

SOCIAL RIGHTS AND EQUALITY IN THE LIGHT OF THE RECOVERY FROM THE COVID-19 PANDEMIC

FOCUS

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1

AN INCLUSIVE RECOVERY TO ADDRESS THE SOCIAL IMPACT OF THE PANDEMIC

The Covid-19 pandemic has brought into sharp relief the extent to which people in the EU must contend with social vulnerabilities in their daily lives, as detailed in Section 1.2.¹ What started as a global health crisis soon morphed into a global social crisis affecting everyone in the EU. At the time of writing, the world is battling the Omicron variant of Covid-19, and the EU and its Member States are continuing to adapt their responses to the prevailing circumstances.²



The pandemic has given a new impetus to the EU's commitment to social rights, which are rooted in the Union's legal order. Realising a 'social Europe' is also among the priorities of the EU institutions. This chapter starts by describing the EU's legal and political commitments to social rights, and then considers the social aspects of the Recovery and Resilience Facility. It then analyses the impact of the pandemic on people's enjoyment of their social rights, before illustrating different types of measures that Member States will implement through the facility to foster an inclusive recovery from the Covid-19 pandemic.³ The chapter concludes with an analysis of gaps in monitoring the fundamental rights compliance of the disbursement of EU funds in the context of the facility.

Owing to limitations on space, this chapter only considers how the Recovery and Resilience Facility takes account of social rights. For information on the broader impact of the pandemic on fundamental rights in 2021, see the thematic chapters of this report.

1.1. THE EU'S COMMITMENT TO BUILDING A SOCIAL EUROPE

More than one third of people in the EU think that social inequalities are one of the main challenges for the EU,⁴ with close to nine in 10 people saying that a social Europe is important to them personally, that is, "a Europe that is committed to equal opportunities and access to the labour market, fair working conditions, and social protection and inclusion".⁵

The importance of social rights is also reflected in the EU's legal order. Although the Union is not party to the Council of Europe's European Social

Charter, Article 151 of the Treaty on the Functioning of the European Union (TFEU) recognises social rights in outlining the Union's goals in the area of social policy. Article 3 of the Treaty on European Union identifies among the objectives of the EU the establishment of "a highly competitive social market economy, aiming at full employment and social progress", while Article 4 of the TFEU prescribes that social policy is a shared competence between the Union and its Member States.

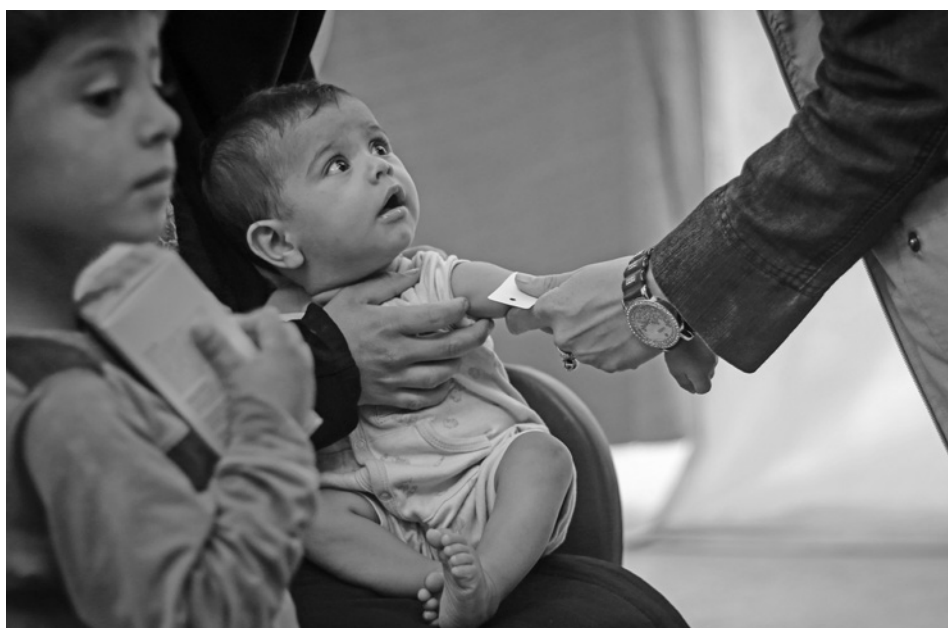
Equally, Article 9 of the TFEU requires the Union's policies and activities to "take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health". In addition, Article 8 of the TFEU prescribes that, "In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women."

Many of the provisions in the EU Charter of Fundamental Rights have a strong social dimension. The title on freedoms includes a right to education (Article 14) and an entire title of the Charter is dedicated to equality, addressing equality between women and men (Article 23), the rights of the child (Article 24), the rights of older people (Article 25), integration of persons with disabilities (Article 26). Also, Title IV on solidarity provides for key social rights, namely the right to protection in the event of unjustified dismissal (Article 30), the right to fair and just working conditions (Article 31), the right to social security and social assistance (Article 34) and the right of access to preventive health care and to benefit from medical treatment (Article 35).⁶

The EU is also party to the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which covers civil and political rights, as well as social and economic rights.

Building a social Europe is a political priority for the EU, as the Porto Social Commitment⁷ and the Porto Declaration⁸ of May 2021, among others, show.⁹ Previously, in November 2017, the European Parliament, European Council and European Commission proclaimed the European Pillar of Social Rights at the Gothenburg Social Summit.¹⁰ In March 2021, the European Commission adopted the European Pillar of Social Rights Action Plan, which sets out concrete steps to realising the pillar's 20 principles.¹¹

Echoing the European Parliament's resolution of April 2020 on EU action to combat the pandemic and its consequences,¹² the Porto Social Commitment calls on all relevant actors to take on board the lessons learned from the pandemic and to join forces to "develop public policies that ... promote equal opportunities for all, particularly children at risk of poverty, the elderly, people with disabilities, people with a migration background, disadvantaged and minority groups and the homeless".¹³



The regulation (EU) 2021/241 establishing the Recovery and Resilience Facility reflects these legal and political commitments, and refers to the objective of implementing the European Pillar of Social Rights. The regulation includes references to fundamental rights. For example, Article 5 of the regulation requires compliance with environmental protection, provided for in Article 37 of the EU Charter of Fundamental Rights, by including the 'do no significant harm' axiom to ensure compliance with key principles of EU environmental policy.¹⁴ Recital 12 of the regulation notes that "investments in digital technologies should respect the principle [of] personal data protection" (Article 8 of the Charter).

The Regulation (EU) 2021/241 also establishes the requirement for an explanation of how national plans contribute to the implementation of the European Pillar of Social Rights¹⁵ and tasks the European Commission with assessing how the plans contribute to the implementation of the pillar.¹⁶

1.2. THE SOCIAL DIMENSION OF THE RECOVERY AND RESILIENCE FACILITY

The EU made € 723.8 billion available to Member States through the Recovery and Resilience Facility, also to address the social damage the pandemic caused.¹⁷ Each Member State had to submit a national recovery and resilience plan outlining the measures it would take through the facility. By the end of 2021, all Member States bar the Netherlands¹⁸ had submitted their plans, and the European Commission had endorsed 22 of these by 15 December 2021.¹⁹ The Netherlands expects to submit its recovery and resilience plan to the European Commission by 31 August 2022.

The Recovery and Resilience Facility rests on six policy pillars: the green transition; digital transformation; smart, sustainable and inclusive growth; social and territorial cohesion; health, economic, social and institutional resilience; and policies for the next generation. Any measure that Member States propose in their resilience and recovery plans must contribute to two policy pillars, with one the primary pillar and the other the secondary pillar. Member States had to allocate at least 37 % of their expenditure to the green transition and 20 % to digital transformation, with no targets set for the other pillars.

By 15 December 2021, Member States had allocated slightly over 10 % of their total share of the funds of the facility to social and territorial cohesion as the primary pillar, and just under 45 % to social and territorial cohesion as the secondary pillar, the Recovery and Resilience Scoreboard shows.²⁰

The European Commission identified 869 measures in the recovery and resilience plans (out of a total of 4,473) that pertained to the policy pillar of 'social and territorial cohesion'. The pillar is divided into seven policy areas,²¹ for which Member States allocated different levels of funding: 65 % to the area of territorial infrastructure and services; 8 % to adult learning; 7 % to social housing and other social infrastructure; 7 % to social protection, including social services and the integration of vulnerable groups; 6 % to the development of rural and remote areas; 3 % to the modernisation of labour market institutions; and 3 % to (non-youth) employment support and job creation.

On the whole, and at the time of writing, Member States allocated 33 % of the total social expenditure²² through the facility to investments and reforms in the areas of education and healthcare, followed by 32 % to health and long-term care, 20.4 % to employment and skills, and 14.6 % to social policies, according to the Recovery and Resilience Scoreboard.²³

"In order to cope with and recover from the Covid-19 pandemic, investment in social rights is necessary. States Parties to the European Social Charter must take all measures necessary, including through the redistribution of resources, to combat the virus and to secure the rights of their populations, including those of the most socially vulnerable groups."

European Committee of Social Rights (2021), *Statement on Covid-19 and social rights*, p. 14.

2

IMPACT OF THE PANDEMIC ON SOCIAL RIGHTS

The Covid-19 pandemic has had a tremendous negative effect on people's enjoyment of social rights, affecting all areas of life.²⁴ The pandemic has exacerbated existing social vulnerabilities and inequalities, in particular for many of those in precarious working and living conditions.²⁵

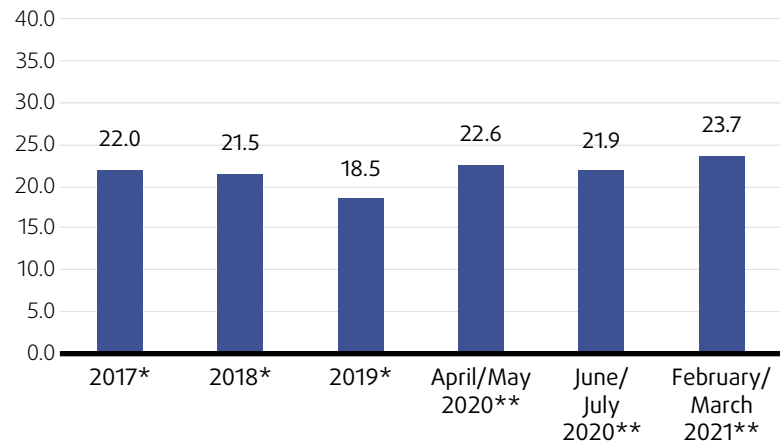
Despite significant public investment in countering the negative economic and social effects of the pandemic, an increasing proportion of people in the EU have experienced difficulties in making ends meet, particularly in 2021. At the same time, a growing number of people began feeling socially excluded during the course of the pandemic, with higher proportions among women and younger people, as Figures 1.1, 1.2 and 1.3 show.²⁶

In addition, "employment rates and working hours decreased most for low-skilled and low-educated workers, workers in low-paid occupations, youth and workers in non-standard jobs, such as part-time, temporary and self-employed workers".²⁷ In this context, it can be noted that some of those who have difficulties in making ends meet and some of those who are unemployed tend to feel that people do not all enjoy the same human rights.²⁸

For more detailed and extended analysis of the social impact of the pandemic, see European Commission (2021), *Employment and social developments in Europe 2021*, European Commission (2021), *Joint Employment Report 2021* and Council of the European Union (2022), *Joint Employment Report 2022*.

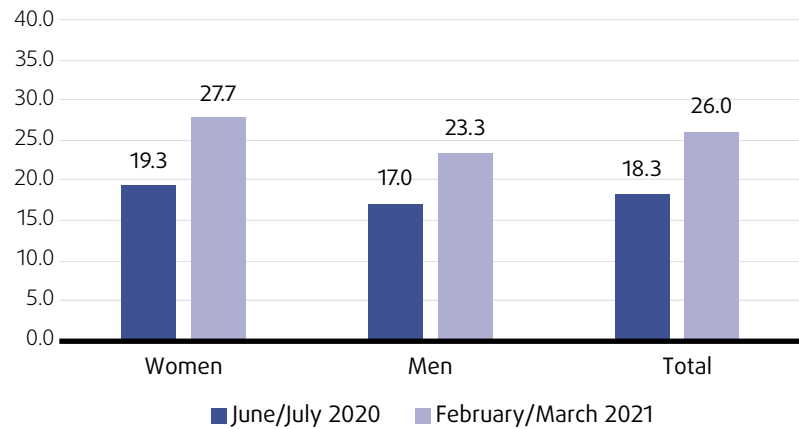


FIGURE 1.1: PERCENTAGE OF PEOPLE IN THE EU27 WHO SAID THAT THEY HAD DIFFICULTIES IN MAKING ENDS MEET BEFORE AND DURING THE PANDEMIC



Sources: Eurofound (2020), *Living, working and Covid-19 dataset*; Eurostat (2017–2019), *Inability to make ends meet – EU-SILC survey [ilc_mdso9]*, extracted on 26 January 2022

FIGURE 1.2: PERCENTAGE OF PEOPLE IN THE EU27 WHO SAID THAT THEY FELT LEFT OUT OF SOCIETY IN THE EU27 IN 2020 AND IN 2021, BY SEX



Source: Eurofound (2020), *Living, working and Covid-19 dataset*

► Notes:

The data show those in the EU27 who responded 'with great difficulty' or 'with difficulty' when asked: 'A household may have different sources of income and more than one household member may contribute to it. Thinking of your household's total monthly income: is your household able to make ends meet?' Gender differences are not displayed, as information is based on household only.

* Eurostat data.

** Eurofound data. Fieldwork: Round 1, 9 April–1 May 2020; Round 2, 22 June–27 July 2020; Round 3, 15 February–30 March 2021. Sample size: Round 1, 86,457 (63,354 complete responses for the EU27); Round 2, 31,732 (24,123 complete responses for the EU27); Round 3, 62,518 (46,800 complete responses for the EU27).

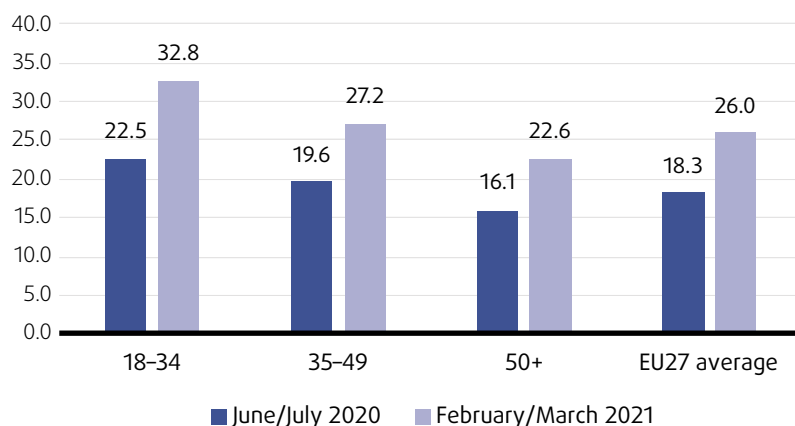
► Notes:

The data show those in the EU27 who responded 'strongly agree' or 'agree' when asked: 'To what extent do you agree or disagree with the following statements? I feel left out of society.'

Fieldwork: Round 1, data not collected; Round 2, 22 June–27 July 2020; Round 3, 15 February–30 March 2021.

Sample size: Round 1, data not collected; Round 2, 31,732 (24,123 complete responses for the EU27); Round 3, 62,518 (46,800 complete responses for the EU27)

FIGURE 1.3: PERCENTAGE OF PEOPLE IN THE EU27 WHO SAID THAT THEY FELT LEFT OUT OF SOCIETY IN 2020 AND IN 2021, BY AGE GROUP



Source: Eurofound (2020), *Living, working and Covid-19* dataset

◀ Notes:

The data show those in the EU27 who responded 'strongly agree' or 'agree' when asked: 'To what extent do you agree or disagree with the following statements? I feel left out of society.'

Fieldwork: Round 1, data not collected; Round 2, 22 June–27 July 2020; Round 3, 15 February–30 March 2021.

Sample size: Round 1, data not collected; Round 2, 31,732 (24,123 complete responses for the EU27); Round 3, 62,518 (46,800 complete responses for the EU27).

The negative impact of the pandemic affected various population groups differently.²⁹ For example, recurring nationwide lockdowns severely limited the rights of older people to lead a life of dignity and independence and to participate in social and cultural life, which Article 25 of the EU Charter of Fundamental Rights enshrines. In the worst days of the pandemic, many older people were sick or died alone, isolated from their relatives and friends in residential care settings for extended periods, owing to restrictions on interpersonal contact.³⁰

The excess mortality rate was much higher for older people than for those in younger age groups in 2020 and 2021 compared with previous years, as official data on excess deaths that EuroMOMO compiled in cooperation with the European Centre for Disease Prevention and Control and the World Health Organization show.³¹

By the end of 2020, 368,005 more people over the age of 65 died than in the previous year, with the total number of excess deaths across all age groups amounting to 404,471. The figures for 2021 show 297,198 excess deaths among those over the age of 65, out of a total of 354,226 excess deaths. In other words, people over the age of 65 accounted for 90.98 % of all excess deaths in 2020, and 83.90 % of these in 2021.

The European Disability Forum highlights that "persons with disabilities have been more likely to be infected by Covid-19, develop serious illness or die, or find themselves isolated, impoverished, and facing increased hardship in the future".³² Social distancing and school closures accentuated learning disabilities and prevented many people with disabilities from actively participating in the labour market.³³ The requirement to wear masks created challenges, notably for people with hearing impairments who could not lip read, and health complications for people with certain other disabilities.³⁴

"Existing inequalities are widening because of the disproportionate impact of the pandemic on vulnerable groups. Women, young people and those on the margins of society are consistently affected by job loss, poor work-life balance and financial insecurity. New findings show that difficulties in making ends meet increased significantly among those already in a precarious situation."

Eurofound (2021), *Quality of life during Covid-19*.

FRA ACTIVITY

Ageing in digital societies

In 2030, around 24 % of the EU's population will be over the age of 65. This number will reach 30 % by 2070. From a fundamental rights perspective, it is vital that key online and offline services remain accessible to everyone.

In 2022, FRA has initiated a project on 'Ageing in digital societies: Enablers and barriers to older persons exercising their social rights' to identify how older people experience exercising their rights, in particular their social rights, in a digital environment. The evidence it collects will contribute to promoting a rights-based approach to ageing in digital societies, considering the multiple identities of older people – especially with regard to gender, disability and socio-economic background. The first findings are expected to be available in 2024.

*For more information on how the digital divide affects older people, see FRA (2020), **Selected findings on age and digitalisation from FRA's Fundamental Rights Survey**.*

Temporary limitations on the provision of social services (including in-home care and support services) for people in need led to family members or carers taking on additional caring responsibilities, sometimes at the expense of other aspects of their lives, in particular their work.³⁵ Different limitations were also imposed in different regions in some Member States.

The suspension of essential services, such as the provision of food or medical assistance, hit homeless people hard, and shelters were often overcrowded.³⁶ In addition, "job dismissals, evictions, closure of boarding houses and the arrival of people who had lost their jobs and homes abroad led to increased numbers of homeless people at a time when many shelters were closing or restricting access to comply with physical distancing rules".³⁷

Increased digitalisation in the provision of goods and services revealed new forms of inequality between digital 'haves and have nots', with older people in isolation often unable to use online services during critical stages of the pandemic.³⁸ People with disabilities were similarly affected.³⁹

The digital divide also became apparent in education, where the switch to distance learning coupled with an absence of social contact with peers affected children and young people in different ways,⁴⁰ including a negative impact on their mental health.⁴¹ Distance learning proved to be a particular problem for children and young people from disadvantaged socio-economic backgrounds⁴² and for pupils or students who attended educational institutions with limited access to the necessary technological tools, infrastructure or expertise in using such tools efficiently and effectively. The switch to distance learning also caused particular difficulties for children with disabilities and their families, with regard to both accessing learning platforms and the accessibility of the platforms.⁴³

In addition, for many parents it was not possible to telework, and those who did were often not able to support their children in distance learning. The lack of parental support and difficulties in participating meaningfully in digital education compounded educational inequalities that pre-dated the pandemic.⁴⁴ For more information on the impact of the pandemic on the rights of children in 2021, see Chapter 8 of the **Fundamental Rights Report 2022**.

With regard to work and business activities, workers in precarious employment situations – including many Roma and Travellers,⁴⁵ as well as platform workers⁴⁶ – were often initially ineligible for benefit and compensation schemes that Member States set up to address restrictions on employment resulting from the pandemic. Moreover, some forms of social protection were accessible only by those working in the formal labour market, which increased the vulnerability of those doing informal work.

The pandemic greatly affected the right to access preventive healthcare and to benefit from medical treatment, which Article 35 of the EU Charter of Fundamental Rights and Article 11 of the European



Social Charter enshrine.⁴⁷ The high number of Covid-19 patients who were hospitalised – not only in intensive care units – strained the capacity of healthcare systems across the EU to meet people’s health needs. It put enormous pressure on the mental and physical well-being of frontline healthcare staff.⁴⁸

Concerning gender equality, the pandemic has had a disproportionate impact on women, including as regards the intensification of experiences of all types of violence against women and girls.⁴⁹ Concerning the labour market, women make up a larger proportion of the workforce in sectors that the pandemic hit hardest. Women also carry out more unpaid care work than men, which made them more financially vulnerable, at a time when many had to provide unpaid care for their families and relatives, including as a result of the suspension of formal care services. In addition, women were more likely to lose or leave their jobs to care for their children during the pandemic, which compounded gender inequality in the labour market.⁵⁰

These findings highlight the need to build in gender considerations when designing and implementing recovery measures. That will contribute to upholding women’s rights, including their social rights.⁵¹ This requires investing more in sectors predominantly occupied by women that proved to be vital during the pandemic, such as education, healthcare and social work, where working conditions and remuneration need significant improvement. It also requires promoting the involvement of men in unpaid care work.⁵²



3

MEASURES ADDRESSING SOCIAL RIGHTS IN NATIONAL RECOVERY AND RESILIENCE PLANS

This section provides an overview of different types of measures that Member States included in their national recovery and resilience plans that address children and young people; people with disabilities; gender equality; social security and social care; healthcare and long-term care; and access to the labour market.

This overview draws on data FRA collected through its multidisciplinary researcher network (**Franet**) and through its own desktop research. The data collection focused on identifying up to three measures per country that pertain to Articles 14, 23, 24, 25, 26, 30, 31, 34 and 35 of the EU Charter of Fundamental Rights. Franet focused on measures that target population groups in their countries whose social rights had been particularly affected by the pandemic and had to identify at least one measure that targeted children or young people.⁵³ Member States also informed FRA of some of the measures included in this section.

3.1. IMPROVING EDUCATION FOR CHILDREN AND YOUNG PEOPLE

Member States included measures in their national recovery and resilience plans to improve the quality of education and to overcome the negative effects of the pandemic on learning outcomes, including for children and young people from disadvantaged backgrounds.



For example, **Slovakia** will implement reforms to ensure the desegregation of Roma children in the educational system.⁵⁴ Pupils from socio-economically disadvantaged families in **Czechia** who could not attend remote classes during the pandemic will receive additional tutoring so that they do not lag further behind their peers.⁵⁵ Primary school children from socially disadvantaged families in **Denmark** are set to receive lessons in smaller groups or be provided with an additional teacher in class, to alleviate the effects of the pandemic.⁵⁶ **Romania**⁵⁷ will develop its early childhood education system by investing in its infrastructure and enhancing the quality of services provided to children between the ages of zero and three, and to children from socio-economically disadvantaged groups. **Romania** will also set up day centres for vulnerable families, where children will benefit from educational and recreational activities and their parents from educational activities and counselling.⁵⁸

National recovery and resilience plans include measures to modernise childcare and educational establishments. This includes building up their digital infrastructure and upgrading the digital skills of pupils and students (e.g. in **Belgium**,⁵⁹ **Germany**,⁶⁰ **Ireland**,⁶¹ **Latvia**,⁶² **Poland**,⁶³ **Romania**⁶⁴ and **Spain**⁶⁵). Member States will also use the Recovery and Resilience Facility to renovate educational establishments or build new ones, and to increase their numbers of teaching and support staff (e.g. in **Bulgaria**,⁶⁶ **Croatia**,⁶⁷ **Czechia**,⁶⁸ **France**⁶⁹ and **Romania**⁷⁰).

3.2. IMPROVING THE EMPLOYMENT OPPORTUNITIES OF DIFFERENT POPULATION GROUPS, INCLUDING YOUNG PEOPLE

Member States fund measures through the Recovery and Resilience Facility to improve the employment opportunities of young people, particularly through apprenticeships, vocational training or improving their digital skills (e.g. in **Cyprus**,⁷¹ **Finland**,⁷² **Greece**,⁷³ **Ireland**⁷⁴ and **Romania**⁷⁵). Other measures include financial incentives to encourage employers to recruit young people (e.g. in **Estonia**,⁷⁶ **Germany**,⁷⁷ **Slovenia**⁷⁸ and **Spain**⁷⁹).

National recovery and resilience plans include labour market integration measures for people who face difficulties in accessing the job market more generally. For example, **Austria** will set up a service to support the reintegration of long-term unemployed recipients of social aid into the labour market.⁸⁰ **Sweden** will make vocational training available to people who did not complete upper secondary education and who have a limited knowledge of Swedish, to increase their chances in the labour market.⁸¹ **Czechia** will develop its employment policy for people from disadvantaged socio-economic backgrounds and people in precarious working conditions, by promoting active labour market policies and supporting reskilling and upskilling, including as regards digital skills.⁸² **Latvia** will develop upskilling initiatives, with a focus on digital skills for unemployed people, jobseekers and precarious workers.⁸³

National recovery and resilience plans include measures to facilitate access to the labour market for people with disabilities, either through schemes supporting employers in recruiting them, or by enabling flexible working arrangements (e.g. in **Finland**,⁸⁴ **France**⁸⁵ and **Slovenia**⁸⁶).

National recovery and resilience plans also include measures that seek to foster women's participation in the labour market by increasing the provision of early childhood education and childcare facilities, which will also benefit men with childcare responsibilities. For example, **Cyprus** will build new childcare centres to facilitate the participation and re-entering of workers

with caring responsibilities in the labour market.⁸⁷ The federal government in **Germany** will contribute to funding up to 90,000 additional childcare places to help meet increasing demand.⁸⁸

Similarly, **Hungary**⁸⁹ and **Portugal**⁹⁰ will increase the number of places available in nurseries and promote access to affordable care for children, in an effort to mitigate gender inequalities in labour market participation. **Poland** would fund the provision of free childcare services for children up to three years of age in public facilities, while also investing in improving the professional skills of childcare workers.⁹¹

3.3. REFORMING SOCIAL SECURITY AND SOCIAL SERVICES

Some of the measures in the national recovery and resilience plans envisage reforms in social security and social services systems. They will enable Member States to respond better to the protection needs of persons in situations of vulnerability, including with regard to adequate provision of social benefits, minimum income, employment benefits and housing. **Albania**⁹² and **Serbia**⁹³ have also implemented such measures.

For example, **Croatia** will consolidate different social benefits to reduce the administrative burden and simplify the procedure of applying for social benefits.⁹⁴ Similarly, **Lithuania** aims to introduce additional benefits for people with disabilities and older people, thereby improving the pension indexation mechanism.⁹⁵ **Malta** will assess its unemployment benefits system.⁹⁶

Greece will initiate reforms to improve access to social benefits, optimise the social benefits system and enhance structures that provide social services.⁹⁷ **Slovenia** will amend its Housing Act, with a view to increasing the availability of public non-profit rental housing, which would offer protection for tenants at risk of social exclusion.⁹⁸

3.4. ACCESS TO HEALTHCARE AND LONG-TERM CARE



Measures included in national plans seek to improve the quality of and access to long-term care, social care and healthcare, whether at home or in residential care settings. For example, **Austria** will put in place a system of community nurses. They will act as contact people for the coordination of therapies and social services for people in need of care to enable them to continue living in their own homes.⁹⁹

Croatia will improve the availability of integrated comprehensive care for older people by building dedicated centres where they can access social services.¹⁰⁰ **Portugal** will invest in improving residential structures and care in nursing homes and day centres for older people.¹⁰¹ **Sweden** aims to improve

the quality of care by providing financial compensation to employers who enable staff to study during working hours to qualify, for example, as care assistants or assistant nurses.¹⁰²

In their national recovery and resilience plans, Member States also include measures that aim to improve access to healthcare more generally to address gaps that the pandemic has brought to light.¹⁰³ For example, **Finland** will implement measures to keep waiting times for basic and specialist healthcare within the legally prescribed limits, thereby enhancing access to healthcare and social services.¹⁰⁴

Healthcare consultants in **Ireland** will be expected to dedicate more time to patients in public hospitals. This will help ensure more equal access to healthcare by reducing waiting times for consultations for patients in public hospitals.¹⁰⁵ **Lithuania** will reform the provision of long-term care services, including by setting up day-care centres and developing long-term care outpatient services across the country.¹⁰⁶ Owing to a growing need for medical doctors and in response to staff shortages during the pandemic, **Poland** will increase the university admissions limits for medical studies.¹⁰⁷

Some of the measures in the recovery and resilience plans consist of funding technological advances to facilitate access to healthcare services, including through digitalisation, remote video consultations, telemedicine and modernising medical equipment (e.g. in **Denmark**,¹⁰⁸ **Estonia**,¹⁰⁹ **Luxembourg**,¹¹⁰ **Malta**¹¹¹ and **Spain**¹¹²).

3.5. FOSTERING SOCIAL PARTICIPATION

Member States will implement measures through the Recovery and Resilience Facility to enable people with disabilities to participate more actively in social life by improving accessibility and mobility through technical and technological aids (e.g. in **Bulgaria**,¹¹³ **Italy**,¹¹⁴ **Latvia**¹¹⁵ and **Malta**¹¹⁶).

Other measures include investing in social and integrated services for people with disabilities or older people to enable them to live independently (e.g. in **Bulgaria**,¹¹⁷ **Cyprus**,¹¹⁸ **Romania**¹¹⁹ and **Slovakia**¹²⁰). **Slovakia** will also invest in improving the digital skills of older people.¹²¹

Finally, national recovery and resilience plans contain measures to foster the social participation of disadvantaged pregnant women (**Austria**¹²²), detainees (**Belgium**¹²³) or homeless persons (**Italy**¹²⁴). **Portugal** will implement measures to facilitate the social integration of disadvantaged people who live in the metropolitan areas of Lisbon and Porto.¹²⁵



4

EFFICIENT MONITORING ESSENTIAL FOR A FUNDAMENTAL RIGHTS-COMPLIANT RECOVERY

The regulation establishing the Recovery and Resilience Facility requires that Member States make “arrangements for the effective monitoring and implementation” of their national plans. This includes “proposed milestones and targets, and the related indicators”.¹²⁶ The regulation also requires the European Commission to monitor the implementation of the facility.¹²⁷ For this purpose, the Commission has established dedicated audit and legal units, specific control and audit strategies and internal assessment procedures for both the recovery and resilience plans and subsequent payment requests.¹²⁸ For more information on the implementation of the Recovery and Resilience Facility one year after adoption, see European Commission (2022), *Report from the Commission to the European Parliament and the Council on the implementation of the Recovery and Resilience Facility*.

The governance of the facility differs from the framework that applies to other EU funds. The Common Provisions Regulation (CPR), which governs eight EU funds, explicitly requires compliance with the EU Charter of Fundamental Rights and the CRPD,¹²⁹ and sets out national arrangements for compliance.¹³⁰

The CPR does not apply to the Recovery and Resilience Facility, and the regulation establishing the facility does not contain similar provisions.¹³¹ Unlike the CPR, the regulation on the facility does not refer to any mechanism to monitor compliance with fundamental rights or to the consultation of national statutory bodies with a human rights or equality remit, that is, national human rights institutions (NHRIs), equality bodies or ombuds institutions.¹³²

Although the European Parliament’s Committee on Employment and Social Affairs and Committee on Regional Development suggested an explicit reference to the Charter and the CRPD in their opinions on the proposal for the Recovery and Resilience Facility,¹³³ the final text eventually did not retain this, except in recital 33. This recital sets out that “Recovery and resilience plans should not affect the right to conclude or enforce collective agreements or to take collective action in accordance with the Charter of Fundamental Rights of the European Union”.



However, Member States need to have in place, within the limits of their procedural autonomy, relevant systems to ensure that expenditures related to activities implementing EU law are consistent with the Charter, even if the regulation establishing the facility does not explicitly require such systems.¹³⁴ Although the regulation establishing the facility does not regulate fundamental rights compliance checks as intensively as the CPR, it does include ways of preventing and dealing with potential violations of the Charter and the CRPD.

The European Pillar of Social Rights reflects a range of Charter obligations – referring to topics the Charter covers such as the right to healthcare, gender equality equal opportunities and the inclusion of people with disabilities – that can guide the European Commission in scrutinising national recovery and resilience plans for fundamental rights compliance.¹³⁵

The European Network of National Human Rights Institutions (ENNHRI) points to the need for a rigorous human rights impact assessment of recovery measures. It should include consultations with vulnerable groups and could contribute to reducing discrimination and inequality.¹³⁶ ENNHRI and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have published a checklist to assist NHRIs in applying a human rights-based approach to protecting workers, jobs and SMEs, including in the context of national recovery and resilience plans.¹³⁷

FRA collected information to identify tools or mechanisms Member States intend to use to monitor the effectiveness of their national recovery and resilience plans in promoting social rights and equality. In particular, FRA focused on tools and mechanisms that involve national bodies with a human rights or equality remit, such as NHRIs, equality bodies, ombuds institutions, civil society organisations and organisations of people with disabilities.¹³⁸

FRA ACTIVITY

The fundamental rights compliance of EU funds

In 2021, FRA launched a new project aimed at establishing what the role of national bodies with a human rights remit, such as NHRIs and equality bodies, could be in ensuring compliance with EU funds. The project will involve conducting interviews with a range of interlocutors at national and EU levels to determine the critical success factors for the involvement of such bodies in each stage of the EU funding cycle. FRA intends to provide technical assistance to national bodies in this area and will publish an analytical report outlining potential roles for statutory human rights bodies in monitoring EU funds in 2023.

However, the monitoring provisions in these plans are limited to the requirements that the facility put in place. None of the national monitoring plans, except that of **Lithuania**, considers the involvement of national bodies with a human rights remit or a general fundamental rights monitoring mechanism, according to information that FRA collected.¹³⁹

The vast majority of national plans leave the monitoring of implementation to the relevant ministries, such as ministries of finance, or refer, sometimes additionally, to independent national audit bodies. Although a review of every planned project under the facility would exceed the capacity of most human rights bodies, various options for their involvement could be considered, such as providing advice and guidance on fundamental rights-sensitive topics or training to government officials dealing with the evaluation and approval of project proposals as part of these plans.

Member States have put forward some measures in their national plans that raise concerns about their compatibility with the Charter and the CRPD. The European Expert Group on the transition from institutional to community-based care, for example, has expressed concerns that funds from the facility could be used to refurbish or construct institutions for people with disabilities rather than implement measures to ensure they can live in the community. That may not comply with the duty in Article 19 of the CRPD.¹⁴⁰

FRA opinions

FRA OPINION 1.1

The EU and its Member States should promote the social rights of people in situations of vulnerability who were most affected by the pandemic, through the disbursement of funds from the Recovery and Resilience Facility in line with all relevant legal obligations and political commitments. EU Member States should adjust the funded measures if they are not found to be sufficiently effective in addressing people's social vulnerabilities.

The EU's commitment to social rights is rooted in the Union's legal order, as Articles 4, 9 and 151 of the Treaty on the Functioning of the European Union and Article 3 of the Treaty on European Union show, as well as Title IV on solidarity of the EU Charter of Fundamental Rights.

In 2021, the EU and its Member States responded to the Covid-19 pandemic with a renewed commitment to realising a 'social Europe', as the Porto Social Summit and the European Pillar of Social Rights Action Plan demonstrated. The Regulation establishing the Recovery and Resilience Facility (2021/241) reflects the Union's legal and political commitments, and requires Member States to explain how their national recovery and resilience plans will contribute to implementing the European Pillar of Social Rights. The regulation also includes references to fundamental rights, for example as regards data protection, environmental protection and equality.

The EU made € 723.8 billion available to Member States through the facility, including to address the social damage the pandemic caused. Therefore, the facility marks the Union's commitment to building a fairer, inclusive and social Europe. It enabled Member States to put forward more than 850 measures that would lead to fostering social and territorial cohesion, and could contribute to realising social rights. These measures address a number of social vulnerabilities among a variety of population groups in the EU, including women, children and young people in situations of vulnerability; people with disabilities; older people; Roma people; and people in precarious working conditions.

Broadly speaking, Member States included measures in their national recovery and resilience plans to improve the quality of education, employment opportunities and labour market integration. Some of them specifically address children and young people. Other measures pertain to reforming social security and social systems, while others relate to improving access to healthcare and long-term care.

Public funds, including EU funds, play a key role in ensuring fundamental rights, including social rights, are protected. This is especially the case where relevant authorities ensure that they do not finance activities that are not compatible with fundamental rights. This requires effective monitoring of the use of funds, in practice.

The regulation establishing the facility envisages Member States reporting twice a year, in the context of the European Semester, on the progress made in achieving their recovery and resilience plans (Article 27). Yet the regulation does not contain safeguards for monitoring the fundamental rights compliance of expenditures, comparable to those of the Common Provisions Regulation, whether in relation to setting up national monitoring mechanisms or involving statutory national bodies with a human rights or equality remit in such mechanisms.

Some Member States put forward measures in their plans that may raise concerns about compatibility with the EU Charter of Fundamental Rights or the CRPD. For example, using facility funds to refurbish or build institutions for people with disabilities may not comply with Article 19 of the CRPD on living independently and being included in the community.



FRA OPINION 1.2

The EU and its Member States should ensure that no funds from the Recovery and Resilience Facility are used in a manner that is incompatible with the EU Charter of Fundamental Rights or the Convention on the Rights of Persons with Disabilities (CRPD). The European Commission and EU Member States should put in place effective fundamental rights monitoring mechanisms in relation to the facility. The competent Member State authorities are encouraged to engage in systematic and meaningful consultations with their statutory human rights and equality bodies in this process. This could include seeking their advice on putting in place systems to ensure compliance with the EU Charter of Fundamental Rights and obligations stemming from the CRPD. EU Member States could also consider involving statutory human rights bodies in fundamental rights impact assessments of recovery measures.

Endnotes

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- 5 Eurobarometer (March 2021), *Social issues – Summary*, p. 3.
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- 16 [Recovery and Resilience Facility Regulation](#), Article 19 (3) (c). See also [Recovery and Resilience Facility Regulation](#), Annex V – 'Assessment guidelines', Section 2.3. For more information on the monitoring of the implementation of the European Pillar of Social Rights, see Eurostat (2022), '[European Pillar of Social Rights – Social scoreboard of indicators](#)'.
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- 90 Nova geração de equipamentos e respostas sociais – Aumentar a resposta em creche (New generation of social facilities and social responses – Increase the response in childcare); see Ministry of Planning (2021), **Plano de Recuperação e Resiliência – Recuperar Portugal, Construindo o Futuro**.
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- 92 Përcaktimin e procedurave, të dokumentacionit dhe të masës së përfitimit të ndihmës financiare për të punësuarit në subjektet e biznesit me të ardhura vjetore deri 14 milionë lekë, ndihmës ekonomike e të pagesës të së ardhurës nga papunësia gjatë periudhës së fatkeqësisë natyrore, të shpallur si pasojë e Covid-19 (On determining the procedures, documentation and the measure of obtaining financial assistance for employees in business entities with annual income up to ALL 14 million, economic assistance and payment of income from unemployment during the period of natural disaster, declared as a consequence of Covid-19); see Council of Ministers (2020), *Vendim nr.254, datë 27.3.2020 Për përcaktimin e procedurave, të dokumentacionit dhe të masës së përfitimit të ndihmës financiare si pasoje e Covid-19* (On taking measures to provide housing assistance to vulnerable individuals, based on the conditions of the Covid-19 pandemic); see Council of Ministers (2020), *Fletore zyrtare No. 43/20*.
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PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU —

The Covid-19 pandemic has brought into sharp relief the extent to which people in the EU must contend with social vulnerabilities in their daily lives. What started as a global health crisis soon morphed into a global social crisis affecting everyone in the European Union.

The pandemic has thus given a new impetus to the EU's commitment to social rights, rooted in its legal order. Through the Recovery and Resilience Facility, the EU made € 723.8 billion available to Member States to address the social damage the pandemic caused.

This focus looks at the impact of the pandemic on social rights. It examines the measures in national recovery and resilience plans that address the social vulnerabilities among a variety of population groups in the EU, including women, children and young people in situations of vulnerability, people with disabilities, older people, Roma and people in precarious working conditions.



FRA – EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Schwarzenbergplatz 11 – 1040 Vienna – Austria

T +43 158030-0 – F +43 158030-699

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