10 Europeans consider unemployment, social inequalities and migration as the top three challenges for the EU. They expect a free market economy to respect their right to social protection. 7 out of 10 Europeans consider that employment and social policies are poorly managed and require action at both national and European level. Half of Europeans believe that life will be more difficult for the next generation.

Krzysztof Stefan Iszkowski recalled the main objective of the Pillar, which is to contribute to social progress by supporting fair and well-functioning labour markets and welfare systems. The European Pillar of Social Rights is divided into three main chapters. Each contains a number of policy domains with 20 different principles.

- ✓ Chapter I: Equal opportunities and access to the labour market
- ✓ Chapter II: Fair working conditions
- ✓ Chapter III: Social protection and inclusion

Principle 19 addresses in particular the issue of housing and assistance for the homeless and it aims to guarantee:

- a. access to social housing or housing assistance of good quality shall be provided for those in need;
- b. the right of vulnerable people to appropriate assistance and protection against forced eviction;
- c. adequate shelter and services shall be provided to the homeless in order to promote their social inclusion.

The social dialogue is at the centre of the Pillar as the principles were developed in consultation and involvement of the social partners which have an important role to play in the implementation of the Pillar. With regard to implementation precisely, transforming the Pillar's principles into reality is a joint responsibility. While most of the tools to deliver on the Pillar are in the hands of member States, as well as social partners and civil society, the European Commission can help by setting the framework and giving the direction, building on the existing and new EU legislation. The Commission has already put forward a number of legislative and non-legislative initiatives related to [work-life balance](#), working conditions and working time, information of workers, access to social protection. In addition, the President of the European Commission Juncker announced the creation of the [European Labour Authority](#) in September 2017. Following consultations and an [impact assessment](#), a [legislative proposal](#) was presented on 13 March 2018. The Authority should be up and running in 2019 and reach its full operational capacity by 2023.

Mr Iszkowski recalled that the Pillar should serve as a compass for a renewed socio-economic convergence within the euro area. Therefore, the Pillar will feed into the [European Semester](#) of economic policy coordination. The [autumn package](#) of the Semester will include an annual growth survey, alert mechanism report, euro area recommendations, employment guidelines and a [Joint Employment Report](#). The [winter package](#) will include country specific reports and the [spring package](#) will contain country specific recommendations. The country recommendations will reflect the results of the analysis of the country reports.

The Pillar is also supported by a [Social Scoreboard](#) which will monitor employment and social performances of EU member States in 12 areas. The scoreboard serves as a reference framework to monitor societal progress and it should detect in a

timely way the most significant employment and social challenges as well as progress achieved over time.

To conclude, Krzysztof Stefan Iszkowski recalled that the European Pillar of Social Rights is a political commitment and its implementation needs a broad engagement from member States, social partners, civil society, European Parliament and European Commission. The implementation of the principles of the Pillar largely remains under the competence of member States, but regular dialogue with all stakeholders is essential to get further in the implementation. He also informed the Platform that there is a discussion to involve the EU Charter of Fundamental Rights in the monitoring of the Pillar, as well as to make future references to the European Social Charter.

The full presentation of Krzysztof Stefan Iszkowski can be downloaded [here](#).

### *The European Social Charter and the European Pillar of Social Rights: finding a synergy*

**Tanya Montanari** from the European Social Charter Secretariat presented the possible interactions and linkages between the European Social Charter and the European Pillar of Social Rights. The initiative of the European Commission which led to the proclamation of the Pillar in November 2017 illustrates that the European institutions still acknowledge the need for Europe to be properly equipped with a vigorous and tangible social dimension. Despite criticisms that the Pillar is not a legally binding instrument (it contains a set of principles and not a set of rights), it offers a unique opportunity to promote strong partnerships between different stakeholders. Like Krzysztof Stefan Iszkowski, she stressed that the implementation of the Pillar has always been conceived as a shared political commitment and responsibility between the EU institutions, Member States, public authorities, social partners and civil society organisations. At EU level, the European Commission will mainstream the priorities of the Pillar into all policies, but will also support Member States, social partners and civil society in its implementation at national, regional and local level. This will be done by updating the existing EU legislation and in this sense the Commission has already put forward a number of legislative and non-legislative initiatives (related to work-life balance, information of workers, access to social protection and working time), by ensuring appropriate funding, by using the European Semester, by reinforcing social dialogue and involving social partners and civil society in the development of programmes and social policies.

In this context, it is legitimate to look how the European Social Charter and the case law of the European Committee of Social Rights<sup>6</sup> could be used when implementing the Pillar.

Tanya Montanari recalled that during the consultation period, the Council of Europe and the European Commission had held several meetings, one of the most important of which was the Turin Forum on Social Rights in Europe in March 2016, where the Pillar had been presented. Moreover, the conclusions and decisions of the European Committee of Social Rights have been used as a source of information for the European Commission, the EU Member States, the social partners and civil society when preparing the Pillar. In addition, the Secretary General of the Council of Europe issued a very positive [opinion on the European Pillar of Social Rights](#) in December 2016, but also stressed that to meet the challenges of the Pillar “we must promote legal certainty and coherence between European standard-setting systems protecting fundamental social rights”. In this sense, it is important to find synergies between the Council of Europe and the European Union which would allow the principles of the Pillar to be realised in harmony with the rights guaranteed by the European Social Charter. This means that the Charter should be put at the heart of the Pillar’s implementation, as a legally binding instrument ratified by all EU Member States and as an instrument which could serve as a legal “appui” for the Pillar in order to make it more effective, more concrete.

A positive step in that direction, which shows the willingness to cooperate, lies with the fact that the Pillar makes several references to the 1961 Charter and the Charter in its revised version. An explicit reference to the Charter is made in the Preamble of the Pillar (N° 3 via Art. 151 TFEU with its reference to 1961 Charter, N° 16). Several references are made in the European Commission Staff Working Document which accompanies the Pillar’s Package ([SWD\(2018\)67](#), 13.03.18, Monitoring the implementation of the European Pillar of Social Rights).

It is very encouraging that the EU recognises that the implementation of the Pillar can be reinforced by the ratification of the revised Charter and the acceptance of the collective complaints procedure by the EU member States. The document goes even further saying that “Member States may ratify, if not done so, the [European Code of Social Security](#) and the Revised European Social Charter, and may review the reservations made for some Articles of the Revised European Social Charter”.

The implementation of the Pillar opens up new opportunities for Europeans to achieve or try to achieve a more social Europe. The [Reflection paper on the social dimension of Europe](#) raises precisely questions on how to sustain our standards of living, to create more and better jobs, to equip people with the right skills and to

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<sup>6</sup> The conclusions and decisions of the European Committee of Social Rights can be found on the European Social Charter [HUDOC Database](#).

create more unity within our society, in the light of a constantly evolving living and working environment.

One idea could be to use the European Semester which provides a framework for the coordination of economic policies across the European Union and allows EU countries to discuss their economic and budgetary plans, and to monitor the progress at specific times throughout the year.

The objectives of the Semester could be set taking account of the rights enshrined in the European Social Charter, which correspond to a large extent to the principles included in the Pillar's text. In order to respect the Pillar, EU Member States could simply be invited to implement the corresponding provisions of the Charter or part of them. The decisions and conclusions of the European Committee of Social Rights should be taken into account in the implementation of these initiatives so as to strengthen the synergies between EU and Council of Europe tools.

Tanya Montanari informed the Platform about the European Commission's commitment to social rights, as reflected in the intervention of Rudi Delarue, DG Employment, Social Affairs and Inclusion, at the last meeting of the Governmental Committee of the European Social Charter and the European Code of Social Security in April 2018. He stressed the importance for EU member States to address the decisions and conclusions of the ECSR in accordance with their obligations under the Charter. Besides, he emphasized that it is incomprehensible that Member States of the EU have not yet accepted the provisions of the Charter which are fundamental in EU law, such as the right to equal pay for women and men, reasonable working hours, or specifically Article 25 (The right of workers to the protection of their claims in the event of the insolvency of their employer) and Article 27 (The right of workers with family responsibilities to equal opportunities and equal treatment). Since the Platform also gathers representatives of non-EU human rights and equality organisations, Tanya Montanari briefly mentioned the [European Commission six flagship initiatives](#) aimed at strengthening its cooperation with the Western Balkan countries in a number of areas, including socio-economic development. Concrete actions in these areas are foreseen between 2018 and 2020. This initiative can become an additional tool to help non-EU countries increase the protection of people's social and economic rights, as already required by the European Social Charter. ENNHRI and EQUINET could clearly contribute to the coherence of the action within their mandate, by making recommendations at national level which take into account the rights guaranteed by the Charter, the principles included in the Pillar, the objectives of the European Semester and the specific recommendations addressed by the EU to its Member States in the framework of the country reports. The data collected by the FRA will be used when monitoring the Pillar's progress.



To conclude, Tanya Montanari said that a coordinated action is important in order to reinforce the respect of social rights in Europe. The fact that the EU wants to go further in the field of social rights and that the European Social Charter provides for a comprehensive legal protection of social and economic rights in Europe, it is timely to seek for synergies.

The full presentation of Tanya Montanari can be downloaded [here](#).

During the discussion on possible synergies between the two mechanisms, Lauri Leppik agreed that there is overlap between the scope of the Pillar and the Charter. There are areas where the Pillar seems to cover issues that are not directly addressed in the Charter and vice-versa, the Charter covers some areas that are not addressed in the Pillar. In addition, the interpretation of the European Committee of Social Rights often goes beyond the requirements of the EU law (e.g. the 1992 EU Pregnant Workers Directive implemented in the UK to the extent of the minimum requirements did not change the interpretation of the Committee which considered the UK to be still in breach of its obligations under Article 8.2 of the Charter for not providing adequate maternity leave). Lauri Leppik added that there was room for both instruments and that they could reinforce each other.

Krzysztof Stefan ISZKOWSKI pointed out that the decisions and conclusions of the European Committee of Social Rights could be taken into account in the EC reporting, as they often refer to EU law. However, the European Commission is not mandated to force the Member States to respect what they have promised, including the European Social Charter. Given the fact that social policies are costly and that the EU has a limited budget to support them, the EC relies on Member States to achieve them.

### **Next steps for the Platform**

*Contribution of national equality bodies and human rights institutions to promoting the European Social Charter and the conclusions and decisions of the European Committee of Social Rights*

*Working methods, definition of capacity building needs of Platform Partners and outline for the next meeting of the Platform*

The last session examined specifically how to strengthen cooperation between Platform's members and what contribution could be made by NEBs and NHRIs to the promotion of the European Social Charter, as well as the conclusions and decisions of the European Committee of Social Rights. To discuss the future steps for the Platform, participants were split into four groups and had to reply to the following questions:

1. *What would be the topic for the next Platform?*
2. *What can the Platform achieve in the next 3 years*
  - o *What would then have an impact on your work?*

- *What tools do you find useful?*

The replies were summarised by Debbie KOHNER, Secretary General of ENNHRI and Nina Pániková, Human Rights Officer at ENNHRI (see Appendix III).

All participants agreed that the Platform is a real tool for exchange of information, knowledge and good practices in the field of social and economic rights in Europe. Nevertheless, many new ideas for the future work of the Platform were shared by the participants, including:

- ✓ deepen the examination of particular topics and focus on particular case studies;
- ✓ hold more in-depth exchanges of good practices;
- ✓ seek synergies between the European Pillar of Social Rights and the European Social Charter and develop specific activities on the subject;
- ✓ revisit/analyse these two texts in view of identifying complementarity and synergy;
- ✓ use the European Committee of Social Rights annual reports, conclusions and decisions as a source of law in day-to-day work;
- ✓ associate Sustainable Development Goals with the themes of the Platform;
- ✓ take the opportunity to also hold bilateral meetings with other national stakeholders in order to promote the Charter and a wider acceptance of the provisions of the Charter and the collective complaints procedure ;
- ✓ improve cooperation with civil society - it is useful to hear their experience.

It has also been proposed to produce more assets such as common statements, guidance or digital media products and to use more interactive tools. Platform members support the idea to continue organising at least one meeting per year in a Member State.

## **Conclusions**

**Katrine Steinfeld**, Policy Officer, European Network of Equality Bodies (EQUINET) concluded the meeting by stressing once again the importance of the right to housing in the history of Northern Ireland. She recalled the importance of the progressive realisation of rights as a shared responsibility of the Platform's members. The Platform reiterated its commitment to the European Committee of Social Rights to use and disseminate as far as possible its conclusions and decisions. Furthermore, Katrine Steinfeld stressed that even if the European Pillar of Social Rights, as a non-binding instrument, is much less taken into account by NHRIs and NEBs, it would be important to define a pragmatic approach that takes into account the realities of the present and focuses on the future. She also recalled that in many cases the European Committee of Social Rights sets standards which go beyond the minimum standards enshrined in EU law and, therefore, this represents another challenge for the Platform's future work. In terms of the specific indicators that are used for measuring housing rights and to ensure that the

progressive realisation of rights is going in the right direction, Katrine Steinfeld referred to the valuable intervention of Cecilia Forestall in the context of Collective Complaint No 110/2014 against Ireland. She emphasized that the collective complaint's procedure was only possible to use if the national framework allowed it, where there had been ratification, but also when the civil society had the capacity to engage, to take charge of these procedures often very long and demanding a lot of resources. In this context, she again stressed the role that could have equality bodies and human rights institutions in this area. The measurement framework presented by Heather Williams and used in Great Britain by the Equality and Human Rights Commission was also mentioned, especially to highlight the importance of involving all stakeholders in the indicators that are used in the process of a regular monitoring. The presentation of Heather Williams showed how intense the background work is, but also how important it is to explain to stakeholders the reasons for the choices made. Katrine Steinfeld recalled participants that indicators and monitoring can sometimes be less useful than expected and that an adjustment may be necessary, as Belgian colleagues have also mentioned.

In response to the request of several Platform members to prepare a comparative paper between the European Pillar of Social Rights and the European Social Charter, Katrine Steinfeld recalled that the Irish Human Rights and Equality Commission had prepared a comparative table of principles of the Pillar and the provisions of the Charter which was submitted to the European Commission during the consultation period on the Pillar.

## APPENDIX I - Programme

### PROGRAMME

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9am–9.30am      *Registration*

9.30am–10am    **Opening Session**

Welcome:

Les ALLAMBY, Chief Commissioner for the Northern Ireland  
Human Rights Commission (NIHRC)

Danuta WIŚNIEWSKA-CAZALS, Department of the European  
Social Charter, Council of Europe

### **Ensuring the effective exercise of the right to housing**

Moderator: Danuta WIŚNIEWSKA-CAZALS, Department of the  
European Social Charter, Council of Europe

10am–10.50am    Protection of the right to housing in the light of the decisions and  
conclusions of the European Committee of Social Rights

Lauri LEPPIK, Professor, Chair of Social Policy, Tallinn  
University, former General Rapporteur of the  
European Committee of Social Rights

Discussion

International Federation for Human Rights (FIDH) v. Ireland  
Complaint No 110/2014

*The complainant organisation alleged that Irish law, policy and  
practices on social housing do not comply with European  
housing, social protection and anti-discrimination standards. The  
European Committee of Social Rights adopted its decision on the  
merits on 12 May 2017.*

Speakers:

*Cecilia FORRESTAL, Community Action Network (CAN), Ireland*

*Laurence BOND, Chair of the ENNHRI Working Group on  
economic, social and cultural rights, Director of the Irish Human  
Rights and Equality Commission (IHREC)*

Discussion

10.50am–11.05am      *Coffee break*

11.05am–12.30am Indicators on housing rights - Measurement Framework for Equality and Human Rights

Moderator: Debbie KOHNER, Secretary General, European Network of National Human Rights Institutions

Speaker: Heather WILLIAMS, Lead of the measurement framework, *Equality* and Human Rights Commission (EHRC)

Discussion, including sharing examples of good practice on the indicators used by Platform Partners for monitoring human rights, in particular housing rights, as well as monitoring inequality in Europe

*12.30am-2.15pm Lunch break*

### **Building a fairer Europe and strengthening its social dimension under the European Pillar of Social Rights**

Moderator: Ursula TILL-TENTSCHERT, Senior Programme Manager - Statistics and Surveys, Freedoms and Justice Department, FRA

2.15pm–3.45pm Monitoring the performance of the States in the field of social rights: Social Scoreboard and the European Semester

Speaker: Krzysztof Stefan ISZKOWSKI, Policy Officer, Directorate-General for Employment, Social Affairs and Inclusion, Employment and Social Aspects of European Semester, European Commission

Discussion

The European Social Charter and the European Pillar of Social Rights: finding a synergy

Speaker: Tanya MONTANARI, Department of the European Social Charter, Council of Europe

Discussion

*3.45pm–4pm Coffee break*

### **Next steps for the Platform**

Moderator: Tanya MONTANARI, Department of the European Social Charter, Council of Europe

4pm–5pm Contribution of national equality bodies and human rights institutions to promoting the European Social Charter and the conclusions and decisions of the European Committee of Social Rights

Working methods, definition of capacity building needs of Platform Partners and outline for the next meeting of the Platform

General discussion

5pm–5.15pm **Conclusions of the meeting**  
by Katrine STEINFELD, Policy Officer, European Network of Equality Bodies

## **APPENDIX II – List of Participants**

### ***LIST OF PARTICIPANTS***

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#### **Northern Ireland Human Rights Commission**

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**Les ALLAMBY**

Chief Commissioner for the NI Human Rights Commission

**Colin CAUGHEY**

Northern Ireland Human Rights Commission

**Hannah RUSSELL**

Northern Ireland Human Rights Commission

#### **EQUINET Members**

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**Nasko ATANASOV**

Commission for Protection against Discrimination  
Bulgaria

**Kremena LAZAROVA**

Commission for Protection against Discrimination  
Bulgaria

**Nena NENOVSKA GJORGJIEVSKA**

Commission for protection against discrimination  
"The former Yugoslav Republic of Macedonia"

**Stephanie MAGRO GAZZANO**

National Commission for the Promotion of Equality  
Malta

**Tatjana JOKANOVIC**

Commissioner for the Protection of Equality  
Serbia

**Deborah HOWE**

Equality Commission Northern Ireland

#### **ENNHRI - Members**

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**Monika GROSER**

Ombud for equal treatment, Austria

**Veerle STROOBANTS**

Combat Poverty, Insecurity and Social Exclusion Service  
Belgium

**Elina HAKALA**

Office of the Parliamentary Ombudsman of Finland  
Finland

**Riikka JACKSON**

Legal Advisor  
Parliamentary Ombudsman of Finland

**Deniz UTLU**

Policy Adviser, German Institute for Human Rights  
Germany

**Beka JAVAKHADZE**

Office of the Public Defender of Georgia

**Maria VOUTSINO**

Ombudsman for Equal treatment  
Greece

**Vlora VESELI**

Ombudsperson Institution of Kosovo<sup>7</sup>

**Vytautas VALENTINAVIČIUS**

Chief Public Relations Officer  
Seimas Ombudsman's Office of the Republic of Lithuania

**Marius MOCANU**

Romanian Institute for Human Rights

**Alison HOSIE**

Scottish Human Rights Commission  
Scotland, United Kingdom

**Kavita CHETTY**

Scottish Human Rights Commission  
Scotland, United Kingdom

**EQUINET and ENNHRI Members**

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**Monika ČAVLOVIĆ**

Human rights protection and promotion advisor  
Office of the Ombudswoman  
Croatia

**Laurence BOND**

Irish Human Rights and Equality Commission  
Ireland

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<sup>7</sup> All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo



**Iris ELLIOTT**

Irish Human Rights and Equality Commission

**Walter JAYAWARDENE**

Irish Human Rights and Equality Commission

**Cecilia FORRESTAL**

Irish Human Rights and Equality Commission

**Anete ILVES**

Office of the Ombudsman of the Republic of Latvia  
Legal counsellor of Social, Economic and Cultural rights division

**Jan DE VRIES**

The Netherlands Institute for Human Rights

**Agnieszka WAŚNIEWSKA**

Office of the Commissioner for Human Rights  
Poland

**Michal RIECANSKY**

National Centre for Human Rights  
Slovakia

**Marion SANDNER**

Equality and Human Rights Commission  
UK

**Heather WILLIAMS**

Lead of the measurement framework  
Equality and Human Rights Commission  
Great Britain

**European Commission**

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**Krzysztof Stefan ISZKOWSKI**

Policy Officer, Directorate-General for Employment, Social Affairs and Inclusion  
Employment and Social aspects of European Semester

**European Union Agency for Fundamental Rights (FRA)**

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**Ursula TILL-TENTSCHERT**

Equality and Citizens' Rights Department

**European Network of Equality Bodies (EQUINET) - Secretariat**

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**Katrine STEINFELD**

Policy Officer

## **European Network of National Human Rights Institutions (ENNHRI) - Secretariat**

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**Debbie KOHNER**

Secretary General

**Nina PÁNIKOVÁ**

Human Rights Officer

## **Council of Europe Expert**

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**Lauri LEPPIK**

Professor, Chair of Social Policy, Tallinn University

Former member and Former General Rapporteur of the European Committee of Social Rights

## **Council of Europe Secretariat - DGI Directorate General Human Rights and Rule of Law - Department of the European Social Charter**

**Danuta WIŚNIEWSKA-CAZALS**

Coordinator of the Platform

**Tanya MONTANARI**

Web, SharePoint

**Catherine GHERIBI**

Administration and finances

## **APPENDIX III - Contribution of NEBs and NHRIs to promoting the European Social Charter and the conclusions and decisions of the European Committee of Social Rights**

### ***Contribution of NEBs and NHRIs to promoting the European Social Charter and the conclusions and decisions of the European Committee of Social Rights***

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#### **Leading Questions:**

3. *What would be the topic for the next platform?*
4. *What can the Platform achieve in next 3 years*
  - *What would then have an impact on your work?*
  - *What tools you would find useful?*

#### **Group 1 (from report-back)**

Possible topics for the next Platform

- How can we use international instruments (such as the Social Charter) in effective way so they support our work at the national level?
- How can we use the international instruments in more effective way given the cross-fertilization of them in European context?
- How to ensure follow-up of the Committee decisions?
- Full time employment's alternatives to fight against poverty including work-life balance issues.

Suggestions for the Platforms in general

- topics on ongoing basis, go more in the depth and focus on case studies;
- Ensure the follow up of one theme;
- Finding synergies between Social Pillar and Social Charter; conducting the review of these two documents;
- Focus in general more on success stories;
- Include Committee's annual reports and reference to more legal frameworks.

#### **Group 2 (from reporting-back)**

Possible topics for the next Platform

- Include focus on person with disabilities: CRPD and Social Charter coherence between instruments;
- How can Social Charter be used in the national/ international work;
- Include the notion of intersectionality in the work;
- Include raise of populism topic and other challenges in the topics;

Suggestions for the Platforms in general

- More interactive;
- Include preparatory work;
- Produce some more assets such as Guidance or digital media products;
- More in depth exchange of good practices;

### ***Group 3 (from reporting-back)***

Possible topics for the next Platform:

- Subject focus is found very useful;
- Another rights of the Social Charter;
- Economic policies in times of limited resources ('austerity');
- The use of maximum available resources;
- Business and human rights;

Suggestions for the Platforms in general

- Include possible output of the meetings; e.g a Common Statement;
- Reflect on how can we bring together different skills that are in the room;
- Focus on specific workshops;
- Include activities of reviewing the Social Pillar and the Social Charter;
- Connect SDGs with the themes of the Platform

### ***Group 4 (from reporting-back)***

Possible topics for the next Platform:

- Article 8 including case law;
- Article 23 including case law;
- Comparison of experiences from two different national context where the Revised Social Charter is ratified and where it is not;
- Procedural information or country reporting deadlines information.

Suggestions for the Platforms in general

- Members' hosting the Platform;
- Grassroots approach to building the agenda;
- Use the occasion to also conduct bilateral meetings with other national stakeholders;
- Exchange of good practices examples;
- Cooperation with civil society- it is useful to hear their experience.

## **APPENDIX IV – Summary of the 1st Joint Meeting of the CoE-FRA-ENNHRI-EQUINET Platform on Social and Economic Rights and the Operational Platform for Roma Equality**

### ***Summary of the discussion of the***

#### ***1<sup>st</sup> Joint Meeting of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights (4SocialRights) and the Operational Platform for Roma Equality (OPRE) – 15 May 2018***

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The 1<sup>st</sup> Joint meeting of the two Platforms was organised at the initiative of the NIHRC in order to have a joint debate on the rights of Roma and Travellers to housing and accommodation. The meeting was opened by Les Allamby, Chief Commissioner of NIHRC. The NIHRC took this opportunity to present the results of their investigation on accommodation and services for travellers in NI “Out of sight, out of mind: travellers’ accommodation in NI”. Hannah Russell presented the investigation’s timeline, methodology, challenges, results and the implementation plan.

Lauri Leppik, Chair of Social Policy in Tallinn University, and former General Rapporteur of the ECSR, presented key conclusions and decisions relating to Roma and Travellers’ rights to housing/accommodation. This allowed participants to gain additional knowledge on the case law of the ECSR.

Tamas Kadar, EQUINET, presented the human costs of Roma and Travellers’ evictions and international legal standards regulating evictions.

The follow-up to the OPRE joint statement on evictions was presented by Chrisoula Arcoudis, Council of Europe.

Three different case studies relating to the topic were presented by national members of ENNHRI and EQUINET: Hungary, Croatia and Belgium. As a common conclusion it can be emphasized that Roma and Travellers continue suffering a high level of discrimination on different grounds - social exclusion and poverty. The contribution of ENNHRI and EQUINET to tackle this issue at national level is therefore essential.

The situation of Roma with regard to housing according to the findings of the latest EU-MIDIS II survey, carried out in 9 member States of the European Union, was presented by Ursula Till-Tentschert, FRA. Giving the survey results, she underlined that there is a strong need for policy response in order to provide affordable housing, to invest into the improvement of social housing stock and infrastructure, to take measures against segregation and support employment opportunities at a local level, to assist and protect Roma against forced evictions etc.

The members of the two Platforms discussed also the relevance of future joint meetings. It was concluded that an exchange of information and know-how could be of use for both Platforms,

however there is no need for regular joint meetings as the Platform on Social and Economic Rights addresses a larger group of persons and topics and not only Roma.