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The role of parliaments in the consolidation and development of social rights in Europe

Report[1]
Social, Health and Family Affairs Committee
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Summary

The report analyses the role played by parliaments in their legislative, representative and oversight functions, and the way in which parliaments can and should influence public policies to ensure progress with the implementation of social rights.

The consolidation of existing social rights and the development of new ones require substantial parliamentary involvement through the existing parliamentary networks and international organisations, starting with the Parliamentary Assembly at European level, and up to the Inter-Parliamentary Union globally.

As a specific case in point, the report addresses a series of aspects related to the right to health, including its institutional setting and scope, and calls for an additional protocol to the revised European Social Charter, which will determine clearly and develop the European standards with regard to the right to health, including the right to a healthy environment – as one of the major rights linked to the right to life.

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A. Draft resolution[2]

1. The Parliamentary Assembly deplores the recent decisions in a number of European countries to introduce massive cuts in welfare programmes that were designed to secure access to social rights, and notes that the consequences of such decisions may be dramatic, in particular for the poorest and most disadvantaged categories of the population.

2. The Assembly believes that parliaments have a vital role to play in consolidating and developing social rights in Europe to counter such developments. Emphasising the principles of indivisibility and interdependence of human rights (including social rights), the Assembly calls on the parliaments of member states to take into account international social rights standards in the exercise of their main functions, namely legislation, representation and oversight.

3. The Assembly underlines, in particular, the importance of securing the right to health, including the right to a healthy environment, as one of the fundamental social rights directly related to the right to life.

4. The Assembly thus calls on parliaments of member states to:

4.1. take measures to implement the recommendations contained in Assembly Resolution 1792 (2011) on the monitoring of commitments concerning social rights, and, in particular, continue promoting, at European and national level, the signature, ratification and implementation of the European Social Charter's Amending Protocol of 1991 (ETS No. 142, the "Turin Protocol"), the Additional Protocol of 1995 (ETS No. 158) Providing for a System of Collective Complaints, and of the revised European Social Charter of 1996 (ETS No. 163);

4.2. include, as part of parliamentary debates on human rights, a regular review of the implementation of social rights, ensuring, in particular, that governments take the appropriate measures to follow-up on the decisions taken by the European Committee for Social Rights with regard to the implementation of the articles of the revised European Social Charter;

4.3. regularly scrutinise government policies implementing the right to health, and keep abreast of new developments to ensure that scientific progress is respectful of human rights and dignity;

4.4. take the human rights perspective into consideration as a primary criterion when conducting parliamentary scrutiny of public policies and deciding on budgets, in particular in the social and health field;

4.5. ensure parliamentary oversight of the implementation of international agreements, programmes and budgets that may have an impact on social rights, in accordance with Assembly Resolution 1289 (2002) and Recommendation 1567 (2002) on parliamentary scrutiny of international institutions;

4.6. raise awareness amongst parliamentarians and parliamentary research staff on social rights, including through the provision of specialised training and general induction courses for newly elected parliamentarians;

4.7. strengthen interparliamentary co-operation and improve the exchange of best practices at international level, in particular by:

4.7.1. improving co-ordination and strengthening co-operation between members of national parliamentary committees whose actions may have an impact on the consolidation and development of social rights at national and European level, including also members of national human rights committees and European affairs committees;

4.7.2. improving co-ordination and information exchange on the implementation of social rights between parliamentarians from the same country in international fora, including the Parliamentary Assembly, the European Parliament, the Nordic Council, the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC), the Inter-Parliamentary Union (IPU) and the Parliamentary Network on the World Bank (PNoWB);

4.7.3. taking an active part in international campaigns aimed at the promotion of human rights, including, *inter alia,* the Network of contact parliamentarians of the Parliamentary Assembly committed to combating violence against women and the Network of contact parliamentarians of the Council of Europe's "ONE in FIVE" campaign to combat sexual violence against children;

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2. Draft resolution adopted unanimously by the committee on 19 May 2011.

4.7.4. establishing co-operation with the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) to exchange best practices in the field of parliamentary scrutiny of government programmes.

5. The Assembly believes that member states also need to take urgent action in order to guarantee effective access to social rights in line with international standards, obligations and commitments, and thus calls on them to:

5.1. take the necessary measures to ensure realisation of the commitments on social rights enshrined in the Council of Europe and in the United Nations conventions;

5.2. apply the principles of equality and non-discrimination as a lever for the implementation of social rights;

5.3. make greater use of the Parliamentary Assembly in overseeing the work of international organisations whose decisions have an impact on the implementation of social rights, in particular those that do not have inbuilt parliamentary bodies, such as the World Health Organization;

5.4. ensure that national positions expressed at international level in the field of economics, finance, and trade are respectful of national commitments under international human rights treaties;

5.5. with a view to consolidating and developing the right to health, which remains a particular priority, take measures to:

5.5.1. incorporate into their national legislation and practice the principles and rights enshrined in the revised European Social Charter, paying particular attention to the principle that everyone has the right to benefit from any measures enabling him or her to enjoy the highest possible standard of health attainable;

5.5.2. contribute to the drafting, signature and implementation of a new protocol to the revised European Social Charter on the right to health, including the right to a healthy environment;

5.5.3. guarantee the implementation of international treaties on the right to health with regard to specific target groups (children, women, people with disabilities, the elderly), in specific contexts (occupational health) and through the improvement of the enabling conditions with regard to the right to health (environmental effects on health);

5.5.4. implement the Council of Europe conventional instruments that have an impact on the right to health, including the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (ETS No. 164, "Oviedo Convention"), and its protocols;

5.5.5. in line with Assembly Recommendation 1614 (2003) on environment and human rights, take measures towards the signature, ratification and implementation of the United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and its Protocol on Pollutant Release and Transfer Registers ("Aarhus Convention").

B. Draft recommendation[3]

1. The Parliamentary Assembly, with reference to its Resolution … (2011) on the role of parliaments in the consolidation and development of social rights in Europe and Recommendation 1958 (2011) on the monitoring of commitments concerning social rights, invites the Committee of Ministers to take steps to ensure rapid progress with regards to the signature, ratification and implementation of the revised European Social Charter (ETS No. 163) and its Protocols. In particular, the Assembly calls on the four countries which have not yet ratified the Protocol amendment the Social Charter (ETS No. 142, "Turin Protocol") – namely, Denmark, Germany, Luxembourg and the United Kingdom – 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 machinery by adopting a unanimous decision to that effect.

2. The Assembly calls on the Committee of Ministers to draft a new Protocol to the revised European Social Charter on the right to health, including the right to a healthy environment.

3. The Assembly recalls the importance of involving parliaments in the early stages of the preparation of international treaties. With a view to improving parliamentary oversight of international institutions and agreements reached at international level, the Committee of Ministers is called on to:

3.1. ensure that national governments submit early drafts of forthcoming agreements to parliament for comment;

3.2. continue to involve the Assembly in the process of drafting new conventions at different levels, from representation on the drafting committee to the timely submission of the draft text for opinion to the Assembly, and reconsider the possibility of introducing co-decision making on such texts in line with Recommendation 1763 (2006) on the institutional balance at the Council of Europe*;*

3.3. continue to ensure participation of the Assembly at the ministerial conferences and other high-level events organised by the Council of Europe on a regular basis in the field of social rights, social cohesion, public health, etc.

4. In light of recent trends in the areas of social cohesion and public health policies in member states, the Assembly calls on the Committee of Ministers to ensure that the Council of Europe remains present in these policy fields by maintaining strong intergovernmental and standard-setting activities despite ongoing reform processes within the Organisation.

3. Draft recommendation adopted unanimously by the committee on 19 May 2011.

C. Explanatory memorandum by Ms Ohlsson, rapporteur

1. Introduction

1. On 28 January 2011, the Bureau of the Parliamentary Assembly authorised the Social, Health and Family Affairs Committee to prepare a report on the role of parliaments in the consolidation and development of social rights in Europe, as a component of the Assembly's debate on the state of human rights in Europe at its June 2011 part-session. This decision was based on Assembly Resolution 1792 (2011) on the monitoring of commitments concerning social rights (paragraph 6.1). I was appointed rapporteur by the committee on 22 March 2011.

2. The Assembly has always stressed that member states should take specific measures towards the consolidation and development of social rights in Europe and towards improving access to those rights, in particular for those who are at risk of exclusion. The existing Council of Europe standards in the field of social rights have been recognised by the member states and must be acted upon to ensure that social rights become a reality for all citizens.

3. This report aims to draw the Assembly's attention to the measures that can and should be taken by the parliaments of member states to ensure progress in the implementation of standards for social rights: through the ratification of relevant treaties (such as Council of Europe and United Nations conventions), ensuring that all relevant international standards are taken into account when drafting new or revising existing legislation, through oversight functions such as the parliamentary scrutiny of public policies and budget allocation, and – last but not least – through interparliamentary co-operation.

2. The role of parliaments in the consolidation of social rights in Europe

2.1. The effectiveness of parliaments

4. Parliaments, in the exercise of their main functions – namely policymaking, legislation, constituency representation and oversight of the executive – can act to make a difference in the consolidation of social rights.

5. Parliaments have a major role to play in ensuring that minimum standards in the field of social rights are not only recognised, but also applied and monitored at national level. I am convinced that parliaments can increase their effectiveness in helping to meet the needs of the people and securing their access to social rights if they increase their general effectiveness as parliaments. For us to be able to ensure transparency and accountability in the social field, we must ensure that our parliaments adopt these principles as standards in their daily functioning.[4]

6. Parliaments must therefore be open, transparent and accountable to the public in their legislative and policymaking functions. The free flow of information from parliament to its members and the public, as well as avenues for effective public participation are fundamental to a truly democratic parliament. The information flow should also meet the needs of all people and be available and accessible to all, including, for example, people with disabilities.[5]

2.2. Legislative functions – recognition of standards in the field of social rights

7. Legislation and policymaking are the primary responsibilities of a parliament as the elected body representing the people.

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4. The Parliamentary Transparency and Accountability Standards (PTAS), proposed by the International Foundation for Election Systems (IFES), identify minimal standards of parliamentary functioning including: the independence of parliament (No.1); transparent oversight of the executive (No. 8); parliamentary participation in the formulation and oversight of government's budget (No. 9); parliamentary participation in the adoption of and oversight of compliance with international obligations (No. 10); transparent and efficient parliamentary committees (No.11); adequate and independent parliamentary budget (No. 12); and professional training for legislators and staff (No. 18). See "Global best practices: a model annual state of parliament report – a strategic monitoring and reporting tool for promoting democratic parliaments worldwide", IFES, 2005 (English only),
http://www.ifes.org/publication/9556b111cf29cbd9dc859c7d9f43f15c/FINAL%20SOP%20Framework%200607.pdf.

5. Parliaments' public websites should be fully accessible, meeting the web accessibility criteria and the main principles of e-governance.

8. Human rights, including social rights, are protected by law, as reflected in national legislation or in international treaties to which the country is party. As stressed in Assembly Resolution 1792 (2011) on the monitoring of commitments concerning social rights, the Assembly will "promote, within the Council of Europe and among its external partners, a broad-based approach to social rights as an integral, indivisible part of human rights".[6] The same message was further supported by Assembly Resolution 1800 (2011) on combating poverty. This also means that social rights must be adequately reflected in the national legal systems enabling their protection through a court of law.

9. Parliaments should be involved in the drafting of international treaties (later entered into by their governments) from the start and at all stages of the negotiations – it is, for example, advisable to include parliamentarians in the national delegations representing a specific member state in negotiations.[7] Certain conventions may not be ratified as initially expected simply because parliaments are asked to ratify agreements *ex post facto*, after they have been signed by the government. Ensuring parliaments' involvement in treaty negotiations in the early stages is therefore essential.

2.3. Implementation of recognised standards and establishment of relevant monitoring mechanisms

10. Parliaments should monitor the implementation of treaties to ensure that the obligations entered into at international level are being honoured. At national level, progress in the implementation of social rights can also be monitored through contacts with citizens' groups, non-governmental organisations (NGOs) and constituents, who may share their concerns and their wishes with members of parliament, as well as through regular reports from governments, and the parliamentary scrutiny of budgets and government policies.

11. The full implementation of social rights depends on the adequate representation of the interests of all members of society, in particular of those who are at risk of exclusion. This message is underlined in the latest human rights treaties, such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the United Nations Convention on the Rights of the Child (CRC) and the United Nations Convention on the Rights of People with Disabilities (CRPD). Implementation of social rights often requires that member states establish relevant monitoring mechanisms at national level. The creation of ombudspersons institutions, training of law-making and law-enforcement staff, and creation of "one-stop-shop" services to address the needs of one group of the population, such as the needs of people with disabilities, are some examples of measures which can and should be taken.

12. The political monitoring of the implementation of international treaties is of utmost importance, including at international level. The Assembly's scrutiny of the implementation of the Council of Europe's conventional instruments is essential to their successful implementation. I therefore welcome the recent Assembly decision to "undertake political monitoring of the implementation of the revised European Social Charter and of social rights, fully taking into account gender mainstreaming, in close collaboration with the European Committee of Social Rights and other international and European organisations, in particular the International Labour Organization and European Union organs".[8]

13. With regard to the revised European Social Charter, the Assembly has also decided to "promote, with the Committee of Ministers and other relevant Council of Europe bodies, a revision of the collective complaints procedure according to the Additional Protocol of 1995 to the Social Charter, which would allow for third party interventions, including by the Assembly, and envisage intervening in such a capacity where appropriate".[9] The Assembly should also closely follow the decisions of the European Committee for Social Rights and other relevant Council of Europe committees, as they have a direct repercussion on the legal framework for the implementation of social rights in Europe.

2.4. Parliamentary scrutiny – a mechanism to ensure effective implementation of standards

14. One of the core functions of parliament is to provide a continuous check on the activities of the executive. Oversight, or scrutiny, may take place in the form of periodic questions to the government in parliamentary sessions or investigations undertaken by parliamentary commissions or votes of confidence/no

6. See paragraph 6.3 of Resolution 1792 (2011) on the monitoring of commitments concerning social rights.
7. See the Opinion by the Committee on Economic Affairs and Development on parliamentary scrutiny of international institutions, Doc. 9485.
8. See Resolution 1792 (2011), paragraph 6.2.
9. See Resolution 1792 (2011), paragraph 6.4.

confidence. Parliamentary procedures, in turn, should be transparent and allow for public scrutiny. Finally, governments should be required to announce publicly, within a defined time period, their responses to investigations by parliamentary committees.

15. One might ask – how often do our parliaments conduct oversight procedures with regard to the implementation of social rights? How is this done? Do they oversee the implementation of international obligations? What are the other means that we, as parliamentarians, have and can act upon to ensure that governments implement the international treaties on social rights they are bound to? Are the parliaments informed by their respective governments about developments in interinstitutional decision-making? Do they, for instance, monitor the European Union financial programmes? How are they involved in the priority setting for the respective funds, in particular the European Social Fund? Do they monitor the allocation of funds at the national level? There are many questions that need to be addressed.

16. The scrutiny of public policies and the allocation of budgets should be conducted regularly, and at all levels – from the national to the European level. Accountable and effective management of public financial resources constitutes one of the most fundamental responsibilities of governments. Scrutinising these is one of the most important mandates of parliaments. Current European programmes, such as the European Union Social Platform, the European Union Platform against Poverty and Social Exclusion, and the European Union Programme for Employment and Social Solidarity, which touch upon social, health and family affairs, need appropriate parliamentary oversight.

17. International institutions should also be subjected to parliamentary scrutiny. In its Resolution 1289 (2002) and Recommendation 1567 (2002) on parliamentary scrutiny of international institutions, the Assembly stressed the imbalance between the increasing power of international institutions and the absence of democratic scrutiny of their activities, which constitutes a major challenge for democracy. Parliamentary scrutiny of the work of international institutions must begin at national level. Consequently, the Assembly calls on the parliaments of member states to exercise their powers to the full in this sphere, and in particular to hold regular debates on the activities of international institutions based on reports submitted by their government, to make use for this purpose of budgetary procedures and other means at their disposal, and to propose to the governments that they include parliamentarians in national delegations participating in meetings of international institutions.

3. The role of parliaments in the development of social rights in Europe

3.1. In general

18. Parliaments have an important role to play in the development of social rights. Social progress can only be achieved if member states continually improve their understanding and application of human rights standards (including social rights), ensuring effective access to rights for all.

19. Parliaments should be involved in the process of defining their country's positions at international level with regard to policy decisions that affect social rights.

20. Another issue that I would like to raise is the dangerous trend of "opting out" embedded in some international agreements, through declarations on applicability or through the choice of articles by which the country agrees to be bound in the "à la carte" conventions.[10] To cite an example, Article 30 on the right to protection against poverty and exclusion has only been accepted by 15 States Parties to the revised European Social Charter.

21. The advantage of "à la carte" conventions is clear – the early signature represents a political commitment, enables gradual implementation and gives countries the possibility to advance at their own pace, some choosing to advance faster when the political context is more favourable. The disadvantage, however, is that we leave important human rights treaties at the mercy of future political or economic instability and keep important societal developments at the level of populist declarations. This is a dangerous trend, as we run the risk of taking the wrong decisions, decisions that do not respect the principles and values of Europe – democracy, human rights and the rule of law. I would therefore draw the attention of the member states to the need to ratify the social rights instruments without further delay, without reservations, and agreeing to be bound by all provisions.

10. See the Table of Acceptance of provisions of the revised European Social Charter (1996), www.coe.int/t/dghl/monitoring/socialcharter/Presentation/ProvisionTableRev_en.pdf.

22. Finally, parliaments should ensure that social rights are not only protected through collective bargaining instruments, but that they also become legally enforceable by individual citizens. The incorporation of social rights standards into national laws is essential as there is no protection of individual rights unless there is a mechanism to seek justice when these rights are infringed.

3.2. The right to health, including the right to a healthy environment

3.2.1. The institutional setting for the realisation of the right to health

23. The issues related to the right to health are addressed by a great number of international organisations, including the United Nations Committee on Economic, Social and Cultural Rights, the United Nations Office of the High Commissioner for Human Rights, the World Health Organization (WHO), the International Labour Organization (ILO), the Council of Europe, and by a large number of civil society organisations. The involvement of such a multitude of international organisations in finding the optimal solutions to securing the right to health is linked to the fact that the right to health is multidimensional and its realisation depends on a great variety of factors, some being the responsibility of governments, and others not.

24. Governments have agreed on a series of priorities. They have made commitments, as part of the Millennium Development Goals (MDGs), to reduce child mortality (MDG 4), to improve maternal health (MDG 5), and to combat HIV/AIDS,[11] malaria and other diseases (MDG 6). The executive branch and its administrative offices are ultimately responsible for implementing national policies in pursuit of MDG targets. However, the constitutionally defined legislative, representative, and oversight responsibilities of the parliament position it to play a critical role. Moreover, in most countries, legislators are not only national political leaders and participants in the policymaking process, but are also often public opinion leaders.[12] This combination makes their support for MDGs doubly powerful.

25. Parliaments play a dual role in this case: to oversee government action with regard to meeting international obligations and to oversee what is being done by the international organisations or what decisions are taken at international level. It is important to understand that international affairs – including agreements concluded at international level – all start at home. Overseeing the work of international organisations is particularly important when it comes to those international organisations that do not have parliamentary oversight bodies. I would suggest, for instance, reflecting on the possibility of introducing parliamentary oversight of the work of the World Health Organization to ensure that in Europe we rigorously follow the requirements of a human-rights based approach to health care. The recent H1N1 crisis has demonstrated the need for such parliamentary oversight.[13]

26. Regarding decisions taken at international level, one should note the reforms affecting all Council of Europe sectors. The Assembly, in its Recommendation 1959 (2011) on preventive health care policies in the Council of Europe member states called for effective measures to be put in place. At the same time, however, the Committee of Ministers decided to close down the European Committee on Health (as of 2012), a Council of Europe intergovernmental committee that enabled policy development and the exchange of best practices in this field. I hope that this decision will be accompanied by other measures that will allow continuing intergovernmental co-operation in the field of health, in line with the principles and values of the Council of Europe and, in particular, with regard to the implementation of Article 11 on the right to the protection of health of the revised European Social Charter.

27. Health-related issues can also be addressed in a transversal manner, focusing on the needs of specific target groups and the specific enabling factors that have an effect on health. Such transversal action, however, requires appropriate co-ordination and a possibility to involve all stakeholders. The Council of Europe has a series of programmes addressing the needs of specific groups, which may be at risk of exclusion and for which access to the right to health is more difficult and, therefore, require specific action to be taken by member states to ensure equal access for all. The work currently carried out on the integration of

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11. The United Nations Human Rights Council Resolution 15/22 calls "(q) To consider taking the steps necessary for the elimination of criminal and other laws that are counterproductive to HIV prevention, treatment, care and support efforts, including laws directly mandating disclosure of HIV status or that violate the human rights of people living with HIV and members of key populations affected by the epidemic, and to consider the enactment of laws protecting these persons from discrimination in HIV prevention, treatment, care and support efforts".

12. Engaging parliaments in the Millennium Development Goals: a Key Part of National MDG Strategies, United Nations Development Programme, 2006.

13. See Resolution 1749 (2010) and Recommendation 1929 (2010) on the handling of the H1N1 pandemic: more transparency needed.

people with disabilities, on the inclusion of Roma people, on the protection of children and women can all incorporate health-related aspects and ensure that the specific needs of these groups are clearly defined and addressed through targeted action.

28. Parliaments should review all the existing health-related legislation within their countries to see to what extent it corresponds to international human rights standards. Parliaments should also demand that governments ensure full access to all relevant international human rights instruments, and in particular to the texts of those treaties to which the country is a party, in the national official language(s) and in formats that are accessible to all. This would include the "easy-to-read"[14] format for people with intellectual impairments and audio or Braille versions for visually impaired people.

29. I strongly believe that a new protocol on the right to health to the revised European Social Charter should be drafted in order to secure the right to health as a fundamental human right.

3.2.2. The scope of the right to health

30. As stressed by the United Nations Committee on Economic, Social and Cultural Rights, the right to health is recognised in numerous international instruments. The Constitution of the World Health Organization[15] states that "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition".[16]

31. The United Nations Human Rights Council, in its Resolution 15/22 on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health[17] calls on member states to take a series of specific measures, mentioning, for instance, the need "to ensure that relevant legislation, regulations and national and international policies take due account of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (2(*c*)). It also insists that countries "take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (2(*d*)).

32. According to the World Health Organization, the right to health is an inclusive right. We frequently associate the right to health with access to health care.[18] Yet it also includes a wide range of factors that can help us lead a healthy life. The Committee on Economic, Social and Cultural Rights, the body responsible for monitoring the International Covenant on Economic, Social and Cultural Rights, calls these the "underlying determinants of health", namely safe drinking water and adequate sanitation, safe food, adequate nutrition and housing, healthy working and environmental conditions, health-related education and information, and gender equality.[19]

33. The right to health contains freedoms, including: the right to be free from non-consensual medical treatment, such as medical experiments and research or forced sterilisation, and to be free from torture or other cruel, inhuman or degrading treatment or punishment. The right to health also contains entitlements. These include the right to a system of health protection providing equality of opportunity for everyone to enjoy the highest attainable level of health; the right to prevention, treatment and control of diseases; access to essential medicines; maternity, child and reproductive health; equal and timely access to basic health

14. See, for example, the Council of Europe Disability Action Plan 2006-2015: http://www.coe.int/t/e/social_cohesion/soc-sp/integration/02_Council_of_Europe_Disability_Action_Plan/.
15. www.who.int/governance/eb/who_constitution_en.pdf.
16. Article 25.1 of the Universal Declaration of Human Rights affirms: "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services". The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive article on the right to health in international human rights law. In accordance with Article 12.1 of the Covenant, states parties recognise "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", while Article 12.2 enumerates, by way of illustration, a number of "steps to be taken by the States parties ... to achieve the full realization of this right". See also General Comment No. 14 on The right to the highest attainable standard of health, with regard to the Article 12 of the International Covenant on Economic, Social and Cultural Rights, paragraph 2, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G00/439/34/PDF/G0043934.pdf?OpenElement.
17. www2.ohchr.org/english/issues/health/olderpersons/docs/A_HRC_RES_15_22_E.pdf.
18. The Right to Health, Factsheet No. 31, WHO and UNHCHR. June 2008, p. 10.
19. Idem.

services; the provision of health-related education and information; and participation of the population in health-related decision-making at national and community levels.[20] Finally, all services, goods and facilities must be available, accessible, acceptable, of good quality, and, above all, provided without discrimination.[21]

34. The recent developments in the European Union, including the entry into force of the Treaty of Lisbon – Treaty on the Functioning of the European Union (TFUE) – and the fact the European Union Charter for Fundamental Rights is accepted as part of the Treaty,[22] and therefore, legally binding, will substantially influence the developments with regard to the right to health in the European Union. [23]

35. The right to health should be considered as a basic human right.[24] The revised European Social Charter starts by stating, in Part I, that parties accept as the aim of their policy, the attainment of conditions in which a series of rights and principles may be effectively realised, stressing, *inter alia*, that everyone has the right to benefit from any measures enabling him or her to enjoy the highest possible standard of health attainable.

36. The revised European Social Charter also lists some specific rights: "All workers have the right to safe and healthy working conditions" (paragraph 3); "Children and young persons have the right to special protection against the physical and moral hazards to which they are exposed" (paragraph 7); "Employed women, in case of maternity, have the right to special protection" (paragraph 8); "Everyone has the right to benefit from any measures enabling to enjoy the highest possible standard of health attainable" (see paragraph 11 and Article 11); "Anyone without adequate resources has the right to social and medical assistance" (paragraph 13). In my opinion, these articles bring to the forefront the specific protection with regards to those who are employed, but, that should not mean that the Social Charter is only protecting the rights of employees. Employment should not be a limiting factor or a condition to the access to the right to health.

37. I believe that the specific efforts for employees should not preclude access to minimum standards for those who have no access to employment or are not able to work. For example, the reference to the fact that "employed women, in case of maternity, have the right to special protection" (paragraph 8), should not preclude the application of social protection measures to those women who are not employed. The fact that work-related situations are being closely monitored thanks to the revised European Social Charter is a great achievement which shows that member states are capable of achieving progress in advancing social rights. At the same time, the situation of those who are not employed should not be disregarded, as the word "everyone" is clearly referring to all members of society, whatever their status.

38. We should take due account of the rulings of the European Committee of Social Rights,[25] which has interpreted[26] the scope of the revised European Social Charter, and its Article 11 on the protection of health.[27] As far as the reference to the right to the highest possible standard of health is concerned, the

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20. Idem.
21. Idem.
22. The new Article 168 of the TFUE is not significantly different from the former Public Health Article 152 of the Treaty establishing the European Commission. The general idea of European Union action in the field of health remains the same: "Community action shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health … and this by encouraging cooperation between the member States and lending support to their action." Article 168 of the TFUE also reconfirms that "A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities." Article 25 of the European Union Charter for Fundamental Rights states that "Everyone has the right to access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities". The legal significance of the incorporation of a reference to the Charter in the TFEU is that the provisions of the Charter would become hard or binding primary Union law and no longer soft law. See also www.ehma.org/files/EU%20Briefing%20-%20The%20impact%20of%20the%20Treaty%20of%20Lisbon%20on%20EU%20Health%20Law%203.pdf (English only)
23. Idem.
24. See the Digest of the Case Law of the European Committee of Social Rights, www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008_en.pdf.
25. The Committee stressed that the right to protection of health guaranteed in Article 11 of the Charter complements Articles 2 and 3 of the European Convention on Human Rights – as interpreted by the European Court of Human Rights – by imposing a range of positive obligations designed to secure its effective exercise. The Committee has emphasised that rights relating to health embodied in the two treaties are inextricably linked, since "human dignity is the fundamental value and indeed the core of positive European human rights law – whether under the European Social Charter or under the European Convention on Human Rights – and health care is a prerequisite for the preservation of human dignity". See the Digest of the case law of the European Committee of Social Rights (1 September 2008).
26. Conclusions 2005, Statement of Interpretation on Article 11, paragraph 5.

European Committee of Social Rights stressed that, under Article 11, health means physical and mental well-being, in accordance with the definition of health in the Constitution of the WHO, which has been accepted by all Parties to the Charter.[28]

39. As far as the reference to the right of access to health care is concerned, the European Committee of Social Rights stresses that the health care system must be accessible to everyone. The right of access to care requires that the cost of health care should be borne, at least in part, by the community as a whole;[29] the cost of health care must not represent an excessively heavy burden for the individual. Steps must therefore be taken to reduce the financial burden on patients from the most disadvantaged sections of the community.[30]

40. The Committee also referred to texts adopted by the Assembly. For example, it took into consideration Assembly Recommendation 1626 (2003) on the reform of health care systems in Europe: reconciling equity, quality and efficiency, which invites member states to take as their main criterion for judging the success of health system reforms, effective access to health care for all, without discrimination, as a basic human right.[31]

41. The European Committee of Social Rights issued rulings also with regard to the other two measures, mentioned in items 2 and 3 of Article 11, namely on the obligation to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health and on the obligation to prevent, as far as possible, epidemic, endemic and other diseases, as well as accidents. We should ensure that the decisions of the European Committee of Social Rights are taken into account in our work at national level.[32]

42. Specific measures for the implementation of the right to health should be taken with regard to those categories of population that may be at risk of exclusion, with regard to some specific contexts, such as, for instance the occupational health, as well as with regard to specific enabling factors, such as the healthy environment.

3.2.2.1. Specific target groups – children, people with disabilities, women, the elderly, people experiencing poverty

43. Member states should take specific measures to ensure the right to health of children. Article 24 of the United Nations Convention on the Rights of the Child[33] clearly states that: “States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, and that they shall strive to ensure that no child is deprived of his or her right of access to such health care services”.

44. Member states also agreed to take specific measures to ensure the right to health of people with disabilities. People with disabilities[34] are more likely to face social exclusion, including the inability to access information. Article 25 on health of the United Nations Convention on the Rights of Persons with Disabilities[35] states that “States Parties[36] recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation”.

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27. International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, Decision on the merits of 3 November 2004, paragraph 31.
28. States must ensure the best possible state of health for the population in accordance with the state of knowledge at the time. Health systems must respond appropriately to avoidable health risks, namely those that can be controlled by human action. The main indicators are life expectancy and the principal causes of death. These indicators must show an improvement and not be too far behind the European average. (Conclusions 2005, Statement of Interpretation on Article 11, paragraph 5; Conclusions XV-2, Denmark, pp. 126-129, and Conclusions 2005, Lithuania, pp. 336-338.)
29. Conclusions I, Statement of Interpretation on Article 11, pp. 59-60, Conclusions XV-2, Addendum, Cyprus, pp. 26-28.
30. Conclusions XVII-2, Portugal, p. 681.
31. Conclusions 2005, Statement of Interpretation on Article 11, paragraph 5, p. 10.
32. See the Digest of the Case Law of the European Committee of Social Rights, www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008_en.pdf.
33. www2.ohchr.org/english/law/crc.htm.
34. See the Handbook for Parliamentarians on the United Nations Convention on the Rights of Persons with Disabilities “From exclusion to equality – realizing the rights of persons with disabilities”, 2007 www.un.org/disabilities/documents/toolaction/ipuhb.pdf.
35. www.un.org/disabilities/documents/convention/convoptprot-e.pdf.
36. The European Union is party to the United Nations Convention on the Rights of Persons with Disabilities.

45. These requirements were reiterated by the United Nations Human Rights Council in its Resolution 15/22. In addition, the Council of Europe Disability Action Plan 2006-2015[37] calls on member states to ensure that people with disabilities benefit from advanced technologies and innovative health care to ensure the best possible health (see Action line 9 on Health care) and to improve the quality of their life. A major aspect being systematic involvement of people with disabilities in all decisions that concern their lives, the Action Plan recommends that people with disabilities and their representatives should be consulted and fully involved in the decision-making process regarding their personal care plan. This approach places disabled people at the centre of the planning process and service provision design and empowers the individuals to make informed decisions about their health.

46. Member states should take specific measures to ensure non-discrimination with regard to women's right to health. The United Nations Convention[38] on the Elimination of All Forms of Discrimination against Women, in its Article 12, stipulates that States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure access to health care services, including those related to family planning. Moreover, states parties shall ensure appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

47. The revised European Social Charter is one of the very few treaties securing the rights of elderlypeople.[39] The ageing of the population in Europe will necessitate specific measures to secure the right to health. Article 23 of the revised European Social Charter calls for the Parties to secure the right of elderly persons to social protection, undertaking to “adopt or encourage ... appropriate measures designed in particular to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of provision of housing suited to their needs and their state of health or of adequate support for adapting their housing and through the health care and the services necessitated by their state”.

48. The Human Rights Council, in its Resolution 15/22, stresses that states should pay special attention to the situation of the poor and other vulnerable and marginalised groups, including by the adoption of positive measures, in order to safeguard the full realisation of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Adequate protection of the right to health for people in poverty or for those from minority and migrant communities remains a serious challenge, however. We, as parliamentarians, must ensure that member states take specific actions to ensure that minimum standards, including primary health care, are fully accessible to all, without discrimination.

3.2.2.2. The context

49. The right to health needs to be addressed in its application to various life situations.[40] The application of the right to health in a specific context, in particular in the context of occupational health, such as described by the International Labour Organization conventions requires that certain criteria are met to secure the health of the people in a specific setting. Occupational safety and health are guaranteed by a number of ILO conventions, namely the Occupational Safety and Health Convention (No. 155, 1981) and its Protocol of 2002, Occupational Health Services Convention (No. 161, 1985), the Promotional Framework for Occupational Safety and Health Convention (No. 187, 2006), and conventions on the protection against specific risks[41] or on health and safety in particular branches of economic activity.[42] I have to stress that, according to the ILO, each year 2.31 million workers die due to work-related accidents and diseases with 358 000 work-related fatal accidents. Workers suffer approximately 337 million occupational accidents each year.[43]

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37. https://wcd.coe.int/wcd/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=594229&SecMode=1&DocId=964216&Usage=2.
38. www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article12.
39. The Office of the High Commissioner for Human Rights recently held a public consultation on the right to health for older people, the results of which have not yet been made available.
40. See also the Resource Guide for NGOs on the Right to Health, http://shr.aaas.org/pubs/rt_health/rt_health_manual.pdf (English only).
41. Radiation Protection Convention (No. 115, 1960), Occupational Cancer Convention (No. 139, 1974), Working Environment (Air Pollution, Noise and Vibration) Convention (No. 148, 1977), Asbestos Convention (No. 162, 1986), and Chemicals Convention (No. 170, 1990).
42. Hygiene (Commerce and Offices) Convention (No. 120, 1964), Occupational Safety and Health (Dock Work) Convention (No. 152, 1979), Safety and Health in Construction Convention (No. 167, 1988), Safety and Health in Mines Convention (No. 176, 1995), and Safety and Health in Agriculture Convention (No. 184, 2001).
43. Rules of the game, A brief introduction to International Labour Standards, 2009, p. 57.

3.2.2.3. The enabling conditions

50. The right to health is influenced, first and foremost, by the environment we live in. The right to a healthy environment can be considered as an enabling factor to the right to health. However, taking into consideration the direct impact on the existence of all species, not only humans, the right to a healthy environment enlarges the spectrum of rights. The right to a healthy environment goes beyond the existing human rights to come close to the rights of all living species on Earth.[44] This is the reason why I would like to consider the right to a healthy environment in a distinct chapter.

51. The time has come for the Council of Europe to consolidate the achievements and state clearly that health is a right of its own and that policymakers need to be considering the implications on the right to health of all decisions taken by public authorities and also by private actors, including of private business. This is an imperative, in particular, when it comes to the functioning of multinational companies.

52. Scientific progress has brought a deeper understanding of the implications of the developments in the field of medicine for human rights and human dignity. Council of Europe member states should acknowledge the fact that human rights are evolving and that the laws and practices in our member states should duly reflect this, ensuring in parallel the best possible protection of human rights, and in this case, of social rights. Other Council of Europe conventional instruments, including the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (ETS No. 164, "Oviedo Convention") and its Protocols require transposition and application in our member states. Member states should keep abreast of new developments. International treaties must be ratified and implemented to ensure that scientific progress is respectful of human rights and dignity.

3.2.3. The right to a healthy environment

53. Taking account of the complementarity with the European Convention on Human Rights and the growing link that States Parties to the revised European Social Charter, and other international bodies now make between the protection of health and a healthy environment, the European Committee of Social Rights has interpreted Article 11 of the Charter (right to protection of health) as including the right to a healthy environment.[45]

54. The European Committee of Social Rights mentions in its rulings the damage to the environment in terms of air pollution, nuclear hazards for communities living in the vicinity of nuclear power plants, and the risks relating to asbestos. Under the Charter, overcoming pollution is an objective that can only be achieved gradually. Nevertheless, states must strive to attain this objective within a reasonable time, by showing measurable progress and making best possible use of the resources at their disposal.[46] The measures taken by states are assessed with reference to their national legislation and regulations and undertakings entered into with regard to the European Union and the United Nations[47] and in terms of how the relevant law is applied in practice.

55. The Committee stressed that, as far as air pollution is concerned, the guarantee of a healthy environment requires that states develop and regularly update sufficiently comprehensive environmental legislation and regulations,[48] and take specific steps, such as modifying equipment, introducing threshold values for emissions and measuring air quality, to prevent air pollution at local level[49] and to help to reduce it on a global scale.

56. I would like to mention one item that requires joint efforts – the implementation of the Aarhus Convention. The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters[50] came into force on 30 October 2001. Open to accession by states throughout the world, the convention has established new standards in environmental democracy. It is unique among multilateral environmental agreements in the extent to which it seeks to enable ordinary

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44. See the Comments by the Steering Committee for Cultural Heritage and Landscape (CDPATEP) on Parliamentary Assembly Recommendation 1885 (2009) "Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment" (Appendix 6, http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc10/edoc12298.htm).
45. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, complaint n°30/2005, decision on the merits of 6 December 2006, paragraphs 194-195.
46. Ibid., paragraphs 203 and 205.
47. Conclusions XV-2, Italy, Article 11, paragraph 3, p. 332.
48. Conclusions XV-2, Addendum, Slovak Republic, p. 213.
49. Conclusions 2005, Moldova, article 11, paragraph 3, p. 487.

people, irrespective of their citizenship, nationality or domicile, to have a say in decisions that affect their environment. The Aarhus Convention grants the public rights and imposes on parties and public authorities obligations regarding access to information, public participation and access to justice.

57. The Protocol to the Aarhus Convention, on Pollutant Release and Transfer Registers, which entered into force in 2009, is expected to exert a significant downward pressure on levels of pollution, as no company will want to be identified as being among the biggest polluters. I would strongly recommend that all Council of Europe member states that have not yet signed and ratified[51] the Aarhus Convention and its Protocol, including the Russian Federation, sign and ratify it as soon as possible. Parliaments should also keep an eye on the implementation of various environment programmes, including by scrutinising the use of member states' financial contributions aimed at environment protection.

58. I would also recommend that the right to a healthy environment be included in a new protocol to the revised European Social Charter on the right to health.

4. The role of interparliamentary co-operation in the consolidation and development of social rights

59. Countries are increasingly obliged to find joint solutions to joint problems, and it is not only governments that need to be involved, but also and especially the institutions that give governments their mandate and derive their authority directly from the people, namely parliaments.[52] Parliaments play a central role in adjusting domestic law to international standards. Legislators, as law-makers and representatives of the people, therefore need to be more proficient in their knowledge and understanding of human rights, including those relating to economic, social and cultural rights. Appropriate training may be necessary. Parliaments, in addition to their ratification of international obligations, are also responsible for adopting the necessary implementing legislation and adjusting national legislation to meet the minimum standards laid out in the treaties.

60. The role of parliaments in developing public policy should be strengthened. Parliaments should be encouraged to closely follow the work of international organisations concerned with the implementation of social rights, evaluating their work and inciting governments to pursue certain lines of action. Parliamentary co-operation plays an important role in the consolidation and development of social rights. Parliaments ensure oversight of governmental action at home. They can also ensure oversight at international level, and such scrutiny can be made even more effective through interparliamentary co-operation.

4.1. The Parliamentary Assembly as a platform for promoting social rights

61. In the last ten years, the Assembly has initiated an important number of improvements for the lives of Europeans with a view to securing their social rights. Many resolutions and recommendations have been adopted on social, health and family affairs issues. The regular debates in this Assembly have led to the adoption of specific positions on issues that require urgent action by member states. In the health field alone, to name but a few, these include: Resolution 1247 (2001) on female genital mutilation, Resolution 1460 (2005) and Recommendation 1715 (2005) on improving the response to mental health needs in Europe, Recommendation 1785 (2007) on the spread of the HIV/AIDS epidemic to women and girls in Europe, Recommendation 1794 (2007) on the quality of medicines in Europe, Resolution 1576 (2007) for a European convention on promoting public health policy in drug control, Resolution 1608 (2008) on child and teenage suicide in Europe: a serious public health issue and, most recently, Resolution 1749 (2010) and Recommendation 1929 (2010) on the handling of the H1N1 pandemic: more transparency needed.

62. Other landmark texts have been adopted and I am certain that the important debates that we have had in this Assembly have substantially contributed to the improvement of the quality of life and well-being of our peoples. A lot has been achieved, but a lot still needs to be done, as stressed most recently in Resolution 1792 (2011) and Recommendation 1958 (2011) on the monitoring of commitments concerning social rights.

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50. As of 19 August 2010, there were 44 Parties to the Aarhus Convention, 26 Parties to the Protocol on Pollutant Release and Transfer Registers and 26 Parties to the amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMOs), www.unece.org/env/pp/.

51. See status of ratification of the Aarhus Convention at www.unece.org/env/pp/ratification.htm (English only).

52. See the Opinion by the Committee on Economic Affairs and Development on parliamentary scrutiny of international institutions, Doc. 9485.

63. The Assembly should provide adequate follow-up to its resolutions in the field of social, health and family affairs to ensure progress in the consolidation of social rights. For example, taking into account the forthcoming biennial debate in the Assembly on the state of human and social rights in Europe and the recently adopted texts on combating poverty, it has been decided to debate access to social rights for people in poverty in 2013.

64. The current reform processes should reinforce the Assembly's capacity to deal with social rights issues and to find the best possible solutions through democratic debate. The Assembly should also enhance its capacity to scrutinise the social rights implementation by member states. The Assembly should also be in a position to question the decisions taken at international level if such decisions risk having a negative impact on people's lives. I should also stress that the participation of the Assembly at ministerial conferences and other high-level events organised by the Council of Europe is an essential element, even when we speak about the regional ministerial conferences such as those organised with regard to the Black See region, or South-East Europe.

4.2. The European Parliament

65. The European Parliament has been very active in the development of European Union employment and social policy. Its goal has been to combat unemployment, improve working conditions, improve living conditions for the poor and socially excluded, the elderly, children, people with disabilities, and migrant workers, and to ensure equal opportunities for women and men. The European Parliament supported a series of European Commission proposals and called for a more active Community policy in the social area to counter the increasing number of Community regulatory instruments in the economic area. It also strongly supported the concept of a European social dimension.

66. The Lisbon Treaty has strengthened the commitment of the European Union to social progress and to social rights. However, the fact remains that social policy is a competence which is shared between the European Union and its member states and that the former has only a small share of that competence – that is, on the aspects defined in the Treaty on the Functioning of the European Union (Article 4(2)(a)). However, social policy remains essentially within the competences of the member states.[53] Hence, it is very important that relevant actions are taken at national level by member states' parliaments[54] to oversee the implementation of policies that have an impact on social rights.

67. The European Parliament can exert some influence with regard to the development of the Lisbon Strategy by using its budgetary powers effectively to achieve adequate financial resources for the European Union to implement policies related to the Lisbon Strategy. In this spirit, the European Parliament gave a clear message for the 2008 budget. Cuts applied by the Council in the budget for competitiveness for growth and jobs and a reduction of payments for cohesion were not supported by the European Parliament. The latter's strategy was underpinned by the idea of a "budget for results": the allocation of financial resources must follow political priorities. The insufficient funding for competitiveness programmes was already flagged up by the European Parliament in the context of the Financial Perspective talks when the adequate funding of Lisbon goals was high on its agenda.[55]

4.3. The Nordic Council

68. The Nordic Council was established in 1952. The Council has 87 elected members from Denmark, Finland, Iceland, Norway and Sweden, as well as from the three autonomous territories: the Faroe Islands, Greenland and the Åland Islands. The members of the Council are nominated by the party groups. My country, Sweden, takes an active part in the work of the Nordic Council on the implementation of social rights.

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53. The Lisbon Treaty – a Legal and Political Analysis, Jean-Claude Piris with a foreword by Angela Merkel, p. 313.

54. The European Parliament Resolution on the development of relations between the European Parliament and National Parliaments under the Treaty of Lisbon ("the Brok report") suggests strengthening co-operation by inviting the members of the European Parliament representing the respective countries to participate in meetings of their committees on European Affairs, which is already the practice in some national parliaments. See Thirteenth bi-annual report: Developments in European Union Procedures and Practices Relevant to parliamentary Scrutiny, prepared by the COSAC Secretariat and presented to XLIII Conference of Community and European Affairs Committees of Parliaments of the European Union, May 2010, p. 31.

55. Annex to the Eighth bi-annual report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, 14-15 October 2007, Estoril, p. 155.

69. In 2010, the Nordic Council Welfare Committee selected "Good health and good quality of life for the elderly" as their primary theme, covering aspects such as housing, care and treatment, welfare technology, mental health, dementia and support to the family. The Committee visited a number of government agencies and housing facilities for the elderly in order to form an opinion of how to work with these issues on a practical level. Meetings were held with relevant ministers and experts in the Norwegian municipalities of Trondheim and Bergen. On the basis of the information obtained, the Committee took a decision to focus on three primary theme areas: research, preventive activities and practical initiatives.

70. The Welfare Committee consequently appointed a Working Group with the task of reviewing the Committee's report and establishing a final proposal for the session of the Nordic Council in Reykjavik. It was thus recommended that the Nordic Council of Ministers strengthen various types of research in order to ensure that political decisions regarding the care of the elderly are knowledge based, develop welfare technology at Nordic level, as well as establish, according to the Danish model, outreach activities at municipal level for people over the age of 75 in order to map the needs they may have.[56]

71. In 2011, the Welfare Committee chose to look more closely at the issue of large-scale housing areas in the Nordic countries that experience major social problems, and how to reduce segregation and social exclusion. The Committee will focus on how these housing areas are established, who is responsible for the neighbourhood environment, how people who live in these problem areas are feeling, both physically and mentally. During the year, the Committee will meet municipal politicians, social workers, police and other stakeholders in order to obtain as comprehensive a picture as possible of these issues. The Committee will also continue to work on other relevant issues in the social and health fields, on youth unemployment in the Nordic countries, and on psychiatric care for children and young people in the Nordic countries and the mental health of the elderly.

4.4. The Conference of Community and European Affairs Committees of Parliaments of the European Union

72. The practice of parliamentary scrutiny of public policies has been further developed through the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC).[57] The XXIX COSAC, meeting in Rome in October 2003, decided to use the biannual reporting practice to give an overview of the developments in procedures in the European Union that are relevant to parliamentary scrutiny. Most national parliaments concentrate their scrutiny efforts at national level (namely controlling their governments), irrespective of the scrutiny model they follow. Decisions on the spending of European funds require agreement at three levels, requiring scrutiny of three different forms of legislation: the multi-annual financial framework, the individual spending programmes[58] and the annual budget.[59] The three-tier scrutiny gives a broader and deeper insight into the structure of European Union financial programmes.[60]

73. As the focus of this report will be on the implementation of social rights, I would like to concentrate on the European Union Programme for Employment and Social Solidarity – PROGRESS[61] – established by the European Union for the period 2007-2013 to support financially the implementation of the objectives of the European Union in employment, social affairs and equal opportunities, as set out in the Social Agenda[62], and to contribute to the achievement of the EU Lisbon Growth and Jobs Strategy. PROGRESS[63] was amongst

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56. The recommendations also emphasise the importance of offering elderly people housing based on their individual needs, to look at the opportunities of introducing legislation concerning the duty of municipalities to support family members who are responsible for the care of a relative and a knowledge-based plan of action for people suffering from dementia in the Nordic countries. In addition, it is proposed that the Council of Ministers should arrange an ethics seminar for participants from Nordic governments, government agencies, parliamentarians, health care personnel, researchers and experts (Nordic Council Recommendation No. 26/2010).

57. COSAC was established in 1989 following the initiative of France to convene regular meetings of representatives of the respective European affairs committees of national parliaments and representatives of the European Parliament.

58. The EU budget is mainly disbursed through programmes which match the Union's political objectives with its financial means. Each programme is specific in its objectives, duration and resources.

59. The European Commission prepares a preliminary draft budget each spring and submits it to the Council. The budgetary authority, comprised of the Council and the European Parliament, amends and adopts the draft budget. The European Parliament takes decisions on non-compulsory expenditure (which covers other areas such as education, social welfare programmes, regional funds, training, etc.) in close co-operation with the Council.

60. Eighth bi-annual report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, 14-15 October 2007, Estoril, p. 6.

61. http://ec.europa.eu/social/main.jsp?langId=en&catId=327.

62. http://ec.europa.eu/social/main.jsp?catId=547&langId=en.

the most frequently scrutinised programmes for the 2007-2013 programming period. The most active parliaments in this respect were the Danish *Folketing*, the Finnish *Eduskunta* and both Houses of the United Kingdom Parliament, where systematic scrutiny of all major spending programmes took place.[64]

74. Taking into consideration the opportunities to exchange best practices offered by the COSAC, however, I would suggest also establishing co-operation between COSAC and the Parliamentary Assembly of the Council of Europe, in particular in areas of interest to the Assembly. I would invite colleagues to consider the possibility of strengthening co-operation within their national parliaments, namely between their Committees on European Affairs with the members of the Parliamentary Assembly, if such co-operation is not already in place. It should be made clear that European affairs start at home.

4.5. The Inter-Parliamentary Union

75. Speaking before the United Nations Human Rights Council in March 2011, the Inter-Parliamentary Union Secretary General, Mr Anders Johnsson, stressed the need for parliaments to participate in the Universal Periodic Review (UPR), established by the United Nations in 2006. It is a unique process which involves a review of the human rights records of all 192 United Nations member states once every four years. He stressed that parliaments' mandate to legislate and ensure executive accountability was of the utmost importance to the work of the United Nations Human Rights Council. Without parliamentary legislation and scrutiny, few of the recommendations that emerged from the UPR process would be implemented.

76. In its most recent resolution on co-operation between the United Nations, national parliaments and the IPU, the General Assembly encourages the IPU to strengthen its contribution to the Human Rights Council, "particularly as it relates to the universal periodic review of the fulfilment of human rights obligations and commitments by Member States". Experience shows that once parliaments are informed, they are keen to contribute.

4.6. The Parliamentary Network on the World Bank

77. The Parliamentary Network on the World Bank (PNoWB)[65] was founded in 2000. It is an independent, non-governmental organisation that provides a platform for parliamentarians from over 110 countries in the South and the North to advocate for increased accountability and transparency in World Bank-funded development programs.

78. The Network commented on the International Finance Corporation (IFC) Consultation on the IFC Sustainability Policy and Performance Standards and Disclosure Policy[66] in February 2011. The PNoWB refers to the IFC proposal to strengthen guidelines for client stakeholder engagement, especially with affected communities, and the IFC plans to “disclose more project-level environmental, social, and development impact information during all stages of the project, in accordance with the IFC’s approach to project categorisation”. PNoWB “applauds these initiatives but wants to ensure that Parliamentarians in particular will play an important part in the client stakeholder consultations during all stages of the project development and implementation. Traditionally, consultations include representatives from academia, the private sector, non-governmental and civil society organisations. Considering the role of parliamentarians as the direct representatives of populations affected by IFC-funded projects, PNoWB considers that it is crucial for the IFC to establish a permanent mechanism for parliamentary consultation".

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63. The scrutiny of public policies and budgets should be conducted regularly and at all levels, from the national to the European level. Accountable and effective management of public financial resources constitutes one of the most fundamental responsibilities of governments. Scrutinising these is the most important mandate for parliaments. Current European programmes, such as the European Union Social Platform; the European Union Platform against Poverty and Social Exclusion; and the European Union Programme for Employment and Social Solidarity (PROGRESS) that touch upon social, health and family affairs, need appropriate parliamentary oversight.
64. Eighth bi-annual report, op. cit, p. 41.
65. www.pnowb.org/admindb/docs/About_PNoWB_ENG_24NOV09.pdf.
66. www.pnowb.org/sites/default/files/PNoWB%20Response%20to%20IFC%20Consultation.pdf (English only).

5. Conclusions and recommendations

79. All Council of Europe member states should strive towards improving people's quality of life through an enhanced access to social rights. Parliaments have a major role to play in ensuring that governments take all measures necessary to achieve these aims. The technical authority and capacity of a parliament vary tremendously from country to country. Despite this diversity, all legislative bodies are assigned three main responsibilities:

– *Legislation:* In addition to the act of approving new laws or resolutions, the legislative function includes the introduction of new laws, debate, review and/or amendment of legislation proposed by the executive, and review and passage of the national budget, as well as ratification of international treaties (in most countries).

– *Representation:* As the directly elected representatives of a geographic constituency, parliaments are also responsible for ensuring that the needs and concerns of a specific portion of the population are included in the policymaking process. Consequently, activities that fall under the representation function range from direct communication with citizens to the incorporation of local issues into national policy debates or legislation.

– *Oversight:* Parliaments are also intended to serve as built-in mechanisms to monitor and evaluate executive implementation of national policy. In this capacity, national or regional assemblies seek out information on the prioritisation of specific policies or issues, the allocation and use of funds, and the effectiveness of specific initiatives. To do this, parliaments rely on mechanisms such as committee investigations, requests for regular briefings or testimony from ministerial representatives, and public hearings to gather information from non-government sources on a specific issue.

80. Although easy to separate conceptually, these responsibilities are substantially intertwined in practice. All these parliamentary functions, therefore, have to be fully used in order to consolidate and develop social rights in the member states. Parliaments must ensure that all international social rights standards are taken into account when treaties are drafted and entered into, when new legislation is prepared or when existing laws are revised at national level. This report provides recommendations for action to be taken by parliaments. I therefore invite all Council of Europe member states to take action without further delay.