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STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON SOCIAL RIGHTS
(CDDH-SOC)**

**Short analysis of the replies to the questionnaire related to the
good practices
on the implementation of social rights at national level**

SHORT ANALYSIS OF THE REPLIES TO THE QUESTIONNAIRE RELATED TO THE GOOD PRACTICES ON THE IMPLEMENTATION OF SOCIAL RIGHTS AT NATIONAL LEVEL

INTRODUCTION

1. In accordance with its terms of reference adopted by the Committee of Ministers for the biennium 2018–2019 in the field of social rights, the CDDH is called upon, in particular, to *“identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights and to facilitate in particular the relationship between the Council of Europe instruments with other instruments for the protection of social rights”*.¹

2. Good practices on the implementation of social rights at national level have been described by the Member States in reply to a questionnaire prepared by the CDDH’s Drafting Group on Social Rights (CDDH-SOC)² and have been summarised with a view to their discussion at the meeting of the CDDH-SOC on 2–4 May 2018.³

3. The present short analysis of the replies to the said questionnaire shall identify the main issues and suggestions emerging from the Member States’ replies. It shall further help the CDDH-SOC to identify and draft proposals with a view to improving the implementation of social rights, in line with the CDDH’s mandate.

4. The analysis shall address, first, the main good practices reported by the Member States in the implementation of social rights (A.). It shall further set out the main proposals made by the responding States with a view to improving the implementation of social rights, in particular those laid down in the (revised) Charter as interpreted by the European Committee of Social Rights (B.). It shall then describe, in particular, the main obstacles reported by the Member States concerning the ratification of the Revised Charter, or the acceptance of further provisions thereof, and concerning the acceptance of the system of collective complaints (C.) and set out the main proposals the Member States made with a view to encouraging the acceptance of the system of collective complaints (D.).

5. On a general note, it may be observed that 31 out of the 47 Member States of the Council of Europe submitted a reply to the questionnaire. This high number of replies, which is to be welcomed, can be seen as testifying of the Member States’ interest and involvement in the topic.

A. Main good practices reported by the Member States in the implementation of social rights

6. As regards the existence of specific institutions in charge of monitoring social rights, the States’ replies revealed that they have set up a large variety of both governmental and independent mechanisms monitoring the implementation of social rights, in particular, in respect of specific groups. Numerous different specialised bodies work in the fields of, *inter alia*, inclusion of elderly people, people with disabilities, women’s or children’s rights.

¹ Document [CM\(2017\)131-addfinal](#).

² See for the questionnaire document [CDDH-SOC\(2018\)02](#) and for the replies to the questionnaire related to the good practices on the implementation of social rights at national level document [CDDH-SOC\(2017\)04](#).

³ See for the summary of the replies to the questionnaire document [CDDH-SOC\(2018\)07](#).

7. Moreover, a large majority of the responding States carries out social impact assessments when drafting new laws, which may cover not only the economic, financial or environmental consequences of the draft laws, but also specific assessments of their impact on social rights or on certain social groups. Likewise, in almost all States there is an obligation to verify the compatibility of draft laws with international law, which is carried out either by the drafting ministry alone or in cooperation with other ministries and/or by the national parliaments. In most States there is no separate control mechanism specifically designed for the control of compliance with social rights. Some States also reported the existence of handbooks or guidelines to ensure the compatibility of draft laws with international social rights or stressed that they involved international bodies or experts in the compatibility assessment.

8. Furthermore, as for awareness-raising actions on social rights at national level, the majority of States does not only notify the decisions and conclusions of the European Committee of Social Rights (ECSR) to the relevant authorities, but also disseminates them to social partners and human rights institutions. Several States reported translating relevant documents in their national languages. Moreover, many States recently offered training on specific social rights issues notably for civil servants.

9. As regards the question whether the domestic courts rely on the Charter to resolve disputes concerning social rights, it emerges from the States' replies to the questionnaire that there is no uniform practice in the reference or not of domestic courts to the provisions of the (revised) Charter in their case-law. Moreover, the national courts' approaches differ on the question whether or not they consider the (revised) Charter to have direct and binding effect in domestic law.

B. Main proposals made with a view to improving the implementation of social rights, in particular those laid down in the (revised) Charter as interpreted by the ECSR

10. There is a broad consensus among the responding Member States that the awareness-raising and training activities on social rights in general should be extended. Different Member States made, *inter alia*, the following specific proposals:

- Training activities should be specifically designed for national institutions (including judges and prosecutors) which implement the decisions and conclusions of the ECSR;
- Teaching, legal research projects and publications on social rights in higher education institutions should be extended;
- The HELP platform should be used more extensively in the training on social rights;
- The Digest of Decisions and Conclusions of the ECSR should be updated;
- The said Digest, or the most important decisions and conclusions of the ECSR as well as further relevant material should be translated into the Member States' national languages;
- A more active press work to promote the Council of Europe's activities in the field of social rights should be carried out;
- Online campaigns and leaflets on social rights could further make the topic more accessible to a broader audience.

11. Moreover, Member States agreed that institutional practices should be further exchanged between them and good practices among them be identified. It was proposed that this could be done, for instance, in the context of thematic debates on the implementation of specific provisions of the (revised) Charter. Some States stressed the importance of a better exchange of good practices, in particular, in view of a harmonisation of the (revised) Charter with the European Union (EU) legislation.

12. Member States also pleaded in favour of a better cooperation between the institutions working in the sphere of social rights at the international level, notably between the Council of Europe and the EU. It is to be noted in that context that some States referred to specific problems of implementation of social rights on account of conflicting texts or decisions, notably conflicts between the (revised) Charter and International Labour Organisation (ILO) Conventions or obligations imposed under EU law.

C. Main obstacles concerning the ratification of the Revised Charter, or the acceptance of further provisions thereof, and the acceptance of the system of collective complaints

13. The responding States relied on the following reasons for not ratifying the Revised Charter or not accepting further provisions thereof: conflicts between certain provisions of the Revised Charter and national labour or tax law; their economic or financial situation which led to them not being in a position to accept a higher level of commitments; the lack of political consensus; and the complexity of the examination and ratification process.

14. As for the main obstacles to the acceptance of the collective complaints procedure, the reasons given by the responding States which have not accepted that procedure were that it required further technical or political evaluation or was incompatible with the national legal system which was based on individual complaints. Some States further referred to the necessity to adopt a gradual approach to the improvement of the implementation of social rights and to concentrate first on the full implementation of their already existing obligations in that field.

15. It is equally to be noted that several States reported that work was ongoing for the ratification of the Charter or the acceptance of further provisions of the revised Charter.

D. Main proposals made with a view to encouraging the acceptance of the system of collective complaints

16. The responding Member States made, in particular, the following proposals with a view to encouraging the acceptance by more Member States of the system of collective complaints: a strict application of the admissibility criteria of collective complaints; no extensive interpretation of the substantive rights of the (revised) Charter; a thorough analysis of the situation in the Member States concerned; more adversarial proceedings before the ECSR; and a simplification of the procedures before the ECSR in general, resulting in a reduced workload for the States.