POVERTY, SOCIAL EXCLUSION AND THE EU MINIMUM INCOME SCHEME[1]

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ABSTRACT

Poverty and social exclusion affect the basic rights of every citizen and are evidenced in different social dimensions. Public authorities shall act at all levels for adopting measures and actions for eradicating all these serious problems which prevent from achieving a balanced European social model.

The Opinion approved on 11th December 2013 by the European Economic and Social Committee points out the priority need of developing an action framework on active inclusion and drafting a Directive that guarantees an adequate minimum income scheme in all Member States. The majority of studies coincide in the convenience of introducing an European instrument legally binding to support and regulate the Minimum Income. However the margins of that mechanism are actually delimitated and also conditioned by the subsidiarity principle

KEY WORDS: Poverty, social exclusion, EU minimum income, framework Directive.

RESUMEN

La pobreza y la exclusión social afectan derechos básicos de todo ciudadano, se hacen evidentes en distintas dimensiones sociales y son necesarias actuaciones por parte de los poderes públicos, y a todos los niveles, para adoptar las medidas y acciones que conlleven la erradicación de estos graves problemas que impiden alcanzar un modelo social europeo equilibrado.

El Dictamen aprobado por el Comité Económico y Social el 11 de diciembre de 2013 sobre la Renta mínima europea e indicadores de pobreza subraya la prioridad de poner en marcha una Directiva Marco que extienda los regímenes de renta mínima a todos los Estados miembros. La mayoría de los estudios coinciden en la conveniencia de introducir un instrumento europeo legalmente vinculante para regular la Renta Mínima. Sin embargo, los márgenes para la introducción de un sistema de renta mínima aparecen delimitados actualmente, y también condicionados por el principio de subsidiariedad.

PALABRAS CLAVES: Pobreza y exclusión social, Renta Mínima Europea, Directiva Marco.

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I. INTRODUCTION

Article 153[2] of the TFEU establishes that in order to achieve its objectives, the Union shall support and complement the activities of the Member States in fields such as combating social exclusion, the integration of persons excluded from the labour market or the modernisation of social protection systems.

In this sense, the Community Charter of the Fundamental Social Rights of Workers (1989) establishes in its Article 10 that persons who have been unable either to enter or re-enter the labour market must be able to receive sufficient resources and social assistance in keeping with their particular situation. Finally we must highlight that the Charter of Fundamental Rights of the European Union (2000), states in its first Article that human dignity is inviolable and that it must be respected and protected. It also establishes the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources. Therefore, it is recognised that the EU and Member States must be involved in combating social exclusion by granting benefits for people in need and guaranteeing the access to services of general interest.

On 12th February the Decision adopted by European Economic and Social Committee (EESC) approved on 11th December 2013 on European minimum income and poverty indicators was presented in the European Parliament Offices in Madrid[3]. The own initiative Opinion issued by this EU consultative body analyses in-depth an essential topic from the EU social policies scope, and is focused on the economic, social and territorial cohesion.

This Opinion encourages EU Institutions to draft a Directive which expands the minimum income regimes to all Member States and to improve the effectiveness of those that already exist always considering the diverse national contexts. The aim of this Directive would be to combate poverty and social exclusion and to encourage and facilitate the active inclusion in labour markets of all affected persons. For this purpose, it offers measures and actions for not only guaranteeing coverage to people in need, but also transit and socio-labour insertion programmes.

II. POVERTY AND SOCIAL EXCLUSION

Firstly, we must delimit the subjective scope of application for the intended right; to which target group the Community action is addressed, or who would be entitled to a minimum income.

In the 80's the Community legislation considered poor people those persons or families whose (material, cultural and social) resources were so limited that they were excluded from the minimum standard acceptable as a way of living in the Member State where they lived. Later, it was proposed that this concept was replaced by the "social

[2]Consolidated version of the Treaty on the Functioning of the European Union (Official Journey of the European Union 30.03.2010 C 83/47).

[3]Opinion of the European Economic and Social Committee on European minimum income and poverty indicators (own-initiative Opinion) 2014/C 170/04, (OJEU 5.6.2014).

exclusion" notion; so the entitlement is not limited only to the lack of economic resources but its dimension is expanded to the participation in the labour market, social protection systems, education, cultural or housing access.

At present, the Europe 2020 strategy[4] considers that population is at risk of poverty and social exclusion when one of the following situations concurr: a) the at-risk-of-poverty rate is the share of people with an equivalent income at disposal(after social transfer) below the at-risk-of-poverty threshold, which is set at 60 % of the national median equivalent disposable income after social transfers; b) material deprivation (population that cannot afford at least four of the nine items listed)[5]; c) Persons living in households with low work intensity (the number of persons living in a household having a work intensity below a threshold set at 0.20). The EU 2020 Strategy developed an specific rate called AROPE[6] or "At risk of poverty or social exclusion" which is harmonised at the EU level and serves to compare countries' situation. This indicator complements the measuring of poverty with exclusion features and combined with income factors (relative poverty), severe material deprivation and very low work intensity.

We can see that the delimitation of persons concerned and the definition of the configuring elements is extended. The concept of poverty is booming because of the effects of the economic crisis in which we are currently living, the monetary adjustments that impact on the weakest in society and the high unemployment rates and precarious working situations occurring in our time. This way, the number of persons at risk of poverty or social exclusion and inequalities at all levels is increasing. We cannot talk anymore about poverty only taking into consideration the lack of economic resources or material poverty, as poverty is considered as a multi-dimensional problem that affects fundamental areas of the people style of life. Concepts such as energy poverty, educational poverty, poverty on health or cultural poverty are therefore analysed. Child poverty, feminisation of poverty, ethnic factor of poverty, old age poverty or working poor are even configured depending on social or demographic aspects[7].

Statistic data confirms that the levels of population at risk of poverty and social exclusion have increased since the start of the economic and financial crisis; Spain being one of the countries with highest rates[8].

[4]Communication from the Commission Europe 2020 "A strategy for smart, sustainable and inclusive growth". Brusels 3.3.2010. COM (2010)2020.

[5]The material deprivation indicator refers to the enforced inability to pay at least four of the following nine items: 1) to pay their rent, mortgage or utility bills; 2) to keep their home adequately warm during cold months; 3) to face unexpected expenses; 4) to eat meat or proteins every second day; 5) to go on holiday away from home at least one week per year; 6) a television set; 7) a washing machine; 8) a car; 9) a telephone.

[6]At-Risk-Of Poverty and Exclusion.

[7]Fernández Maillo, G.;"¿Tiene apellidos la pobreza?. Revista "Estudios y Cultura". Fundación 1º de Mayo nº 65/ 2014.

[8]Source https://www.europa.eu/eurostat/web/income-and-living-conditions/data/main-tables.

Poverty and social exclusion affect the basic rights of every citizen and are evidenced in different social dimensions. Public authorities shall act at all levels for adopting measures and actions for eradicating all these serious problems which prevent from achieving a balanced European social model.

III. EU MINIMUM INCOME BACKGROUND

European projects and programmes on poverty and exclusion have been developed since 1975, and were aimed at raising States' awareness of this social problem and on trying to find appropriate channels for mitigating its effects. Nevertheless, the lack of legal basis (as social issues were under the competence of Member States), the attempts to perform operational programmes within this field were unsuccessful. The Treaty of Amsterdam[9] finally settles the EU legal basis for combating social exclusion.

More than two decades have passed since the Council Recommendations 92/441[10] and 92/442[11] encouraged recognizing the basic right of a person to sufficient resources and social assistance in order to live in a manner compatible with human dignity as part of a comprehensive and consistent drive to combat social exclusion, and to adapt their social protection systems, if necessary. Among the general principles that were taken into consideration for recognising this right, the first recommendation establishes that: every person without individual access to sufficient resources is to have access to such right; access is not to be limited in its duration; the right is auxiliary in relation to other social rights; and it is to be accompanied by those policies deemed necessary, at national level, for the economic and social integration of those concerned. It is recommended as well to develop social protection policies for guaranteeing the basic right of a person to sufficient resources, favouring as well social and labour inclusion of the person concerned.

In 1999 the Commission[12] evaluated the role of minimum income schemes within social protection systems as components of the fight against poverty and exclusion in the frame of Member States' social protection systems. In this Report the Commission stressed out that measures performed in this area still had (in those States where they exist) a limited impact and should evolve to improve integration of minimum income recipients into the labour market. This Report analyses the following issues in depth: to cover better essential needs and take into account associated benefits; improving the

[9]The Treaty of Amsterdam modifies the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts, and was signed in Amsterdam the 2nd of October 1997 (OJEU no. 340, of 10 November 1997).

[10]Council Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems [Published in the Official Journal L 245 of 26.8.1992].

[11]Council Recommendation of 27 July 1992 on the convergence of social protection objectives and policies (92/442/EEC:) OJEU No. L 245/49 of 26.08.1992.

[12]Report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the implementation of the recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems. Brussels 25.01.1999. COM (1998) 774 final.

functioning of the schemes for the benefit of their users; to what extent these schemes can be used to top up wages; participation in general training and employment measures in order to facilitate labour market integration; and ultimately, what solutions should be looked for to improve social inclusion.

Later, the Lisbon Strategy (2000) took a step forward for the construction of the European social model and the Social Integration was confirmed as the core element of it. For this purpose, a co-operation of policies for combating social exclusion through a strategic instrument is required, the OMC (the open method of coordination). It was agreed to periodically present National Action Plans for combating poverty and social exclusion; and to share experiences, objectives and benchmarks for guiding Member States policies[13]. Nevertheless, in 2008[14] the Commission updated the Recommendation 92/441 asking States to complement a comprehensive and integrated strategy for active integration where an adequate income support, inclusive labour markets and access to quality services was combined. These policies were aimed to guarantee the recognition of the fundamental right of the person to sufficient resources and social benefits in keeping with human dignity, as part of the strategy for combating social exclusion.

The year 2010 was named "European Year for combating poverty and social exclusion" and awareness actions on poverty eradication were carried out, being this target the core objective of social policies. In the same year, the Europe 2020 Strategy establishes the inclusive growth as a priority through promoting a high-employment economy delivering economic, social and territorial cohesion. One of its main goals was to reduce the number of Europeans living below the national poverty by 20 million people; being this quantifiable objective difficult to fully achieve. For this purpose, the Commission[15] presented as a Flagship Initiative the "European Platform against Poverty". This initiative aimed to ensuring social and territorial cohesion such the benefits of growth and jobs are widely shared and people experiencing poverty and social exclusion are enabled to live in dignity and take an active part in society. The Platform aims at creating a joint commitment among the Member States, EU Institutions and the key stakeholders to fight poverty and social exclusion. It also calls for the transformation of the OMC on exclusion and social protection in a Platform of cooperation and exchange of good practices; where specific measures are adopted with the support of Structural Funds. It establishes also the need for adapting and promoting social protection and pension systems. On the other hand, Member States shall promote shared collective and individual responsibility in combating poverty and social exclusion; implement measures and actions addressing the specific circumstances of groups at particular risk (such as one-parent families, elderly persons, children, people with a disability, the homeless and minorities); and to fully deploy their social security and pension systems

[13]In 2005 the European Commission establishes a new framework for the open coordination of social protection and inclusion policies in the European Union

[14]Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market (notified under document number C(2008) 5737) (2008/867/EC). OJEU 18.11.2008 L 307/11.

[15]Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion /* COM/2010/0758 final */ 16.12.2010.

to ensure adequate income support and access to essential services.

From that moment on, a turning point is established and a new stage in the frame of EU inclusion and social cohesion polices begins. Several Community acts[16] on the need of achieving a social and territorial cohesion through Member States actions are approved in order to meet the objective stated in EU 2020 Strategy by the cooperation and collaboration with EU institutions and the key stakeholders. These acts highlight the importance of reinforcing social protection systems turning them into modern and efficient systems that could be combined with broad social policies (education, healthcare, social assistance...) and active inclusion policies. This way, the role of these systems considered as automatic economic stabilisers is reinforced as poverty adversely affects economy by harming growth and increasing deficit. The Opinion of the European Economic and Social Committee on the European Platform[17] points out the priority need of developing an action framework on active inclusion and drafting a Directive that guarantees an adequate minimum income scheme that at least is above the poverty line. In this sense, the EESC's Opinion "For a social dimension of European Economic and Monetary Union"[18] once again raises the issue of promoting the right of European citizens to a minimum guaranteed income. The Committee calls for a more binding and properly financed EU-wide programme of social action and commitment including the following specific objectives. It also proposes to draw up a legislative proposal to introduce an adequate minimum income, this issue being reiterated in subsequent communications[19].

The role that these Community instruments grant to the establishment of a minimum income in combating poverty is essential. This income shall include specific support measures for individuals whose income is insufficient through the granting of benefits and access to essential public services. Income support schemes shall ensure citizens in poverty or social exclusion to live in a manner compatible with human dignity and additionally promote active inclusion (employment policies) and access to quality work and services. This way the minimum income is configured as a very important pillar and as a key instrument for raising the most vulnerable persons' living standards.

[16]European Parliament resolution of 20 October 2010 on the role of minimum income in combating poverty and promoting an inclusive society in Europe (2010/2039(INI)) 2012/C 70 E/02. OJEU 9.03.2012 CE 70/8; Communication from the Commission to the European Parliament – "The European Platform against Poverty and Social Exclusion", op cit.; Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European -Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion. COM(2010) 758 final) (2011/C 248/22). OJEU 25.08.2011 C 248/130; European Parliament resolution of 15 November 2011 on the European Platform against poverty and social exclusion (2011/2052(INI)).

[17]Opinion of the European Economic and Social Committee on the European Platform against Poverty and Social Exclusion (2011/C 166/04). OJEU 7.6.2011 C 166/18.

[18]Opinion of the European Economic and Social Committee "For a social dimension of European Economic and Monetary Union" SC/038. Brussels 22.05.2013

[19]European Economic and Social Committee "An action plan for Europe". Brussels 30.04.2014. Opinion of Opinion of the European Economic and Social Committee on "Completing European Monetary Union -The proposals of the European Economic and Social Committee for the next European legislature". ECO/357. Brussels 3.09.2014

This European initiative on minimum income in Member States shall establish: common rules for accessing to minimum income schemes; criteria for determining the most appropriate territorial levels for applying this measure; indicators and evaluation criteria for assessing results and the effectiveness of this policy; guarantees in the monitoring and exchange of national experiences so better practices in this area are identified.

Nevertheless, since the EESC 1989' Opinion[20] recommending to establish a social minimum income for poor people and a necessary instrument for social reinsertion and after the Recommendation 92/441, there have not been specific and binding actions. A new European instrument for efficiently supporting policies on combating poverty and social inclusion is requested; always taking into consideration national constraints. The numerous recommendations, communications and opinions have been fruitless as not being fully applied; despite being benchmarks for Community policies in this area. The progressive establishment of a guaranteed resources system is essential for achieving a social model with poverty indicators well below current levels.

IV. THE PROPOSAL OF DIRECTIVE

The EESC's Opinion on European minimum income recognizes that poverty constitutes a human rights violation and considers overcoming poverty as a Europe-wide challenge. Income disparities and social inequalities have worsened seriously with the crisis. What is more, population groups who were already disadvantaged before the crisis are becoming even more so. After adopting numerous Opinions and Recommendations on minimum income and poverty' related issues, it considers that the need of updating their content is urgent.

“Persistent poverty and exclusion are detrimental to the economy as they deplete disposable income and demand, undermine competitiveness and constrain national budgets”. This is why the EESC is strongly convinced that the best way to reduce poverty is to re-start growth, to boost competitiveness and to create favourable framework conditions for European companies. It also points out that the need for a political paradigm that can reinforce solidarity and the fundamental values of Europe's acquired social rights is now a matter of extreme urgency. The EESC also stresses that establishing a European minimum income under a framework directive will help to protect the fundamental rights at the EU level, calling to examine funding possibilities for a European minimum income and focusing in particular on the prospect of setting up an appropriate European Fund. This Directive would extend minimum income schemes to all Member States and improve the adequacy of existing schemes taking into account different national contexts. To this end, minimum income schemes should be flanked by general policies and targeted measures such as active labour market policies, employment services, benefits and programme management, including training programmes. Also effective institutions in all related areas for ensuring access to public services of high quality are also essential.

The EESC underlines that stabilising potential of minimum income schemes can both mitigate the social impact of the crisis and have a counter-cyclical impact. It also highlights the importance of employment and lifelong learning as instruments for

[20]Opinion of the European Economic and Social Committee. DO C 221 28.08.1989

combating poverty and social exclusions apart from the social entrepreneurship as a source of growth and employment.

Nevertheless, the EESC is aware that framing a specific central role for the EU in minimum income protection would be an exceptionally complex policy operation, given the economic differentiation between the Member States and diversity of social protection structures. Also the EESC fears that minimum income schemes, which vary widely in most Member States in terms of coverage, comprehensiveness and effectiveness fall short of alleviating poverty and it sees the need for strengthening minimum income schemes and guaranteeing their accessibility and adequacy in order to meet the cumulative objectives of EU 2020 Strategy and to reduce poverty.

Two decades later the Decision reiterates what was already provided: the need of a legal binding instrument that establishes European minimum income schemes and harmonises the key issues for establishing or revising national minimum income schemes.

V. ADEQUACY OF A FRAMEWORK DIRECTIVE AS INSTRUMENT FOR REACHING THE MINIMUM EUROPEAN INCOME

Poverty is certainly increasing in Europe and the existing mechanism of Minimum income is not sufficient to stop its growth rate.

The majority of studies coincide in the convenience of introducing an European instrument legally binding to support and regulate the Minimum Income, as one of the social mechanism that will balance the misalignments derived from the economic recession and adjustments. However, the margins of that mechanism are actually delimitated and also conditioned by the subsidiarity principle. The social policy is a shared competence between the EU and the member States, and they have to supplement themselves as well. The practical actions regarding poverty and social exclusion belong to the member States and local and regional administrations fundamentally. It is an essential responsibility of National policies. The various National contexts require that every State finds its own balance between sustainability and adaptation to its social protection system.

However, due to the lack of political will in some States, the need to create an adequate frame for its implementation in the whole European territory is being focused. It is necessary to recognize and guarantee some minimum income, the latest stage of social protection that plays a major role in combating poverty and social exclusion.

Due to the subsidiarity principle and the European juridical base for combating poverty and social exclusion this last point is in need of recognition. Article 153.2.B TFEU excludes this matter from the scope in which is possible introducing minimum binding provisions. Furthermore, art. 152.2.A of the same Treaty allows adopting measures in order to promote the cooperation, but excludes any armonization of legal and reglamentary rules in the member States, which derives in a weakness of the basis with

the aim of introducing a binding instrument to combat social exclusion and poverty[21].

From another angle, and considering the possibility ok establishing of guaranteed minimum income a frame Directive, recognizing social Fundamental Rights and the horizontal clause expressed in the at 9 TFEU, among its objectives it should contain the ones already established by the European Parliament on many previous occasions: fixing norms and common indicators regarding elegibility and the access conditions to minimum income schemes; establishing evaluation criteria of the most appropriate institutional and territorial levels to apply measures regarding those schemes, specifying indicators and comparative common evaluation criteria; guaranteeing the tracking and effective exchange of best practices and allowing the participation of social partners and involved parties while establishing and reviewing the National schemes of minimum income.

However, are some aspects here that demand consideration. The first question to be taken into account in this sense is the one related to the "relative poverty threshold", determinant criteria and that European documents try to avoid. Only the European Parliament in 2010 dared to invite all the member States to guarantee a minimum income equivalent to the 60% of the Nationals average income, by quantifying the necessary quantities for establishing those minimum incomes. Directly related with this aspect, is the financing of the minimum income devices, both in States where they exist as in others that do not contemplate them. In this context, several possibilities can be pointed out that differ from using the European Social Fund by allocating existing resources to those objectives (always directly linked to employment), financing projects for social activation or social experiments to increase the existing minimum income till the creation of a specific and suitable European Social Fund to support the minimum income. At this very moment and as a relevant fact, the Commission has proposed for the period of 2014-2020 that minimum 20% of all the total resources by the ESF shall be assigned in each member State to the thematic objective of promoting the social inclusion and combat poverty. Even so, some authors wonder about the political will to raise a new fund at European level[22].

VI. CONCLUSIONS

Undoubtedly, the existence of some European minimum social rules is necessary as a fundamental element for a social model, including funding and programs. Establishing a European social mechanism to stabilize economical recession and disparities is urgent together with the social pillar that shall consider the social consequences of economical adjustments.

However, and as already stated by the EESC in former occasions, some measures, such as the provision of a sufficient minimum income for groups living under poverty line or the establishment of common rules regarding welfare and benefit require modifying the

[21]Peña-Casas, R.; "Avancer vers des standards sociaux européens – quelles bases légales et financiéres pour un instrument européen en matiére de revenu mínimum garanti". "Europeanmínimumincome and povertyindicators" Audition Publique au Comité Économique et Social Européen 28.05.2013

[22]Peña-Casas, R.; "Avancer vers des standards sociaux européens – quelles bases légales et financiéres pour un instrument européen en matiére de revenu mínimum garanti". Op. Cit.

Treaties.

The possibility of establishing a minimum income system through a Frame Directive seems to be a complex matter, capable of overcoming some significant obstacles, directly related to the political will, in the actual context of crisis, both on European as on National level.