

Consultation for an Action Plan to Implement the European Pillar of Social Rights

ENNHRI submission

ENNHRI, the European Network of National Human Rights Institutions, welcomes the [commitment](#) of the new European Commission leadership to ensure that the European Pillar of Social Rights has real impact on the enjoyment of economic and social rights in the EU. We are delighted to contribute to the [consultation](#) for an Action Plan to implement the Pillar. A number of ENNHRI members will submit their individual contributions which will be available on ENNHRI's website.

ENNHRI and NHRIs: Defending economic and social rights in Europe

National Human Rights Institutions (NHRIs) monitor and investigate the economic and social rights situation in their country. They report to parliaments and governments, as well as to European bodies, such as the [European Committee of Social Rights](#) and UN treaty bodies like the [UN Committee on Economic, Social and Cultural Rights](#). Their findings, research and advice inform the design and implementation policies impacting on economic and social rights. Through complaints handling, interventions before courts and legal assistance, NHRIs contribute to individuals' access to justice. When economic and social policies have an adverse impact on individuals' rights, NHRIs can provide information about available remedies.

Through ENNHRI's [Economic, Social and Cultural Rights Working Group](#), we have focused on human rights in times of [austerity](#) and a [human rights-based approach to addressing poverty](#), and created [tools](#) to strengthen European NHRIs' impactful work on economic and social rights.

In the framework of the [CoE-FRA-ENNHRI-Equinet Collaborative Platform on Social and Economic Rights](#), we [supported](#) the Turin Process to strengthen social rights in Europe and enhanced European NHRIs' work towards the ratification and implementation of the [\(Revised\) European Social Charter](#).¹ We also [contributed](#) to a public consultation on the Pillar in 2016, [studied synergies](#) between the Pillar and the European Social Charter, and [involved](#) the European commission in the preparation of this submission.

¹ The Council of Europe's European Social Charter of 1961 and Revised European Social Charter of 1996.

An increasing role of NHRIs in the EU

The EU Agency for Fundamental Rights [recalls](#) that all EU Member States should have independent, effective and impactful NHRIs that comply with the [UN Paris Principles](#) to deliver and promote human and fundamental rights more effectively. All EU Member States either [have an NHRI or are working towards the establishment](#) of one - including with a support of ENNHRI.

NHRIs provide a credible insight into human rights realities on the national level including in relation to the socio-economic context. The EU will need trusted national partners to assist in the implementation of the Action Plan on the Social Pillar. As independent, state-mandated bodies, NHRIs support the EU in achieving its objectives through providing human rights expertise on EU policies and reporting to the EU on the national context and developments. An example of this is NHRIs' recent participation in the [EU's first rule of law monitoring cycle](#).

The EU has recognised NHRIs' role in number of recent policy-documents and processes.² Through formal cooperation with the EU, and provision of adequate resources, NHRIs and ENNHRI can help increase the impacts of EU actions.

Towards a Europe of social rights: Key recommendations

Embed the Action Plan in international and regional human rights frameworks and SDGs

All the principles of the Pillar echo rights already enshrined in [the EU Charter of Fundamental Rights](#) and other international and regional human rights frameworks. All [EU Members states are party](#) to the [UN International Covenant on Economic, Social and Cultural Rights](#), part of the Council of Europe Social Charter treaties system³ and bound by the EU Charter of Fundamental Rights when implementing EU law.

ENNHRI recommends the Action Plan to recall that the EU Member States have obligations under international human rights law, including economic and social rights frameworks. In line with the [Council Conclusions](#) on EU priorities for cooperation with the Council of Europe in 2020-2022, we further recommend to link the Action Plan to the [\(Revised\) European Social Charter](#). Similarly, the Action Plan should reference the [UN International Covenant on Economic, Social and Cultural](#)

² [Council Conclusions on the Charter of Fundamental Rights after 10 Years](#) (2019), [European Commission's first annual report on rule of law](#) (2020), [European Parliament's 2020 draft proposal on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights](#).

³ The Council of Europe's European Social Charter of 1961 and Revised European Social Charter of 1996.

[Rights](#) and take into account the findings and recommendations of the international and regional human rights mechanisms.

At the EU level, we recommend the Action Plan to be interconnected [with the New Strategy for the Implementation of the Charter of Fundamental Rights](#). This Strategy should develop a pathway for ensuring the inclusion of the Charter in the development of the Action Plan on the Pillar. All policies stemming from the Pillar should not only refer to, but also comply with, the Charter. A fundamental rights impact assessment of EU policies (while using the social provisions of the Charter) can help to avoid adverse impacts of these policies on people's fundamental rights. Additionally, the European Semester, with its country-specific recommendations and annual growth survey recommendations, should take into account the social rights enshrined in applicable international and regional human rights frameworks including the social provisions of the EU Charter.

Moreover, the Action Plan should set a clear objective of the Pillar to contribute to the [2030 Agenda for Sustainable Development](#) while referencing the SDG indicators as tools to monitor implementation of the Social Pillar. The European Semester's Country Reports and Country Specific Recommendations should reference relevant specific principles of the Pillar, articles of the EU Charter, and Sustainable Development Goals.

NHRIs play a role across all these frameworks and can contribute to the coherence and create interlinkages among them. NHRIs are well placed to advise the EU and its Members States on human rights compliance of policies related to the Pillar. NHRIs should also be included in the European Commission's [Impact Assessment Methodology](#) and be consulted during the drafting of new legislative acts arising from the Pillar, especially considering [compliance with the Charter](#).

Integrate a human rights-based approach across the Action Plan and its application

The human rights-based approach includes principles of equality, participation and accountability. The Action Plan should underline the equality principle and ensure that the most vulnerable are able to enjoy the Principles of the Pillar. We also recommend that the Action Plan puts in place a mechanism to guarantee meaningful participation of rights-holders and organisations enabling their participation (including NHRIs). In order to achieve greater accountability, the EU Commission should regularly review the implementation of the Action Plan while [the Social Scoreboard](#) can be improved by using human rights indicators and a [human rights-based approach to data](#) which disaggregates data along the recognised grounds of discrimination.

Put in place a systematic and regular human rights impact assessment of EU policies as a part of the Action Plan to avoid retrogression and discriminatory impact

EU Member States may face [conflicting obligations between EU structural reform](#), macroeconomic governance, and regional and international human rights standards. For instance, they may be subjected to EU fiscal consolidation measures that are in conflict with their obligation to prevent retrogressive and discriminatory policies.

In this regard, we welcome the proclamation of the Pillar by the EU as an attempt to equalise social policies with macroeconomic policies. The Pillar can provide a solid framework and guide processes such as the European Semester.

Impact assessments have been recognised as obligatory procedural requirements at both the UN and Council of Europe levels.⁴ We recommend that the Action Plan puts in place systematic and regular [human rights impact assessments](#) (beyond the EU Charter) on all legislative and policy proposals and measures by the EU and Member States. To avoid potential negative impacts of economic policies, especially on disadvantaged individuals and groups, inspiration can be drawn from the [UN Guiding Principles on Human Rights Impact Assessment of Economic Reforms](#).

As we mentioned in our [statement on the EU's economic response to COVID-19](#), recovery plans could either alleviate or widen inequalities. Human rights impact assessment of the EU economic recovery tools – such as the [Regulation](#) establishing the Recovery and Resilience Facility and the [Next Generation EU recovery plan](#) – can help to protect people against discrimination and widening inequalities. At the national level, NHRIs should be recognised as valuable actors in advising governments on the HRIA of their national recovery plans and in ensuring that they contribute to the 2030 Agenda.

Ensure that updated framework on Minimum Income Protection is based on human rights

The recent [Council Conclusions on “Strengthening Minimum Income Protection to Combat Poverty and Social Exclusion in the COVID-19 Pandemic and Beyond”](#) call on the Commission to update the EU framework to support and complement the policies of Member States on national minimum income protection. This proposal would be one of the key EU initiatives in the Action

⁴ The UN CESCR has [underlined that](#) both borrowing and lending states should carry out human rights impact assessments to examine whether loan conditionalities have a negative impact on human rights. The European Committee of Social Rights [found Greece in violation](#) of the European Social Charter because it failed to conduct impact assessments of the austerity measures it introduced back in the crisis of 2010.

Plan to implement the Pillar and we recommend that it includes the human rights obligations applicable to EU Member States.

We recommend that any social security schemes should meet the criteria of availability, adequacy, affordability and accessibility and comply with an adequate framework of [participation, transparency, and accountability](#). Therefore, any legislative or policy measure proposed in the area of social protection, including the minimum income, under the Action Plan should reflect and integrate these criteria, and monitor how they are integrated.

We recommend that the European Commission involves NHRIs and ENNHRI in EU-level legislative and policy- initiatives and EU recommendations to Member States when implementing the right to an adequate minimum income as an action under the Action Plan.

Include NHRIs and ENNHRI as allies in reinforcing Europe of Social Rights

In the framework of the Action Plan, ENNHRI recommends that NHRIs next to the civil society and social partners are directly and independently consulted on the implementation of the European Pillar of Social Rights. NHRIs can monitor the national implementation of the Principles of the Pillar and promote awareness of the Pillar at the national level. NHRIs can thereby contribute to the coherence of the Pillar's actions at the national level with regional and international human rights standards and SDGs. Adequate resources and capacity strengthening should be provided, enabling NHRIs to ensure the effective execution of their broad mandate

Additionally, the Action Plan should consider engaging NHRIs and ENNHRI during the European Semester process as with their expertise and adequate resources, [NHRIs can advise on human rights impact assessments](#)⁵ of proposed policies and underline potential negative effects, especially on vulnerable groups. Well-resourced NHRIs can carry out human rights impact assessments transparently and with the meaningful participation and consultation of those most affected. This way, they can prevent and mitigate potentially negative effects of policies, especially on marginalised and vulnerable groups in the EU.

NHRIs and ENNHRI can report to the European Commission on implementation of the [Country Reports](#) and [Country Specific Recommendations](#). The added value of NHRIs' inclusion in the European Semester process lies in their capacity to provide informed human rights-based advice to the European Commission, tailored to the situation in each individual Member State. The Commission should engage with NHRIs to benefit from their human rights expertise and

⁵ The inclusion of NHRIs in human rights impact assessments [was also stressed](#) by the former UN Special Rapporteur on the Right to Adequate Housing.

knowledge of the situation on the ground. NHRIs and ENNHRI's input should be considered when drafting both Country Reports and Country Specific Recommendations.

[ENNHRI](#) is a network of 46 National Human Rights Institutions (NHRIs) in Europe, covering 26 of 27 EU Member States.⁶ We work to enhance the promotion and protection of human rights, including economic and social rights, in Europe. Our network provides a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level. Economic and social rights are one of our main priorities areas of work.

[NHRIs](#) are state-mandated bodies, independent of their governments, with a broad constitutional or legal mandate to promote and protect human rights at the national level. NHRIs are accredited against the [UN Paris Principles](#) and address the full range of human rights, including civil, political, economic, social and cultural rights.

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⁶ As no NHRI exists in Malta or Italy, ENNHRI does not have a member in those two EU Member States. ENNHRI is supporting the establishment of an NHRI in compliance with the UN Paris Principles in both EU Member States.