

SHORT CONSIDERATIONS REGARDING THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS ENSHRINED IN THE REVISED EUROPEAN SOCIAL CHARTER

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Abstract

The present study started from our wish to present to the large audience the economic, social and cultural rights enshrined in an international legal instrument, adopted by the Council of Europe, instrument that is not very under scrutiny by the specialists. The revised European Social Charter completes the Convention for the Protection of Human Rights and Fundamental Freedoms, and should be interpreted as creating fundamental economic, social and cultural rights. Although contested sometimes, because of its construction, as having a limited purpose, different than the Convention for the Protection of Human Rights and Fundamental Freedoms, we consider that it was conceived like this in order to offer flexibility, giving the chance to the states to choose the rights they will guarantee. We consider that disseminating the revised European Social Charter would increase the domestic reforms in the social area and would facilitate the insurance of the economic, social and cultural rights specified under this instrument, in order to improve the level of life and to promote the social welfare of the member states of the Council of Europe.

Keywords: revised European Social Charter; Council of Europe; economic, social and cultural rights, European Committee of Social Rights.

JEL Classification: K33, K38

1. Introductory considerations on the economic, social and cultural rights

Human rights have always been a concern for mankind, by thinking that, given their special quality of human beings, people have certain rights. Despite the fact that, over the time, there have been lawmakers who opposed the acknowledgment of human rights (*e.g.* in totalitarian states), as a consequence of the evolution of mankind, the expression of “human rights” has been enshrined.

The most prolific period for the acknowledgment of human rights, as well as for the protection of such rights, was the period after the Second World War (*i.e.* Universal Declaration of Human Rights adopted by the United Nations on December 16th, 1948, the Convention for the Protection of Human Rights and Fundamental Freedoms developed by the Council of Europe and signed on November 4th, 1950).

Given the atrocities of that period, it has been increasingly emphasized that these rights were inherent to human nature, and their denial determined the situation of man being impoverished precisely by the attributes of human being, leading to armed conflicts between states and hostilities between people.

The human rights catalogue resulting from international instruments is divided into several categories of rights, depending on several criteria. The most important criterion is the nature of rights, according to which we can distinguish the following: civil rights³, political rights⁴, economic and

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³ The category of *civil* rights includes, for example, the right to life, the right to liberty and security of person, the right not to be subject to torture, the right not to be held in slavery, the right not to be arbitrarily arrested, detained or expelled, equality of rights between women and men, the right to citizenship.

⁴ The category of *political* rights includes, for example, the right to freedom of thought, conscience and religion, the right to peaceful assembly, the right to vote and to be elected, the right of asylum.

social rights⁵, as well as cultural rights⁶.

The economic, social and cultural rights are second generation rights, which entail the positive intervention of the states in order to create the material and social conditions required for the fulfillment thereof:

a) economic and social rights: *e.g.* the right to work (including the right to free choice of work), the right to just and favorable working conditions, the right to equal pay for equal work, the right to rest and leisure, the right to social insurance, the right to health;

b) cultural rights: *e.g.* the right to education, the right to participate in cultural life, the right to benefit from technical progress and its applications, the right to benefit from the protection of patrimonial and non-patrimonial rights deriving from its own creations;

By analyzing the evolution of human rights, we note that one of their configuration factors is globalization, which put its mark on them, both from a positive and a negative perspective. The positive aspect is related to the notion of legal transplantation, given that, with the help of internet and trade development, the knowledge and practice of human rights has improved. The negative aspect, however, refers to the economic and social rights which, once the migration has occurred, have failed to evolve, due to the fact migrant workers do not benefit from better living and working conditions in the states where they choose to work, thus being obviously disadvantaged. We notice that the environment is increasingly affected⁷, the underdevelopment of some regions worsens, creating great economic differences between people.

The effective promotion and safeguard of human rights is fulfilled based on the intergovernmental cooperation carried out within the universal, regional, sub-regional and national organizations, as well as by benefiting from the help of non-governmental organizations and various humanitarian institutions. Mass-media also plays an important role.

The international organizations create, on the one hand, conventional sources applicable to human rights (*e.g.* conventions, treaties, declarations), and, on the other hand, effective protection mechanisms that may have a legal or political nature.

In what concerns the economic, social and cultural rights, contemplated by our research, we mention that they have been recognized by means of several international instruments, at the universal level (*e.g.* the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948, the International Covenant on Economic, Social and Cultural Rights⁸ adopted by the General Assembly in 1966), and at the European level (*e.g.* the European Social Charter which became effective in 1965, the Charter of Fundamental Rights of the European Union proclaimed in 2000).

2. The rights protected by the revised European Social Charter

Established on May 5th, 1949, the Council of Europe was the first post-war European intergovernmental organization to promote fundamental human rights and freedoms, as well as democratic values.

Currently, the Council of Europe is the largest human rights organization of Europe, consisting of 47-member states of the European continent (including the 28 European Union member states). The Council of Europe is renowned for many human rights regulations⁹.

⁵ The category of *economic and social* rights includes, for example, the right to work, the right to equal pay for equal work, the right to safe and healthy working conditions, the right to paid leave, the right to social insurance, the right to health (which implies a person's right to enjoy the best physical and mental health that he/she can achieve).

⁶ The category of *cultural* rights includes, for example, the right to education, the right to participate in cultural life, the right to benefit from scientific and technical progress, the right to benefit from the protection of patrimonial and non-patrimonial rights deriving from its own creations.

⁷ This is also the reason for increasing national interest in studying environmental law – see, for example, Mircea Dutu, Andrei Dutu, *Dreptul mediului*, 4th edition, C.H. Beck Publishing House, Bucharest, 2014, Ramona Duminičă, *Introducere în dreptul mediului*, Universitară Publishing House, Bucharest, 2015, Cristina Oneț, *Dreptul mediului*, Universul Juridic Publishing House, Bucharest, 2017.

⁸ See http://www.avp.ro/drepturile%20omului/tratate%20onu/5_pact.pdf [last visited on 08.11.2018].

⁹ See the list of all these regulations on the website of the organization, www.coe.int [last visited on 08.11.2018]. For example, the European Social Charter (1961), The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or

The most important regulation in the field is undoubtedly the *Convention for the Protection of Human Rights and Fundamental Freedoms*, designed to protect, in the first place, civil and political rights¹⁰ of human being, democracy and the rule of law. The human rights protection mechanism enshrined in the Convention is considered the most advanced in the world, its effectiveness being due to the right of individual applications (art. 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms) as a consequence of the acceptance of the binding force and execution of judgments of the European Court of Human Rights (art. 46 of the *Convention for the Protection of Human Rights and Fundamental Freedoms*).

On the other hand, the Council of Europe adopted the *European Social Charter*, which was opened for signature in Turin in 1961 and enforced in 1965, which is a treaty of the Council of Europe, guaranteeing human fundamental social, economic and cultural rights. This treaty is deemed to be the social Constitution of Europe.

At the time of its drafting, the question was why such an instrument was needed after the adoption of the International Covenant on Economic, Social and Cultural Rights. The truth is that no other Pan-European instrument can offer such complete protection of social rights. This is also evident from the fact that this instrument is also a reference point for the European Union law which developed the Charter of Fundamental Rights of the European Union, on relevant articles of the European Social Charter.

On May 3rd, 1996, the European Social Charter was subject to a review in order to adapt it to the social and economic developments, thus allowing its scope to be extended to a new series of economic and social rights.

By making a careful analysis of the revised European Social Charter¹¹, we can notice that it is structured as follows:

1. The Preamble where the Parties declare that they agreed on the wording of the Charter, given that: „by the *European Social Charter* (...) the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified in order to improve the standard of living and to promote their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus”;

2. Part I where “*The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realized*”;

3. Part II where “*The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs*”:

- 1) the right to work (art. 1);
- 2) the right to just conditions of work (art. 2);
- 3) the right to safe and healthy working conditions (art. 3);
- 4) the right to a fair remuneration (art. 4);
- 5) the right to organize (art. 5);
- 6) the right to bargain collectively (art. 6);
- 7) the right of children and young persons to protection (art. 7);
- 8) the right of employed women to protection of maternity (art. 8);
- 9) the right to vocational guidance (art. 9);
- 10) the right to vocational training (art. 10);
- 11) the right to protection of health (art. 11);
- 12) the right to social security (art. 12);

Punishment (1987), Framework Convention on the protection of national minorities (1995), the revised European Social Charter (1996).

¹⁰ Exceptions: the ban of forced labor, trade union freedom, the right to training (social rights). Subsequently, the ownership right recognized by the Additional Protocol no. 1 (economic right).

¹¹ Available on <https://rm.coe.int/168047e170> [last visited on 08.11.2018].

- 13) the right to social and medical assistance (art. 13);
- 14) the right to benefit from social welfare services (art. 14);
- 15) the right of persons with disabilities to independence, social integration and participation in the life of the community (art. 15);
- 16) the right of the family to social, legal and economic protection (art. 16);
- 17) the right of children and young persons to social, legal and economic protection (art. 17);
- 18) the right to engage in a gainful occupation in the territory of other Parties (art. 18);
- 19) the right of migrant workers and their families to protection and assistance (art. 19);
- 20) the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (art. 20);
- 21) the right to information and consultation (art. 21);
- 22) the right to take part in the determination and improvement of the working conditions and working environment (art. 22);
- 23) the right of elderly persons to social protection (art. 23);
- 24) the right to protection in cases of termination of employment (art. 24);
- 25) the right of workers to the protection of their claims in the event of the insolvency of their employer (art. 25);
- 26) the right to dignity at work (art. 26);
- 27) the right of workers with family responsibilities to equal opportunities and equal treatment (art. 27);
 - i. the right of workers' representatives to protection in the undertaking and facilities to be accorded to them;
- 28) the right to information and consultation in collective redundancy procedures (art. 29);
- 29) the right to protection against poverty and social exclusion;
- 30) the right to housing (art. 31);

4. Part III:

31) Article A – Undertakings:

„1. Subject to the provisions of Article B below, each of the Parties undertakes:

a) to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;

b) to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;

c) to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs. (...)”

32) Article B – Links with the European Social Charter and the 1988 Additional Protocol;

5. Part IV:

33) Article C – Supervision of the implementation of the undertakings contained in this Charter;

34) Article D – Collective complaints;

6. Part V:

35) Article E – Non-discrimination;

36) Article F – Derogations in time of war or public emergency;

37) Article G – Restrictions;

38) Article H - Relations between the Charter and domestic law or international agreements;

39) Article I - Implementation of the undertakings given;

40) Article J – Amendments;

7. Part VI:

41) Article K: Signature, ratification and entry into force;

42) Article L: Territorial application;

43) Article M: Denunciation;

44) Article N: Appendix (*i.e.* the scope of the revised European Social Charter in what concerns protected persons¹²);

45) Article O: Notifications.

In spite of criticism of the declarative value of Part I, it is obvious, however, that it is the most evolved catalogue of economic, social and cultural rights (*e.g.* enshrines in art. 30 the right to protection against poverty and social exclusion and in art. 31 the right to housing, which are not enshrined in any other treaty, to our knowledge).

We underline that the text of the Charter completes the Convention for the Protection of Human Rights and Fundamental Freedoms and must be interpreted as creating fundamental economic, social and cultural rights. This is normal due to the fact there cannot be complete isolation between civil and political rights, on the one hand, and economic, social and cultural rights, on the other hand.

The link between these two instruments was also pointed out by the idea launched by specialists at one point in time, namely to link the two conventional texts, by adopting the European Social Charter by an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. Unfortunately, this idea came to nothing, a legal regime difference being preserved between the two categories of rights, since the economic, social and cultural rights depend on the economic condition of the states, adapted national economic policies being required. The issue of their guarantee arises in the event of an economic crisis, when the states reserve the right to reduce social, economic and cultural rights.

Furthermore, the economic, social and cultural rights provided by the European Social Charter were the rights of a certain period and, given that they were drafted in 1961, we wonder whether they are still up to date, or if they should be adapted to present? It is well known that we are talking about human rights times. Furthermore, did they correspond to a particular economic model of a state? Is it out-of-date?

Within the Charter, unlike the Convention for the Protection of Human Rights and Fundamental Freedoms, the right to obtain just satisfaction (art. 41 of the Convention for the Protection of Human Rights and Fundamental Freedoms) is not available in case of the violation of the rights enshrined in the Charter, which raises the question on the effectiveness of the economic, social and cultural rights. We disagree with the view that if there is no judicial control enshrined in an international instrument, then there is no law. We believe, however, that we are in the presence of *soft law*.

3. European human rights protection mechanism established by the revised European Social Charter

In what concerns the European mechanism for the protection of economic, social and cultural rights, established by the European Social Charter, we underline that in its initial form, the Charter provided only a reporting system, without efficient implementation measures. By means of this reporting system, the states were bound to deliver a report to the Secretary General of the Council of Europe, every two years. This report concerned the accepted provisions of Part II of the Charter. Furthermore, the states were bound, within the deadlines established by the Committee of Ministers of the Council of Europe, to deliver another report to the Secretary General on the provisions of the Charter which they had not accepted.

These reports were reviewed by a Committee of Experts (7 independent experts, appointed by the Committee of Ministers for 6 years, without the possibility of being reelected), by taking part in the debates, and a representative of the International Labor Organization which had an advisory role.

The Council of Europe by the Secretary General delivered the conclusions to the experts of the Parliamentary Assembly, which delivered its opinion on the respective conclusions. Following this parliamentary consultation, the Committee of Ministers, with a two-third majority, could make recommendation to the parties.

¹² Available at <https://rm.coe.int/168047e170> [last visited on 08.11.2018], p. 75.

By *Protocol amending the European Social Charter 1991*, the reporting system was amended¹³, thus enhancing the competences of the Parliamentary Assembly which supervised the activity of the Committee of Ministers in connection with the fulfillment of the provisions of the Charter.

Subsequently, by *Additional Protocol of 1995*¹⁴ and by the *revised European Social Charter*¹⁵, the collective complaints procedure was created, which entailed complaints that could be formulated under certain conditions by international organizations of employers and workers who participated in the activity of the Governmental Committee, non-governmental organizations with consultative status at the Council of Europe and listed on a special list of the Governmental Committee, national organizations of employers and workers from the states concerned, as well as from other non-governmental organizations (if the state grants them this right under a declaration addressed to the Secretary General).

Therefore, the fulfillment by the states of the commitments made under the Charter is ensured by means of the European Committee of Social Rights, consisting of 15 independent and impartial members elected by the Committee of Ministers of the Council of Europe, for six-year term, a term of office that can be renewed only once.

The compliance with the Charter is performed under two mechanisms¹⁶: (i) collective complaints lodged by the social partners and other non-governmental organizations, as well as (ii) national reports drawn up by the contracting parties.

The collective complaints procedure entails the verification of the admissibility of the petition, the issuance of the admissibility decision and the drafting of the final report by the Committee of independent experts, delivery and publication of the report by the Parliamentary Assembly of the Council of Europe, as well as the implementation of the recommendation made by the Committee of Ministers.

Given that the decisions and conclusions of the European Committee of Social Rights are based on legal regulations, they must be fulfilled by the states concerned, even if they are not enforceable directly in the national systems.

Furthermore, taking into account that these economic, social and cultural rights cannot be applied in the void, we would like to underline that the case-law of the European Court of Human Rights contributes to the convergence of these two international conventions (*e.g.* the right to a healthy environment).

Furthermore, it can be noticed that the judges in Strasbourg sometimes deviate from the findings of the European Committee of Social Rights, by being aware of this fact. In this respect, it is relevant an extract from the dissenting opinion of judges Pinto de Albuquerque and Vehabović comprised in the judgment *Garib vs. the Netherlands*: “A number of international authorities and bodies have shown particular concern about the Dutch housing policy at issue in the present case. The majority have quite simply ignored the reiterated and consistent positions of the (...) the ECSR (the European Committee of Social Rights), (...) as to the specific question discussed here. (...) It is particularly hard to comprehend why the highly commendable work of the ECSR, which is the competent body on questions of the right to housing and discrimination in access to housing, has been ignored”¹⁷.

4. Final considerations

Human rights and economic and social development are interdependent. In this respect, there is art. 55 of the Charter of the United Nations, which provides as follows: “*With a view to the creation*

¹³ For further information, see <https://rm.coe.int/168048b059> [last visited on 08.11.2018], p. 31.

¹⁴ Enforced on July 1st, 1998.

¹⁵ Enforced in 1999.

¹⁶ For further information, see <https://www.coe.int/en/web/turin-european-social-charter/european-committee-of-social-rights> [last visited on 08.11.2018].

¹⁷ See case *Garib vs. the Netherlands* (application no. 43494/09), judgment of 06.11.2017, The dissenting opinion of judges Pinto de Albuquerque and Vehabović, para. 28.

of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote; a. higher standards of living, full employment, and conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹⁸

All people should fight in order for poverty, sickness or ignorance to no longer exist, because it is our responsibility to ensure a minimum standard of living in order for human rights and freedoms to be truly respected.

The European Social Charter is the equivalent of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Council of Europe’s wish being that of establishing two conventions on the fundamental human rights, for civil and political rights, on the one hand, and for economic, social and cultural rights, on the other hand.

Therefore, the European Social Charter completes the Convention for the Protection of Human Rights and Fundamental Freedoms¹⁹, and must be interpreted as creating fundamental economic, social and cultural rights.

The case-law of the European Court of Human Rights contributes to the convergence of these two international conventions (e.g. the right to a healthy environment), although sometimes the Court is in contradiction with the decisions of the European Committee of Social Rights, as we mentioned above.

This instrument is sometimes contested because it would have a limited scope, different from the Convention for the Protection of Human Rights and Fundamental Freedoms, Part I of the Charter having a declarative value, while Part III of the Charter including the commitments of the Contracting States. This proves to us the flexibility of the Charter which enabled the member states to choose the rights they would guarantee, thus being different from the Convention for the Protection of Human Rights and Fundamental Freedoms.

Given that there are not two states with the same economic development, and therefore not the same resources, it is obvious that the level of economic, social and cultural rights is also different.

Over time, there could be noted a concern of the intergovernmental organizations to adopt a common regulation in all fields, especially in the field of human rights. International law topics are permanently looking for solutions “for establishing control over economic and social evolution, so that to mitigate adverse effects of globalization on the exercise of the fundamental human rights”²⁰.

We note that increased attention has been lately paid to the revised European Social Charter and we will provide below two major arguments.

The first argument is that, on October 8th, 2018, the first meeting between the European Committee of Social Rights within the Council of Europe and the Committee for the economic, social and cultural rights within the United Nation took place. This meeting offered the opportunity to understand the procedures and challenges of both Committees, which sought to cooperate. One of the subjects of the meeting was the interpretation of the European Social Charter by the European Committee of Social Rights.

The second argument is that an Academic network on the European Social Charter and social rights has been established in order to draft a volume of comments on the articles of the European Social Charter and for a better visibility of the activity of the European Committee of Social Rights (in French, *Réseau académique sur la Charte sociale européenne et les droits sociaux* - R.A.C.S.E.²¹).

¹⁸ Charter of the United Nations, available online at <https://lege5.ro/Gratuit/g42diobv/carta-natiunilor-unite-din-26061945> [last visited on 08.11.2018].

¹⁹ At one point, there has been discussed the possibility of linking the two conventional instruments directly, by attaching the Charter as a protocol to the Convention. Unfortunately, this proposal was not accepted due to the difficulty of reaching a compromise on the commitments made by the contracting states.

²⁰ Nicolae Purdă, Nicoleta Diaconu, *Protecția juridică a drepturilor omului*, 3rd edition, Universul Juridic Publishing House, Bucharest, 2016, p. 55.

²¹ See <https://anescracse.wordpress.com/presentation/> [last visited on 08.11.2018].

R.A.C.S.E. members are mainly renowned university professors from European university centers, as well as lawyers and practitioners of law, whose work is related to the topic and practice of human rights and, in particular, of the European Social Charter, familiar with the work of the European Committee of Social Rights.

These two arguments prove the increased interest in the protection of economic, social and cultural rights, a fact that we enjoy because civil and political rights are equal in importance and they must be given the same attention.

Furthermore, the doctrine highlights that in cases where the economic, social and cultural rights of humans are violated, personal liability of the important leaders of the state can be engaged, in accordance with international criminal law (*e.g.* in case of armed conflict, not only the violation of civil and political rights can lead to the application of the international criminal law, but also the violation of the economic, social and cultural rights, with many victims losing their lives because of hunger, cold or diseases that could be prevented).

All these arguments lead us to the conclusion that economic, social and cultural rights are not just aspirations, but rights the protection of which must be guaranteed by the states. Given that, over the time, the distinction between civil and political rights, on the one hand, and economic, social and cultural rights, on the other hand, has disappeared, some economic and social rights being considered as inherent to human dignity (*e.g.* right to health, right to education), we believe that this will always be the proof of the fulfillment of such protection.

The conclusion is obvious because the international law recognizes only these rights which “results from the universal entity of human being”²². Although questions about fragmentation²³ of the international law are always raised, which would threaten the complex legal system created by international law topics, we believe, however, that, at the level of human rights, we are witnessing a convergence process characterized by coherence and unity.

Bibliography

1. Lisa-Maria Achimescu, *Teoria nivelurilor normative. O analiză a sistemului normativ al drepturilor omului la nivel internațional*, published in „Bulletin of the 'Carol I' National Defence University”, September 2017.
2. Mircea Dutu, Andrei Dutu, *Dreptul mediului*, 4th edition, C.H. Beck Publishing House, Bucharest, 2014.
3. Ramona Duminiță, *Introducere în dreptul mediului*, Universitară Publishing House, Bucharest, 2015.
4. Raluca Miga-Beșteliu, Catrinel Brumar, *Protecția internațională a drepturilor omului. Note de curs*, 4th edition revised, Universul Juridic Publishing House, Bucharest, 2008.
5. Cristina Oneț, *Dreptul mediului*, Universul Juridic Publishing House, Bucharest, 2017.
6. Nicolae Purdă, Nicoleta Diaconu, *Protecția juridică a drepturilor omului*, 3rd edition, Universul Juridic Publishing House, Bucharest, 2016.

²² Raluca Miga-Beșteliu, Catrinel Brumar, *Protecția internațională a drepturilor omului. Note de curs*, 4th edition revised, Universul Juridic Publishing House, Bucharest, 2008, p. 24.

²³ For further details on the international law fragmentation, see Lisa-Maria Achimescu, *Teoria nivelurilor normative. O analiză a sistemului normativ al drepturilor omului la nivel internațional*, published in the Bulletin of Universitatea Națională de Apărare „Carol I”, September 2017, p. 38 and the following, available at <https://spodas.unap.ro/revista/index.php/revista/article/download/368/345> [last visited on 08.11.2018].