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**THE PROTECTION OF ECONOMIC AND SOCIAL RIGHTS OF
CHILDREN IN TIMES OF FINANCIAL CRISIS:
THE CHALLENGES**

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THE PROTECTION OF ECONOMIC AND SOCIAL RIGHTS OF CHILDREN IN TIMES OF FINANCIAL CRISIS: THE CHALLENGES

The adoption in 1989 of the United Nations Convention on the Rights of the Child (CRC), 25 years ago, signalled international recognition of children as legal rights holders. In the intervening years this recognition has permeated through other international instruments such as the European Convention on Human Rights (ECHR) and its case law as well as specialised instruments that deal with precise aspects of children's rights.

The European Social Charter¹ complements the European Convention on Human Rights in the field of economic and social rights.² It guarantees a wide range of rights relating to housing, health, education, employment, social protection, movement of persons and non-discrimination.

The recognition of children's rights has also permeated through national legal systems at various levels.

A recent study adopted by the Venice Commission on the protection of children's rights questioned whether national law and constitutions in Council of Europe (CoE) member states are offering sufficient protection to children. This study is the Venice Commission's contribution to the Council of Europe's Strategy for the Rights of the Child (2012-2015).

Europeans are living through the deepest economic crisis since the Second World War; the new political reality of austerity threatens over six decades of growing social solidarity and human rights protection across Council of Europe Member States, as pointed out by the Commissioner for Human Rights recently.³

More specifically, poverty including child deprivation is deepening and is likely to have long-term effects. In its 2012 annual report, the European Union Agency for Fundamental Rights underlined that "child poverty in the EU is an issue of growing concern";⁴ the percentage of children living in poverty or social exclusion is on the rise in a number of Member States. as a result of the impact of the economic crisis".⁵

Governments are introducing austerity measures that scale back welfare support for families, cut funding for basic public services, and withdraw support from the voluntary sector.⁶

Children experiencing the hardships of poverty are more exposed to violence, abuse and discrimination.

¹ It was recently revised and the 1996 Revised European Social Charter is gradually replacing the initial 1961 Charter

² It sets out rights and fundamental freedoms and establishes a supervisory mechanism based on collective complaints and state reports, guaranteeing their respect by states parties. It provides that children and young persons have the right to appropriate social, legal and economic protection.

³ Council of Europe Commissioner for Human Rights, "Safeguarding Human Rights in Times of Economic Crisis", issue paper November 2013.

⁴ Children falling victim to EU economic crisis, 18 June 2013, <http://www.eubusiness.com/news-eu/children-poverty.p8d>

⁵ Employment, Social Policy, Health and Consumer Affairs Council Conclusions on 'Preventing and tackling child poverty and social exclusion and promoting children's well-being', Brussels, 5 October 2012

⁶ Latest data from Eurostat show the numbers of people living in poverty is escalating to epidemic levels (3). And children are among those most likely to experience poverty.

It is evident that against this background equal opportunities and the rights of children are more than ever closely interrelated and must be addressed properly – not least by referring to their legal rights to challenge the prevalent situation.

The Convention on the Rights of the Child represents the baseline in international law on the protection of children's rights. The Convention makes clear that children are autonomous rights-holders which states have the duty to vindicate and protect.

Through ratification, state parties to the Convention have re-affirmed the „dignity of each and every child“ – which the United Nations Committee on the Rights of the Child has described as „the fundamental guiding principle of international human rights law“.

Article 4 of the Convention on the Rights of the Child provides that Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When states ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about through the same process by which any law is created or reformed within a country

The Committee on the rights of the Child has affirmed that states must „see their role as fulfilling clear legal obligations to each and every child rather than seen as a charitable process, bestowing favours on children“.

States have to recognize the principle interdependence and indivisibility of all human rights in the case of children, civil, political, economic and social rights – and therefore that in the case of (austerity measures and) growing poverty children's basic and fundamental rights are threatened.

Poverty is the main cause that according to the International Labour Organisation today more than 250 million children between the ages of 5 and 14 work. It should therefore not come as a surprise that cut in social aid in Europe has led many families to send their children to work.

For the above reason social actors are urging the Council of Europe and Member States to engage with child poverty and economic decision-making in a meaningful way.

The Council of Europe Commissioner of Human Rights has pointed out that as vulnerable people are always disproportionately affected in times of economic down-turn and that the authorities should carefully evaluate the potential impact on child labour caused by budgetary cuts in the field of education and training – and the impact on child labour of cuts in social policies and support to families who due to poverty send young children to work and that States should vigorously combat trafficking of children for work and exploitation.

Poverty is considered one of root causes of human trafficking.

The Council of Europe is actively combating trafficking in human beings in its member States and beyond, in partnership with other international organisations and civil society. All but five (42 of 47) of the Council of Europe Member States have ratified the Convention on Action against Trafficking in Human Beings (which entered into force in 2008) and Member States are urged to cooperate with the monitoring group of experts (GRETA).

There are 215 million children engaged in child labour, with 115 million of those children in hazardous work.⁷ Sometimes sold by a family member or an acquaintance, sometimes lured by false promises of education and a "better" life — the reality is that these trafficked and exploited children are held in slave-like conditions without enough food, shelter, or clothing and often severely abused and cut off from all contact with their families.

One hundred and sixty years ago, Abraham Lincoln spoke out passionately about the "monstrous injustice of slavery". Human trafficking is modern slavery. It is one of the biggest evils facing humanity today. Unlike prior to Lincoln's presidency slavery is a crime today.

The growing inequality found in many parts of the world, the level is as high now as before the Great Depression,⁸ threatens not least the fundamental rights and of children.

The UN Committee on the Rights of the Child in February 2013 addressed the obligations of States regarding the impact of businesses on children's rights.⁹ The Committee emphasized the business sector's impact on children's rights pointing out how it has grown in past decades because of factors such as the globalized nature of economies and of business operations and the ongoing trends of decentralization, and outsourcing and privatizing of State functions that affect the enjoyment of human rights. The UN Committee on the Rights of the Child hence urged States to ensure that all legislation, policies and programmes that deal with business issues are not intentionally or unintentionally discriminatory towards children in their content or implementation, for instance those that address access to employment for parents.

Growing inequality is one of the biggest social, economic and political challenges of our time.¹⁰ It may be rather a political / economic question – which makes more sense in the reform agenda to reduce income disparities: raising taxes or more handouts or attacking crony capitalism¹¹ and investing in the young.

The consequences of the "birth lottery" – the parents to whom a child is born – are no less today than in the past¹² (even growing) - that does not seem fair, not ambitious and certainly not in the spirit of international co-operation for improving the living conditions of children in every country.

Thank you.

⁷ According to save the children

⁸ <http://www.imf.org/external/pubs/ft/survey/so/2012/int061412a.htm>

⁹ General Comment No. 16

¹⁰ Economist <http://www.economist.com/node/21564414>

¹¹ Crony capitalism is a term describing an economy in which success in business depends on close relationships between business people and government officials. It may be exhibited by favoritism in the distribution of legal permits, government grants, special tax breaks, or other forms of state interventionism.

¹² http://www.nber.org/papers/w19844.pdf?new_window=1 Is the United States Still a Land of Opportunity? Recent Trends in Intergenerational Mobility