

# The Congress of Local and Regional Authorities



## OSCE 2013 Human Dimension Implementation Meeting

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Working Session 11: Democratic Institutions  
Democracy at the national, regional and local levels

### Contribution by the

## Congress of Local and Regional Authorities of the Council of Europe

The voice of Cities and Regions in Europe

The **Congress of Local and Regional Authorities of the Council of Europe** is a pan-European political assembly, the 636 members of which hold elective office – regional or municipal councillors, mayors or presidents of regional authorities - representing some 200,000 authorities in 47 European states. Its role is, in particular, to promote local and regional democracy and self- government, as well as human rights at local and regional levels.

The Congress of the Council of Europe pays special attention to the application of the principles laid down in the **European Charter of Local Self-Government**. It encourages the devolution and regionalisation processes, citizens' participation as well as transfrontier co-operation between cities and regions.



## The human rights dimension of the Congress' activities

Local and regional authorities are the authorities closest to citizens and therefore especially well placed to identify problems with regard to human rights. They are also the first contact for citizens to complain about a human rights violation and they must implement international standards in a concrete way. Especially in light of the transfer of responsibilities from the national to the regional and local level, it is important that regional and local authorities are aware of human rights and take them into account.

The Congress has a responsibility to raise awareness and assist local and regional authorities with meeting their human rights responsibilities. The main aim of the Congress is to promote local and regional democracy through decentralisation, good governance and the principle of subsidiarity.

The leading theme endorsed by the Congress priorities 2013-2016 is the further improvement of the quality of local and regional democracy and human rights in Europe. Through its monitoring visits, the Congress is able to assess the human rights situation at local and regional level and it has started to include an analysis on human rights in these reports. In order to identify common or recurring issues, the Congress is also planning to prepare a report, every five years, with an analysis of the human rights situation across all the member states. In this context, the Congress has developed indicators to assess the human rights situation at local level, including civil, political, economic and social rights, and raise awareness of human rights issues at the grassroots level. There is also the intention to organise an international conference and adopt an action plan on awareness-raising among local authorities.

One of the Congress events to raise public awareness of human rights at the grassroots level is the European Local Democracy Week, an initiative launched in 2007 aiming, in particular, at increasing the trust of citizens in their elected representatives and institutions. In addition, the Congress is involved in several projects aimed at the protection of human rights, such as the Roma Alliance which has the goal of Roma inclusion, and the ONE in FIVE Campaign of the Council of Europe, for which the Congress focuses on the regional dimension of the fight against sexual violence towards children.

The following pages include a summary of the current state of the Congress' activities for the promotion of human rights, Congress Resolution 334(2011) on "Developing indicators to raise awareness of human rights at local and regional level" and the associated Explanatory Memorandum.

## **Active contribution to promoting human rights at local and regional level**

**Promoting human rights at local and regional level has become a key focal point of Congress policy, involving participation in major European initiatives – such as the “European Alliance of Cities and Regions for Roma Inclusion” and the “One in Five” campaign to combat sexual violence against children – as well as numerous one-off activities.**

The brainchild of the Congress and the Secretary General’s Special Representative for Roma Issues, the European Alliance of Cities and Regions for Roma Inclusion came into being the day after the Summit of Mayors on Roma, held in Strasbourg on 22 September 2011. The purpose of the Alliance is to bring together cities and regions to conduct, at local level, social, cultural, educational and occupational programmes to promote Roma inclusion, while at the same time tackling the prejudice and racism to which Roma communities are frequently subjected. The Alliance should also provide opportunities to share good practice and experience and will work in partnership with Roma organisations.

2012 saw concrete preparations for the Alliance, with various meetings in Strasbourg, and the project being presented across Europe. At the end of 2011, the Congress launched a survey of a hundred or so European cities and regions to canvas their views on the Alliance and encourage them to take part. Presented in May, the survey findings showed that nearly 90% of local and regional authorities questioned were in favour of the project. They felt that the focus should be on housing, employment and education and hoped that the Alliance would help them to network on these issues.

### **The Alliance of Cities for Roma Inclusion gets under way**

On 25 September 2012, the 11 cities and regions tasked with preparing the ground for the Alliance met in Strasbourg with the Congress and Roma organisations. The gathering gave participants a chance to share experience and practice, and to explore the possibilities for co-operation and ways of increasing Roma participation in the various processes. Various successful examples of Roma inclusion at local level were presented, such as a project in the field of employment in the Austrian city of Graz, resettlement and housing practices in the Italian city of Turin and the Spanish city of Madrid, and a project focusing on access to schooling in the French city of Lyons. Another aim of the meeting was to find partners, in particular to help with funding. The Alliance, whose official launch is scheduled for March 2013, will be the operational arm of a broad coalition made up of the European Commission, the World Bank, the United Nations Development Programme and the Council of Europe Development Bank.

A number of operations have already been carried out, however, including notably a meeting on 25 November 2012 with representatives of young Roma to identify their needs. On 17 December, an international seminar in Madrid looked at the kind of housing policies required in order to help the Roma. Meanwhile in Budapest (Hungary) the Congress of Local and Regional Authorities was holding a workshop at the European Youth Centre on inclusive education policies for Roma; among the topics discussed were ways of incorporating the Roma language and culture in schools.

At the same time, the Congress remains alert to the violations of Roma rights being committed by a number of local authorities across Europe. It has spoken out against the evictions carried out in recent months in Vilnius (Lithuania), Tirana (Albania) and Belgrade (Serbia) and has protested about Roma being resettled in squalid conditions, as in the Romanian city of Baia Mare (Romania).

### **“One in Five” campaign acquires a local and regional dimension**

The Congress has pressed ahead with its efforts to bring a local and regional dimension to the Council of Europe’s “One in Five” campaign to stop sexual violence and abuse against children. The title of the campaign refers to the fact that roughly one in five children experiences sexual violence before the age of 18. Much still remains to be done, therefore, in terms of raising awareness among local and regional authorities and getting the right structures and policies in place in cities and regions. For, as the Congress has pointed out, central governments may enact measures and legislation, but it is to local services that child victims of violence and abuse turn first.

Mindful of this, the Congress held a seminar in Strasbourg (France) in February 2012 to make local and regional elected representatives more aware of the problem and to tell them about the campaign. As well as presenting the Lanzarote Convention which protects children against sexual exploitation and sexual abuse, the seminar looked at various exemplary initiatives being conducted by local and regional authorities across Europe. In Helsinki (Finland), for example, local police officers have been trained to detect child abuse by having conversations with youngsters, including via social networks. Blackburn with Darwen (United Kingdom) has adopted a “multi-agency” approach to dealing with young victims, from initial contact to protection and referral, while the city of Stuttgart (Germany) is working to raise public awareness by launching information campaigns on preventing sexual violence.

### **Pact of cities and regions to stop sexual violence against children**

As part of its contribution to the “One in Five” campaign, the Congress launched, in October 2012, a “Pact of cities and regions” to stop sexual violence against children and urged cities and regions to sign up. The pact proposes measures, ranging from simple, cost-effective solutions to more comprehensive strategies. It comprises a list of initiatives and policies, referred to, for short, as the four “P’s”, to prevent abuse, protect victims and prosecute perpetrators while ensuring full participation for children. Member cities and regions undertake to implement these measures and, through their involvement in the pact, will have an opportunity to share experience and best practice.

In 2012, furthermore, the Congress adopted a report on regional action to combat sexual exploitation and abuse of children. The report points out that regions, in particular those with legislative power, can themselves take a number of steps to combat the problem, as set out for example in the Lanzarote Convention on the protection of children against sexual exploitation and sexual abuse. They include raising public awareness, training staff to detect abuse and help victims, and creating appropriate care facilities for children.

Lastly, the Congress is involved in the new Council of Europe strategy to promote children’s rights – “Building a Europe for and with children” – which is to run from 2012 to 2015. The strategy aims to promote child-friendly services, to eliminate all form of violence against children, to guarantee their rights and to promote child participation. Here again, the Congress will have the job of translating the strategy into practical measures at local and regional level. It has recommended networking and the use of quality indicators.

On 13 April 2012, the International Day of Street Children, the Congress called for concerted policies to protect street children from becoming victims of sexual violence and exploitation. It also supports the “Cities for Children” network which is working to promote more family-friendly town planning.

### **Promoting equal rights for all**

The Congress is also working to secure equality between women and men, including in political life, and has reiterated its commitment at various conferences, including the one held in Istanbul in November 2012 on “the political and socio-economic empowerment of women”. It has also been championing the rights of lesbians, gays, bisexuals and transgendered persons (LGBT) and has spoken out against the bans on gay pride parades in some European cities. Lastly, it is actively promoting the rights of young people and took part in various related events throughout the year.

At the “SPARDA” conference held jointly with the European Union in June 2012 in Brussels, the Congress drew attention to its efforts in support of the social rights of foreign residents. It outlined its activities to combat prejudice against immigrants, to educate people about their culture and to foster intercultural dialogue at local level. It also took an active part in the work of the “CLIP” network of cities which this year focused on business creation by migrants.

# The Congress of Local and Regional Authorities



## 21<sup>st</sup> SESSION

Strasbourg, 18-20 October 2011

## Developing indicators to raise awareness of human rights at local and regional level

Resolution 334 (2011)<sup>1</sup>

### 1. *The Congress of Local and Regional Authorities of the Council of Europe, taking into consideration:*

a. its unique position as a pan-European body of elected representatives closest to the citizens providing services to the community, and guided by the principle of subsidiarity, which stipulates that issues should be dealt with by the smallest, lowest or least centralised competent authority;

b. its long-standing activity in the field of human rights from the 1997 Messina Conference on the creation of ombudspersons to the 2008 Stockholm Conference which gave rise to the Joint Declaration on “Systematic Work for Human Rights” co-signed by the Congress, SALAR<sup>2</sup> and the Commissioner for Human Rights of the Council of Europe;

c. Article 1 of the Statute of the Council of Europe, which states that its core objectives should be pursued by the organs of the CoE “in the maintenance and further realisation of human rights and fundamental freedoms”,<sup>3</sup> and Article 2 of the Statutory Resolution of the Committee of Ministers which takes inspiration from this article to set out the objectives of the Congress to promote local and regional democracy;<sup>4</sup>

d. the conclusions of the Warsaw Summit to the effect that “effective democracy and good governance at all levels are essential”;<sup>5</sup>

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<sup>1</sup> Debated and adopted by the Congress on 20 October 2011, 3<sup>rd</sup> sitting (see Document [CG\(21\)10](#), explanatory memorandum) Rapporteur: Lars O. Molin (Sweden, L, EPP/DC).

<sup>2</sup> Swedish Association of Local Authorities and Regions.

<sup>3</sup> Statute of the Council of Europe, Article 1 b.

<sup>4</sup> Statutory Resolutions [CM/Res(2011)2] and CM/Res(2007)6 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto adopted by the Committee of Ministers respectively on 19 January 2011 on 2 May 2007.

<sup>5</sup> Warsaw Summit, Council of Europe, Declaration and Action Plan, paragraph 3



e. Recommendation 280 (2010) on “The role of local and regional authorities in the implementation of human rights”, which stated that “democracy and human rights are interdependent”,<sup>6</sup> and the Committee of Ministers’ reply thereto which stresses that “local and regional authorities, in their fields of competence, must comply with the human rights obligations which stem from the international commitments of the member States”;<sup>7</sup>

f. the stance taken in Resolution 296 (2010) to the effect that the Congress is “an ideal forum in which to raise awareness about human rights issues among local and regional political leaders and government officials” and that the “most important way to enable local and regional authorities to take responsibility for human rights is through the systematic training of political leaders and the dissemination of reliable information among citizens about their rights (particularly among vulnerable groups)”;

g. the statement made by the Council of Europe Commissioner of Human Rights at the Congress session in March 2011 that “there is now increasing momentum for adopting the rights-based approach at the local level”;<sup>8</sup>

h. the fact that human rights include civil, political, economic and social rights and that the competences of local and regional authorities refer to all these rights;

i. the fact that there is a need for stronger co-operation within the Council of Europe for an optimum use of resources and creation of added value when undertaking activities; and

j. the explanatory memorandum prepared by Rapporteur Lars O. Molin<sup>9</sup> on human rights indicators developed for the use of Congress rapporteurs when gathering and analysing data on human rights issues at local and regional level, and particularly the appendix thereto regarding the relevant rights.

*2. Accordingly, the Congress undertakes to:*

a. look at the human rights situation at local and regional level in member States by developing an appropriate methodology for collecting data and providing analyses in order to identify the problems facing local authorities in their daily work;

b. develop action plans to raise awareness among local authorities of human rights through training programmes and exchange of best practices between elected representatives, and integrate these into national planning processes by means of effective consultation, as stipulated by Article 4 paragraph 6 of the European Charter of Local Self-Government;

c. continue to encourage the establishment at local and regional level of independent complaint mechanisms such as local ombudspersons;

d. ensure that its activities are based on the case-law of the European Court of Human Rights and the European Social Charter, as well as the work of the existing Council of Europe monitoring bodies, and provide a complementary effort which does not duplicate but highlights the unique contribution it can make through contacts with elected representatives in member States;

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<sup>6</sup> Congress Recommendation 280 (2010) on “The role of local and regional authorities in the implementation of human rights”, adopted on 17 March 2010, Point 1 b. – e. See also Document CG (18) 6, explanatory memorandum..

<sup>7</sup> Reply adopted by the Committee of Ministers on 6 July 2011 at the 1118th meeting of the Ministers’ Deputies, CM/Cong(2011)Rec280 final.

<sup>8</sup> See T. Hammarberg’s Speech “Bringing human rights home: human rights action at the local level”, at the link <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1763257&Site=Congress&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C>

<sup>9</sup> Lars O. Molin (Sweden, L, EPP/DC), Congress Rapporteur on Human Rights and Chair of the Monitoring Committee.

*e.* continue its co-operation with the Committee of the Regions and the Fundamental Rights Agency of the European Union on issues related to the development of strong self-government at sub-national level and the multi-level protection and promotion of fundamental rights;

*f.* encourage local and regional authorities to conduct training of local government representatives and administrative staff in order to improve their knowledge of the rights of citizens at their level of government;

*g.* organise support activities aimed at raising local representatives' awareness of their responsibilities in the implementation of human rights at local and regional level;

*h.* convene an international conference on raising local authorities' awareness of human rights, open to Congress members and other elected representatives at local and regional level who wish to contribute to the discussion, in order to debate questions relating to the implementation of human rights at local level and to propose a Congress action plan for 2013-2015 on this issue;

*i.* instruct the Congress Monitoring Committee to take the necessary steps for the preparation of five-yearly reports on the implementation of policies for human rights by local and regional authorities in the member States of the Council of Europe.

# The Congress of Local and Regional Authorities



**21<sup>st</sup> SESSION**  
**CG(21)10**  
6 October 2011

## Developing indicators to raise awareness of human rights at local and regional level

Monitoring Committee

Rapporteur: Lars O. MOLIN, Sweden (L, EPP/CD)<sup>1</sup>

### EXPLANATORY MEMORANDUM

#### *Summary*

The report, based on Congress Resolution 296 (2010) on the role of local authorities in implementing human rights, develops an appropriate methodology for collecting data and providing analysis in order to identify the problems facing local authorities in their daily work.

The report sets out the Congress strategy on how to approach human rights issues from the local and regional point of view. It underlines the importance of adopting a rights-based approach at the local level (including civil, political, economic and social rights) and of building upon the work of existing Council of Europe monitoring bodies. To ensure an exchange of good practices, the resolution proposes a series of activities such as training programmes for elected representatives and action plans. It also proposes the holding of an international conference on raising local authorities' awareness of human rights and drafting five-yearly reports on the implementation of policies for human rights by local and regional authorities in the member States of the Council of Europe.

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<sup>1</sup> L: Chamber of Local Authorities / R: Chamber of Regions  
ILDG: Independent and Liberal Democrat Group of the Congress  
EPP/CD: European People's Party – Christian Democrats of the Congress  
SOC: Socialist Group of the Congress  
NR: Members not belonging to a political group of the Congress





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**I. INTRODUCTION**

1. Human rights in all their manifestations constitute a staple feature of the activities of Council of Europe. The Congress of Local and Regional Authorities, by taking up the idea of looking at human rights through a new lens – through the eyes of mayors, city councillors and municipal administrators – is adding an important dimension to this work: that of the local and regional level of governance.

2. Good governance has been a key concept for the Congress in improving local democracy in member States, and it is impossible to conceive of good governance without respect for human rights. With this in mind, the Congress adopted Resolution 296 in 2010 and established a policy on the role of local and regional authorities in the implementation of human rights. This resolution highlights the importance of awareness-raising campaigns, local action plans, the existence of independent complaint mechanisms easily accessible to all (eg local and regional ombudspersons), and training for local politicians and their staff vis-à-vis their human rights responsibilities. It also admits that local and regional authorities may not as knowledgeable and proactive in this domain as they could and should be.

3. The main challenge in this endeavour is how to identify the rights and freedoms that are within the scope of action of local and regional authorities and how to collect and analyse the data required for the stock-taking exercise that is necessary for further action.

4. Being aware that suitable analytical tools are required for this purpose, the (former Institutional) Monitoring Committee appointed Lars O. Molin as rapporteur to develop “indicators” for considering human rights at local and regional level. The present report follows on from the report presented in March 2010 and deals, in particular, with the challenges of taking human rights into consideration in monitoring the European Charter for Local Self-Government.

5. The long-term objective of the Committee is to publish five-yearly reports on the implementation of human rights by local and regional authorities, providing insights into the quality of local and regional governance on this specific aspect of local democracy.

6. Two points should be emphasised in this connection: the Congress has taken note of the Committee of Minister's reply to the Congress Recommendation 280 (2010) on the "Role of local and regional authorities in the implementation of human rights" and recognises the need to clarify the nature of its activity. Monitoring refers to the assessment of an activity in the light of a legal instrument. This is not the case here. The Congress is undertaking an awareness-raising activity and intends to develop the ways and means to remind local and regional authorities of their responsibilities in this area. This will involve developing specific indicators and good practice guidelines to allow local and regional authorities to evaluate their own performance.

## II. WHAT ARE HUMAN RIGHTS INDICATORS?

7. The definition widely used by both researchers and institutions is the one established by the United Nations High Commissioner for Human Rights (OHCHR), namely *Specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that addresses and reflects human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights.*<sup>2</sup>

8. The above definition is reflected in three types of indicators:

- Structural indicators: these are used for monitoring the legal framework of human rights (conventions, national legislation and policy, local and regional policies and decisions).
- Process indicators: these are geared to measuring the efforts made to implement human rights in carrying out a specific policy (allocation of resources, action). The focus is on measuring what is actually done by the local and regional authorities and, consequently, the degree to which the policies are implemented.
- Outcome indicators: these describe the situation in specific fields, such as housing, education, political participation etc. Ideally, process and outcome indicators should be closely connected in order to distinguish between the outcome of the efforts expended by authorities on the one hand, and the impact of other factors on the situation regarding human rights on the other.

9. These indicators are a tool for working systematically with human rights and reinforcing the accountability of decision-makers.<sup>3</sup> They help identify the holders of rights and the bearers of duties. They facilitate participation by holders of rights in policy processes, in implementing cross-cutting rules (eg non-discrimination in all policy areas), and in assessing the efficiency of the measures taken for implementation of the human rights.

10. A concrete example of this might be provided by the right to gender equality in education and the rights of persons belonging to minorities. These are both relevant to the services provided by local authorities. An indicator for the former right would be the ratio of girls to boys enrolled in primary education. Indicators for the latter rights would be the number of minority languages spoken in that area and the number of children speaking a minority language enrolled in primary schools. An analysis of these figures over a certain period of time or across a geographical zone could reveal the existence of discriminatory practices, if any, and their evolution. They could then be used to determine whether there are laws and policies in place and the measures taken to implement them (for instance by mainstreaming policy and budget in terms of human rights or establishing ombudspersons and other appeal bodies). This example is an interesting one as it is a subtle reminder of the distinction between non-discrimination and the cultural rights of people belonging to minorities, in that if one cannot secure education in one's own language, one's cultural rights might not be fully respected.

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<sup>2</sup> OHCHR (2006) "Report on Indicators for Monitoring Compliance with International Human Rights Instruments", HRI/MC/2006/7. See also OHCHR (2008) "Report on Indicators for Promoting and Monitoring the Implementation of Human Rights", HRI/MC/2008/3.

<sup>3</sup> There is now fairly extensive literature on human rights indicators; cf Maria Green (2001) "What We Talk about When We Talk about Indicators: Current Approaches to Human Rights Measurement," *Human Rights Quarterly*, vol. 23, no 4, pp. 1062-1097; Todd Landman (2004) "Measuring Human Rights: Principle, Practice, and Policy," *Human Rights Quarterly*, 26: 906-931; Todd Landman (2005) *Protecting Human Rights: A Comparative Study*. Washington, DC: Georgetown University Press.

### III. HOW TO USE HUMAN RIGHTS INDICATORS IN DATA COLLECTION

11. A key question concerns the interrelations between national, regional and local levels of government. Even though laws and policies are adopted at the national level (and in federated States sometimes at the regional level), local and regional authorities often have both the right and the opportunity, but also the obligation, to establish policies and take decisions that contribute to implementing human rights. However, the decision-making competences of local and regional authorities differ, a fact which has to be taken into account when using the indicators. Examples might include police and healthcare, for instance. In some countries, local governments play a major role in organising the police force. And in many countries, responsibilities for healthcare are distributed between the regional and local government levels.

12. Another basic difficulty in determining “causality” is whether it is possible to determine the outcome of legislation or policies and decisions and the outcome of other factors. This has to be taken into account when formulating process and outcome indicators. One way to pinpoint the effect of policies is to examine the human rights situation over longer periods of time: has the situation changed after the introduction of new legislation and policies? If it has, this is an indication of a policy impact. Another way to assess the causal effect of policy is to consider the relevant circumstances. When appraising access to housing and the effectiveness of housing policy, for instance, it is necessary to look at the pressure on the housing market and the number of low-income families, unemployed persons and so forth.

#### **Taking account of resources and specific factors**

13. In contrast to civil and political rights, which are directly and immediately applicable, many economic and social rights are implemented progressively depending on the available resources (although some social rights such as the freedom to form trade-unions are directly and immediately applicable). They must, however, be implemented in a non-discriminatory manner.<sup>4</sup> The State must also take steps to mobilise “maximum available resources” to fulfil social and economic rights.<sup>5</sup> This means that authorities cannot simply adduce the lack of resources as a reason for failing to act. When a problem is identified, all resources must be used there and then to avoid the future costs of providing a solution.<sup>6</sup>

14. Consideration must also be given to geographical, demographic, social, and economic differences between regions and municipalities. Examples include differences between urban and rural areas, differences due to demographic make-up, socio-economic structures such as levels of employment, economic structure (agriculture, industry and service) and so on.<sup>7</sup> The differences imply that the human rights in practice are variable, and priorities consequently differ.

#### **Taking account of vulnerable groups**

15. When using the indicators, it is particularly important to take account of the situation of vulnerable groups, such as children and the elderly, persons with disabilities, ethnic, religious, linguistic and other minorities, especially when assessing measures and results. Vulnerable groups are often harder hit, for instance, by unemployment and lack of adequate housing, and experience discrimination that affects their living conditions. A participatory approach which would include these groups in the development of indicators would be useful and enhance data quality. One solution would be to base the data collection on interviews with focus groups.

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<sup>4</sup> See ESC case-law, *Autisme Europe v. France*, 13/202, admissibility decision of 4 November 2003, para.53.

<sup>5</sup> Cf CESCR (1990) “General Comment no 3, The nature of States parties obligations” UN Committee on Economic, Social and Cultural Rights.

<sup>6</sup> See ESC case-law, *Mouvement International ATD Quart Monde v France*, 33/2006, admissibility decision of 5 December 2007, para 61

<sup>7</sup> For example the European Urban Charter II – Manifesto for a new urbanity (Congress of Local and Regional Authorities, resolution 251 (2008)) includes several considerations of importance in this respect. Likewise the Global Charter Agenda for Human Rights in the City, developed by United Cities and Local Government (UCLG) in co-operation with the Forum for Human Rights at local level in Nantes, and the European Charter for the Safeguarding of Human Rights in the City, developed by several cities in Europe and adopted as a charter in 2000, describes several dimensions important to both urban and rural municipalities, but also some dimensions that are specific to cities.

## **Taking account of the evolution of human rights over time**

16. The assessment of the current level of human rights implementation can only benefit from an analysis of its evolution over time. Are things getting better or worse? In order to measure this, it is necessary to apply the same indicators over a period of time, and process indicators which facilitate assessment of the authorities' efforts are particularly useful for this purpose. The allocation of resources, assignment of responsibility, development of action plans and their integration within the policy field, the inclusion of holders of rights in policy-making processes and, of course, the evaluation of policies have to be assessed. Results from earlier human rights monitoring reports prepared by other Council of Europe bodies would be very valuable in this regard.

## **IV. SUGGESTIONS FOR THE PREPARATION OF INDICATORS BEFORE A VISIT**

17. The indicators, which are appended hereto, provide a point of focus while visiting states. Prior to any visit, some questions about the use of the indicators need to be settled, including the following:<sup>8</sup>

18. The first question is to determine the extent to which outcome indicators can be taken into account during the visit. Given the potentially extensive work required for data collection, it may be advisable to start by focusing on structural and process indicators only and to use outcome indicators on some selected rights as examples. When examining the efforts/measures adopted by the authorities, it is important to collect information that can show the focus of efforts, taking account of such factors as how long they have been implemented, the allocation of resources and trained personnel, as well as whether the efforts include mainstreaming, etc.

19. The second step in preparing the visit is to look at the case-law of the European Court of Human Rights (ECHR) and the European Social Charter (ESC), as well as the reports of the Council of Europe human rights monitoring bodies. In order to avoid inconsistencies and duplication, it is essential to take the conclusions of Council of Europe monitoring bodies as the starting point in assessing human rights in the Congress's work.

20. The third step involves adapting the indicators to the specific circumstances of each State. The focus should be on the apportionment of decision-making competence between different levels of government in the country visited. The more responsibility local and regional levels of government have in deciding and implementing policy in a specific field, such as education, healthcare, etc, the greater their responsibility in terms of implementing human rights.

## **V. HOW TO USE HUMAN RIGHTS INDICATORS IN DATA ASSESSMENT**

### **Information: qualitative and quantitative aspects**

21. Indicators are formulated in ways that require the use of both quantitative and qualitative information. Quantitative information is used for outcome indicators; in most cases, it is available through national statistics. Sometimes it may prove difficult to access information on discrimination or to access it at local/regional level. This needs to be taken into account when using the indicators.

22. For structural indicators, qualitative information will be needed since these indicators describe the legal-political framework for human rights.

23. For the purposes of this report, process indicators have been limited to verifying efforts to implement rights. This means that the most relevant information will be qualitative in nature. By looking at local authority action, we can identify and share examples of good practice and help people learn to "work systematically with human rights".<sup>9</sup>

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<sup>8</sup> See also Resolution 307 (2010) by the Congress of Local and Regional Authorities on procedures for monitoring the obligations and commitments regarding ECLSG.

<sup>9</sup> Thomas Hammarberg (2009) "Recommendation on systematic work for implementing human rights at the national level" Commissioner for Human Rights, CommDH(2009)3; Thomas Hammarberg (2009) "Serious implementations of human rights standards requires that benchmarking indicators are defined". Viewpoint by the Commissioner for Human Rights.

### Assessment of available data: methodology

24. The three types of indicators we have outlined – structural, process and outcome – should preferably all be used together. However, depending on the individual case, one may have to start with just one of the types of indicator.

25. We may start the analysis by using outcome indicators and then investigate whether the necessary legal and political framework exists for the implementation of a specific right using structural indicators: for example, we can ask to what degree legislation is in place and what policies have been adopted. In the third step, we can use the process indicators to assess the action taken by the authorities. This procedure is especially useful when the level of human rights implementation is unclear and when the social, economic and political situation must be understood in order to develop better policies.

26. The alternative would be to start the analysis with process indicators by considering the measures taken by the authorities. In step two, we look at the outcome in order to evaluate the effectiveness of those measures. Finally, in step three, the existing legal and political framework is assessed. This strategy is useful when there is some existing knowledge of the efforts undertaken by authorities but where their effectiveness is uncertain.

27. A third approach is to start with the legal and political framework and develop process and outcome indicators afterwards. This is a fairly common approach when a new law or policy has been adopted and its implementation must be consistently monitored.

28. One other option that might prove useful is budget analysis. In the area of children's rights, as well as that of gender equality, some useful progress has been made by using systematic analysis of the budget (and the budget process) as an assessment tool.

29. However, it may ultimately prove difficult to make use of all the above indicators for practical purposes, and it might be advisable to focus on structural and process indicators only. This focus would allow the analysts to see whether an adequate framework for working with human rights exists. By "adequate framework" we mean one that allows individuals and groups to claim their rights and authorities to work systematically with human rights. Assessment of efforts undertaken by authorities, using process indicators, will contribute to communicate good practices and examples between states.<sup>10</sup>

## VI. CRITERIA FOR FORMULATING HUMAN RIGHTS INDICATORS

30. The formulation of human rights indicators should meet certain criteria:<sup>11</sup>

- Firstly, indicators should be based on the normative content of the right in question, often called the "attribute of a specific right". This means that one needs to distinguish the core content of a specific right or set of rights.

- Secondly, indicators should measure several dimensions of human rights practice: the legal and political framework, efforts expended to implement rights, and the outcome of such efforts. Indicators should be based on cause-effect reasoning.

- Thirdly, it is essential to apply cross-cutting perspectives and rules, in particular that of non-discrimination and equal treatment. However, it is difficult to apply cross-cutting rules since statistics for all grounds of discrimination may not be available. Once again, a participatory approach which involves the specific sub-groups of stakeholders (based for example on gender, ethnicity, disability), in

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<sup>10</sup> Cf The Congress of Local and Regional Authorities (2010) The role of local and regional authorities in the implementation of human rights. Explanatory Memorandum, CG (18)6, pp16ff; the discussion in the memorandum include several examples of methods for the implementation of human rights on local and regional levels, such as local charters, service charters and agreements and councils on specific affairs.

<sup>11</sup> OHCHR (2006) "Report on Indicators for Monitoring Compliance with International Human Rights Instruments", HRI/MC/2006/7. See also OHCHR (2008) "Report on Indicators for Promoting and Monitoring the Implementation of Human Rights", HRI/MC/2008/3.

data collection would ensure the availability of disaggregated data sets while following data protection and privacy standards.

- Fourthly, indicators must be adapted to the context in which they are to be used. Adaptation of the latter to local and regional levels of government, for instance by taking into account their decision making competence and available resources, is of particular importance to this report.

### **Determining the content: basic documents, conventions and other legal instruments**

31. In formulating human rights indicators, we need to integrate the essential characteristics of the human right in question (the so-called attribute of a specific right). The following conventions and other binding legal instruments of the Council of Europe provide, in particular, the basis for selecting the rights to be taken into account:

32. The European Charter of Local Self-Government and its Additional Protocol on the right to participate in the affairs of a local authority, the Convention on the Participation of Foreigners in Public Life at Local Level, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Additional Protocols, the European Social Charter, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities.

33. The ECHR includes, alongside the right to life and the prohibition of discrimination, such civil rights as the right of liberty and security of persons and protection of their physical integrity, and the right to a fair trial. It also includes rights concerning respect for a person's private and family life. Central to the ECHR are also several freedoms, such as the freedom of expression, of thought, conscience and religion, and freedom of assembly and association. Additional Protocol 1 to the ECHR also covers the right to property, education and free elections.<sup>12</sup>

34. The European Social Charter was originally adopted in 1961 and revised in 1996. The Charter covers primarily social and economic rights, such as right to work, health, education, housing, and social welfare. It also embraces provisions regarding the rights of children, person with disabilities, migrant workers, and elderly.<sup>13</sup> Although the Charter is supposed to be implemented at the national level, it must be kept in mind that certain competences can be delegated to the local or regional levels. There is a strong relation between the ECHR and the European Social Charter based on the interdependence of the rights covered by each instrument. The Secretary General of the CoE emphasised this complementarity "at a time when Europe is facing difficult economic and social challenges".<sup>14</sup>

### **Other relevant Council of Europe texts**

35. The case-law of the ECHR and the ESC, various conclusions adopted by the monitoring committees of different bodies of the Council of Europe, and the Viewpoints published by the Commissioner for Human Rights (where they concern local and regional authorities) constitute relevant sources. Others include commentaries, policy development at various levels of government and academic literature in the field.

36. In addition, the reports/resolutions and recommendations adopted by the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, especially those prepared by the Committee on Legal affairs and Human Rights, should be taken into consideration when they concern local and regional issues. The same should apply to the reports and opinions delivered by the Venice Commission. The Strategy for Innovation and Good Governance on the Local Level, which comprises the 12 principles of good governance (such as rule of law, democratic participation, and transparency and responsiveness), is an essential document. Last but not least, the reports adopted by the European Commission against Racism and Intolerance (ECRI) can be used where they raise issues at local and regional level. Finally, policy instruments such as the Revised European Charter on the

<sup>12</sup> White, Robin & Clare Ovey (2010) *The European Convention on Human Rights*. Oxford: Oxford University Press.

<sup>13</sup> Council of Europe (2008) *Digest of Case-law of the European Committee of Social Rights*. Strasbourg: Council of Europe.

<sup>14</sup> See link [http://www.coe.int/t/dghl/monitoring/socialcharter/newsletter/NewsletterNo4Dec2010\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/newsletter/NewsletterNo4Dec2010_en.pdf)

Participation of Young People in Local and Regional Life or the European Urban Charter are also relevant in this respect.

### **The use of cross-cutting rules**

37. The cross-cutting perspectives of non-discrimination should cover all grounds of discrimination mentioned in the ECHR (Article 14 as well as Protocol 12, Article 1)), ie “sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”. When considering non-discrimination, it is important to recall that the list set out in the ECHR is not exhaustive but open-ended.

38. The revised ESC also contains a similar provision on non-discrimination (Part V, Article E), which must be guaranteed without distinction of race, colour, sex, language, etc. The development of human rights has led to a better understanding of the extent of the grounds of discrimination, for instance regarding gender equality, minority rights or disability and sexuality.<sup>15</sup> Non-discrimination also concerns positive measures aimed at promoting equality.

39. Beside the above-mentioned grounds of discrimination, human rights also pay special attention to children and the elderly, for instance. In particular, it is important to consider children’s rights with respect to the specified rights. This also includes assessing how the best interests of the child are taken into account. Another important point of focus is the situation of vulnerable groups such as travellers, Roma, immigrants and asylum seekers.

## **VII. CRITERIA FOR THE SELECTION OF RIGHTS**

40. In this report, it has not been possible to focus on every single right listed in the stipulated conventions. At the same time, it is not self-evident why some rights should be included and others not. Local and regional authorities play a major role in implementing some rights but not others.<sup>16</sup> Various considerations affect the choice of rights and freedoms to be addressed, as well as the indicators to be used.

41. To start with, given that local and regional authorities play a central role in implementing several human rights (civil and political, as well as economic and social rights), the suggested indicators should reflect a broad spectrum of human rights. The focus should be on the rights in whose protection local and regional authorities play a crucial role.

42. Even though the specific responsibilities of local and regional authorities with regard to fulfilling a particular human right may be limited, these authorities have obligations in this regard. This includes such civil rights as freedom of speech and assembly and the prohibition of discrimination.

43. Finally, some rights contain several attributes that are central also for local and regional authorities, even if they play a minor role in implementing these rights. The rights relative to a fair trial are a good example of this. Rule of law requirements akin to those of a fair trial, such as providing information to individuals, possibilities of appeal and prompt, fair treatment by administration, are also central when assessing the human rights situation vis-à-vis local and regional government levels.

44. The following list can serve as an open-ended, non-hierarchical, starter listing:

- Right to political participation, including freedom of expression, assembly, association, etc;
- Right of access to justice and the rule of law;
- Right to education;
- Right to work;
- Right to health;
- Right to social welfare;
- Right to housing.

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<sup>15</sup> White, Robin & Clare Ovey (2010) *The European Convention on Human Rights*. Oxford: Oxford University Press, chapter 24.

<sup>16</sup> The Congress of Local and Regional Authorities (2010) *The role of local and regional authorities in the implementation of human rights*. Explanatory Memorandum

45. This list does not imply any hierarchical order. The rights are mutually supporting. For instance, the right to housing is a precondition for the right to work and social welfare, and access to justice is a key dimension for the enjoyment of any of the rights.

46. The Appendix in Chapter IX provides guidelines for the use of local and regional authorities on how to interpret these rights and how to apply the indicators.

### **VIII. CONCLUSIONS**

47. The Congress has taken on a human rights agenda for local and regional authorities but it does not monitor human rights; it builds on the monitoring performed by various bodies within the Council of Europe. It will also take on board reports and information from the Fundamental Rights Agency of the European Union.

48. The comparative reports it intends to produce on human rights will not be sent to governments or carry recommendations. They are intended to highlight problems that have come to the attention of the public and that need to be addressed by local and regional authorities.

49. The contribution of the Congress to the promotion of human rights should be seen as a complementary one: the Congress aims to raise awareness among local authorities on human rights. It intends to do this by collecting data, devising specific indicators that allow local and regional authorities to develop innovative ideas and to evaluate their own performance, and providing them with good practice guidelines – in short, by bringing human rights home to the local level. This is an added value for both governments and for the Council of Europe. The Congress can play a unique role in this process thanks to the specific nature of its members as an assembly of elected local and regional government representatives.

50. Addressing local authorities' responsibilities in all members States is an ambitious project which, in other circumstances, would require the allocation of additional resources. However, the Congress is in the felicitous position of already having at its disposal procedures that allow for regular contact with local and regional authorities and their associations as well as with national level authorities that can also be used for data collection and an exchange of views on human rights issues: we are referring both to the visits to member States for monitoring the ELSCG and to support activities, conferences and meetings such as European Local Democracy Week, the Network of Cities for Local Integration Policy, the Summit of Mayors on Roma, etc. The visits are an opportunity for meeting with mayors, municipal councillors, ombudspersons and local or regional petition officers, whose input is crucial. The support activities are occasions for raising awareness, dissemination of information and good practices, and exchange of views.

51. Human rights indicators are useful tools for both analysing the situation of human rights in a given state and communicating best practices and institutional solutions that can be of interest to local and regional authorities within the state and between member States. A healthy local democracy requires the availability of complaint mechanisms that allow the public to express their grievances.

52. The suggested indicators are based on the Council of Europe's human rights treaties and case-law. They need to be tailored to the country being visited.

53. Finally, reinforcing the exchange of information between the different bodies of the Council of Europe and improving the co-ordination of human rights-based activities in one forum might be worth considering as part of the ongoing reform process.



## IX. APPENDIX

### **Attributes of rights and suggested indicators**

This appendix discusses the attributes of the selected rights and specifies the suggested indicators. Regarding the suggested outcome indicators, statistics should, wherever possible, be presented in relation to grounds of discrimination. For example, gender-segregated statistics are often available. Process indicators should focus in particular on what local and regional authorities are doing to promote rights for vulnerable groups.

#### ***Right to political participation and freedom of expression, assembly and association***

Regarding the right to political participation, Article 3 of Protocol 1 to the ECHR includes a right to election, defined as “free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”.<sup>17</sup>

Such freedoms as freedom of thought, expression, and assembly and association (Articles 9-11 of the ECHR) are important, as they all play a key role in giving opportunity for participation. Without guarantees on freedom of expression, association and assembly, the right to election, and more broadly the right to participation, lack substance.<sup>18</sup>

The provisions of the ECLSG concerning local self-government, ie the right to regulate and manage public affairs which are of interest to the local population (Article 3), are also important. The citizens’ right to participation at the local levels of government is emphasised in the Additional Protocol on the right to participate in the affairs of local authorities. Participation at regional and local levels of government includes both direct and representative forms.<sup>19</sup>

International regulations regarding political participation and political rights contain similar provisions to those found in the ECHR but they define it in broader terms, for instance in the International Covenant on Civil and Political Rights (ICCPR), where participation refers to the “conduct of public affairs” (Article 25).

Self-government is constituted by equal opportunities to engage in politics, either directly or through indirect mechanisms (representative bodies). The safe guarding of such freedoms as freedom of expression, assembly and association constitute (together with the right to vote) the core obligations. On this basis, the following indicators are suggested:

#### *Structural indicators*

- Laws and policies safeguarding free and fair elections with universal and equal suffrage;
- Laws and policies establishing and regulating consultative bodies;
- Laws and policies promoting direct involvement of citizens, for instance referendums, citizen panels etc;
- Policies aiming at increasing political participation;
- Policies safeguarding equal opportunities for participation for vulnerable groups;
- Policies safeguarding civil society organisations’ involvement in politics.

#### *Process indicators*

- Efforts to remove barriers to voting;
- Efforts to secure other forms of citizen involvement and participation besides voting;
- Efforts to support civil society organisations’ involvement in politics.

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<sup>17</sup> The European Court of Justice has not recognised that regional and local bodies make up legislatures in the sense of the ECHR, since they hold no legislative competence in the strict sense; cf Keith Whitmore (2007) “The links between local and regional democracy and human rights”. The Congress of Local and Regional Authorities, 14<sup>th</sup> Plenary Session, CG(14)6.

<sup>18</sup> White, Robin & Clare Ovey (2010) The European Convention on Human Rights. Oxford: Oxford University Press, Chapters 17-19 and 22.

<sup>19</sup> Cf the Congress of Local and Regional Authorities, the report by the Group of Independent Experts on the ECLSG on equal access to elections, CG/INT/GIE (16)2.

Process indicators should, in particular, take into consideration efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

#### *Outcome indicators*

- Voter turnout ratio in elections on local and regional levels of government;
- Number of persons participating through direct channels, such as initiatives, citizen panels, referendums, etc;
- Participation in civil society organisations per capita;
- Number of complaints regarding the election process;
- Number of complaints regarding the inclusion of vulnerable groups in policy-making processes.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

#### ***Right of access to justice and the rule of law***

Access to courts and similar institutions, such as Ombudspersons, is an important human right. It is also central to the protection of other rights.<sup>20</sup>

Access to justice is one of the dimensions of the rule of law as set out in human rights instruments, eg in Articles 6 and 13 of the ECHR. The latter article concerns access to an effective remedy in cases of violation of human rights. Furthermore, authorities should treat individuals in a respectful and non-discriminatory way and handle cases in a timely and fair manner.<sup>21</sup>

The regulation on a fair trial is a model which is also used for regulating other forms of administrative management and treatment of individuals. Although less demanding than those concerning judicial trials, various dimensions of the "rule of law" are essential for regulating individual cases in administrative law. Examples are equal, impartial, and non-discriminatory treatment, right to information, right to enquire reasons for decisions, and appeal facilities. Recently, these have been discussed in terms of good governance and good administration, in so far as they apply to the administration.<sup>22</sup>

On this basis, the following indicators are suggested:

#### *Structural indicators*

- Laws and policies safeguarding non-discrimination, timely and fair treatment by authorities;
- Laws and policies safeguarding the possibility of appeals to courts ;
- Laws and policies safeguarding additional complaint mechanisms, for instance through Ombudspersons at local and regional levels.

#### *Process indicators*

- Efforts to ensure timely and fair treatment of individual cases;
- Efforts to inform individuals about their rights regarding appeal and the rule of law;
- Efforts to ensure non-discrimination in administration.

Process indicators should in particular take into consideration efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

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<sup>20</sup> Cf White, Robin & Clare Ovey (2010) *The European Convention on Human Rights*. Oxford: Oxford University Press, chapter 7 and The Congress of Local and Regional Authorities, *The role of local and regional Ombudspersons*, CG/INT/GIE (18)5.

<sup>21</sup> White, Robin & Clare Ovey (2010) *The European Convention on Human Rights*. Oxford: Oxford University Press, chapter 7.

<sup>22</sup> The right to good administration is included in EU legislation, for instance in the EU Charter of Fundamental rights, article 41, now included in the treaty of EU. The role of local and regional authorities regarding good administration and governance is stressed by the Congress of Local and Regional Authorities, cf the Congress of Local and Regional Authorities (2010) *The role of local and regional authorities in the implementation of human rights*. Explanatory Memorandum.

*Outcome indicators*

- Number of cases of appeal regarding decisions taken by regional and local authorities;
- Number of complaints addressed to other institutions, such as Ombudspersons;
- Number of complaints regarding discrimination.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

***The right to education***

The right to education requires the State to establish primary and secondary education systems that are free of charge, accessible and effective. The State should also secure equal access to higher education. Education must be compulsory until at least the minimum age of admission to employment.<sup>23</sup>

The European Committee on Social Rights (ESCR) examines the effectiveness of the education system with regard to such parameters as the number of children enrolled in schools, class size, teacher to pupil ratio, teacher training, dropout rates, and the number of children who successfully complete education. Regarding accessibility, fair geographical and regional distribution of schools is important, as is ensuring that education is free of charge and that hidden costs (for instance books) are reasonable. States need also to make sure that education is accessible to all, taking into account special measures necessary to secure education for children from vulnerable groups.<sup>24</sup>

The right to education for children with disabilities is emphasised in relation to Article 15 of the ESC. It is crucial that children with disabilities have equal access to education, primarily through integration in the ordinary education system. Where this is not possible, special facilities are needed.<sup>25</sup> The focus here should be not on individuals but rather on the fact that something can become a disability in relation to the functioning of society, such as sitting in a wheel chair: this becomes a disability when society fails to cater for people in wheelchairs.

The right to education also includes vocational guidance and training (Articles 9 and 10 of the ESC).

The right to education in international instruments covers universal primary education, access to secondary and higher education, and stipulations regarding curricula and equal educational opportunities.<sup>26</sup>

On this basis, the following indicators are suggested:

*Structural indicators*

- Laws and policies safeguarding access to primary and secondary education;
- Laws and policies safeguarding access to primary and secondary education for vulnerable groups, in particular children with disabilities and children from religious, ethnic and/or linguistic backgrounds different from those of the majority;
- Laws and policies safeguarding vocational guidance and training.

*Process indicators*

- Efforts to contribute to more accessible system of education;
- Efforts to ensure non-discrimination in education;
- Efforts to increase access to vocational training.

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<sup>23</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe; White, Robin & Clare Ovey (2010) The European Convention on Human Rights. Oxford: Oxford University Press, chapter 21.

<sup>24</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe.

<sup>25</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 111ff.

<sup>26</sup> CESCR, General Comment no 13, "The Right to Education," 1999. See also CRC, General Comment no 1, "The Aims of Education," 2001.

Process indicators should in particular take account of efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

#### *Outcome indicators*

- Teacher-pupil ratio in primary and secondary education;
- School drop-out rates;
- Number of children successfully completing their education;
- Geographical accessibility of education;
- Hidden costs in education;
- Number of complaints regarding discrimination.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

#### ***The right to work***

The right to work as formulated in the ESC includes several provisions.<sup>27</sup> One of the primary goals of a State is to establish and maintain "as high and stable a level of employment as possible, with a view to the attainment of full employment" (Article 1). States are required to adopt policies that are conducive to creating and maintaining jobs and to assist unemployed persons in securing employment. These obligations concern the measures taken, not the result. The ESCR considers the suitability of the measures taken by the authorities in terms of fulfilling the goals.<sup>28</sup>

Furthermore, States should protect workers' right to earn their living in "an occupation freely entered upon", to prevent any kind of discrimination, and to provide appropriate vocational guidance and training as well as rehabilitation (Article 1).

The right to work also includes rights regarding working conditions (for instance the regulation of working hours, vacations, the right to a safe and healthy work environment and fair remuneration) and the right to organise and to collectively bargain, as well as regulations regarding children and women (Articles 2-8 of the ESC).<sup>29</sup>

The right to work, as defined in relation to international treaties, includes access to decent and productive work, fair and safe working conditions, opportunities for training and professional development, and protection from forced labour and unemployment.<sup>30</sup>

The core attributes of the right to work include non-discrimination and free choice of occupation, certain aspects of working conditions, fair remuneration, and the commitment to establish and maintain high levels of employment. Even though regional and local authorities are major employers and are therefore required to comply with regulations on the right to work, the focus here lies on what the regional and local authorities are doing with respect to the right to work for citizens.

On this basis, the following indicators are suggested:

#### *Structural indicators*

- Laws and policies aiming at achieving as high and stable a level of employment as possible;
- Laws and policies safeguarding vocational guidance, training and rehabilitation;
- Laws and policies safeguarding non-discrimination with respect to employment and working conditions;
- Laws and policies safeguarding the right to organise, collective bargaining and fair remuneration;
- Laws and policies facilitating access to the ordinary labour market for vulnerable groups.

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<sup>27</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 19-66, 125-142 and 151-166.

<sup>28</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 19ff.

<sup>29</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 27-66.

<sup>30</sup> CESCR, General Comment no 18, The Right to Work, 2005.

### *Process indicators*

Efforts to reduce unemployment;  
Efforts to facilitate vocational guidance, training and rehabilitation;  
Efforts to ensure non-discrimination in relation to work.

Process indicators shall in particular take into consideration efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

### *Outcome indicators*

- Number of individuals employed on the ordinary labour market;
- Number of individuals employed in programmes set up or primarily financed by public authorities;
- Number of individuals in vocational training and rehabilitation;
- Number of complaints regarding discrimination with respect to employment and working conditions.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

## ***The right to health***

The right to health is defined by the ESC as removing, as far as possible, the "causes of ill-health" (Article 11). This broad obligation is divided into two main types of provisions: (1) measures to promote health and (2) healthcare provision in cases of sickness.<sup>31</sup>

Measures promoting health include, for instance, controlling and reducing pollution, ensuring food safety, and controlling and reducing the use of tobacco, alcohol and drugs. Education on health hazards and problems is essential. Special attention should be paid to children, women, and the elderly. Also included in the right to health are adequate rehabilitation measures.

Regarding healthcare provisions in case of sickness, it is fundamental that the State provide adequate and generally accessible healthcare for the whole population. Accessibility relates to several factors, such as geographical proximity to healthcare facilities and the management of waiting lists and costs. The costs of healthcare should not place an excessive financial burden on individuals.<sup>32</sup>

In many ways, this ESC interpretation of the right to health is similar to the United Nations interpretation, pointing out several aspects of the right to health: sexual and reproductive health, child mortality and healthcare, the natural and occupational environments, prevention and control of diseases, and accessibility to health facilities and essential medicines.<sup>33</sup>

The aforementioned core obligations concerning the right to health also include healthcare provisions in cases of sickness, ensuring that these are accessible to everyone and do not place an excessive financial burden on individuals, and also guaranteeing high-quality healthcare.

On this basis, the following indicators are suggested:

### *Structural indicators*

- Laws and policies safeguarding adequate and generally accessible healthcare arrangements for the whole population;
- Laws and policies maintaining prevention of ill-health by reducing pollution, ensuring food safety and controlling tobacco, alcohol and drugs;
- Laws and policies safeguarding rehabilitation;

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<sup>31</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 81ff. See also Donna Gomien, David Harris and Leo Zwaak (1996) *Law and Practice of the European Convention on Human Rights and the Social Charter*. Strasbourg: Council of Europe, pp. 397f.

<sup>32</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 82f.

<sup>33</sup> CESCR, General Comment no 14, The Right to Highest Attainable Health, 2000. See also health indicators outlined by WHO, Core Health Indicators, [www.who.int](http://www.who.int)

- Laws and policies supporting education in health hazards;
- Laws and policies safeguarding non-discrimination in healthcare;
- Laws and policies regarding the processing of complaints in case of malpractice, etc.

#### *Process indicators*

- Efforts to ensure accessible healthcare for all;
- Efforts to highlight health concerns in other policy fields beside those directly regarding health;
- Efforts to prevent ill-health;
- Efforts to ensure adequate rehabilitation;
- Efforts to ensure non-discrimination in healthcare.

Process indicators shall in particular take into consideration efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

#### *Outcome indicators*

- Life expectancy at birth;
- Number of persons using drugs;
- Number of persons with illnesses related to tobacco and alcohol;
- Per capita expenditure on public healthcare;
- Per capita expenditure on education in health hazards;
- Average distance to nearest healthcare centre.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

### ***The right to social welfare***

The right to social welfare and social security requires the State to ensure an adequate standard of living for individuals. Article 12 of the ESC on the right to social security and Article 14 concerning the right to benefit from social welfare services are important. Article 12 concerns social security systems in terms of illness, unemployment, and old age etc. Article 14 requires the provision of services that “contribute to the welfare and development of both individuals and groups in the community”. Welfare services include childcare and provision for the elderly, training and rehabilitation of the disabled and specific measures aimed at vulnerable groups.<sup>34</sup>

In addition to these articles, Article 13 on social assistance is also crucial as it establishes the obligation of a general income guarantee system. The obligation on the part of the State to provide adequate assistance and resources to persons arises as soon as a person is in need, ie unable to obtain adequate resources in some other way. Article 23 on social protection for the elderly and Article 17 on the rights of children are also important.<sup>35</sup>

The right to an adequate standard of living and the right to social security, as regulated in international treaties, refer generally to efforts to ensure continuous improvement of living conditions and social security systems.

The core attribute of the right to social welfare includes services contributing to welfare of individuals, especially for children, the elderly, and vulnerable groups. The right to social security covers protection in case of illness, old age, unemployment, etc, which guarantee a decent standard of living. In the latter regard, social assistance where individuals are unable to obtain adequate resources are also central.

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<sup>34</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 90ff.

<sup>35</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 97ff.

On this basis, the following indicators are suggested:

*Structural indicators*

- Laws and policies safeguarding an adequate standard of living;
- Laws and policies safeguarding services contributing to the welfare for individuals;
- Laws and policies safeguarding protection of family life, for instance family benefits, and child allowances;
- Laws and policies safeguarding the protection of women's rights;
- Laws and policies safeguarding access to social welfare for everyone, irrespective of citizenship.

*Process indicators*

- Efforts to provide an adequate standard of living;
- Efforts to provide social assistance;
- Efforts to provide adequate social services;
- Efforts to protect family life.

Process indicators should in particular take into consideration efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

*Outcome indicators*

- Per capita income;
- Family income;
- Number of children living in poverty;
- Number of elderly persons living in poverty;
- Number of complaints regarding discrimination in social services.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.

***The right to housing***

The right to housing in the ESC (Article 31) requires the State to "promote access to housing of an adequate standard". It includes making the price of housing accessible to persons without adequate resources and measures to be taken to prevent homelessness. The right to housing is also emphasised in specific provisions regarding disabled persons.<sup>36</sup>

The ESCR considers the right to housing with respect to homelessness, accessibility to housing, and housing affordability. The effectiveness of safeguarding the right to housing is reviewed with regard to such parameters as the control of adequacy, construction policies, social housing, housing benefits and emergency housing, as well as judicial remedies.<sup>37</sup>

The right to housing, as stipulated in international treaties and according to the UN Committee monitoring economic and social rights, should not be understood in narrow terms as merely "having a roof over one's head", but rather as the right to live somewhere in "security, peace and dignity".<sup>38</sup>

The central obligations regarding the right to housing concern access to housing by making it available to all, also those lacking adequate resources, and to ensure an adequate standard of housing. The right to housing requires special measures to prevent and eliminate homelessness.

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<sup>36</sup> Council of Europe (2008) Digest of Case-law of the European Committee of Social Rights. Strasbourg: Council of Europe, pp 169ff.

<sup>37</sup> Cf Thomas Hammarberg (2008) "Housing Rights: The Duty to Ensure Housing for All", CommDH/Issue Paper 2008.1.

<sup>38</sup> CESCR, General Comment no 4, "The right to adequate housing," 1991.

On this basis, the following indicators are suggested:

*Structural indicators*

- Laws and policies safeguarding adequate housing;
- Laws and policies safeguarding accessibility to housing, especially for vulnerable groups;
- Laws and policies preventing and eliminating homelessness;
- Laws and policies concerning subsidies for building new housing.

*Process indicators*

- Efforts to safeguard adequate housing;
- Efforts to facilitate the developing of new housing, affordable to low-income persons and families;
- Efforts to prevent and eliminate homelessness.

Process indicators should in particular take account of efforts aimed at vulnerable and under-represented groups, as identified by the grounds of discrimination.

*Outcome indicators*

- Number of homeless persons;
- Number of people using homeless shelters;
- Number of persons enjoying housing benefits;
- Number of persons in social housing;
- Number of persons in cramped housing accommodation;
- House price to income ratio;
- Number of low-income housing with severe construction problems.

Outcome indicators should, where possible, include information regarding the situation of various groups, as identified by the grounds of discrimination.