

**HUMAN RIGHTS IN THE SERVICE OF THE FIGHT AGAINST POVERTY:
A RIGHTS-BASED APPROACH TO ADDRESSING POVERTY IN THE NATIONAL
ACTION PLANS TO IMPLEMENT THE SUSTAINABLE DEVELOPMENT GOALS**

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EXECUTIVE SUMMARY

This study shows how the 2030 Sustainable Development Agenda can be seized as an opportunity to move to a human rights-based approach to poverty reduction strategies, in particular as regards how poverty is measured in order to guide action. European national human rights institutions (NHRIs) have a key advocacy role to play in this regard; they can also take the lead, by introducing certain good practices in poverty measurement and targeting of support, and in supporting the participation of the poor in the design, implementation and assessment of poverty reduction strategies. This study offers recommendations in this regard. It is also addressed to policy-makers at domestic and EU level, and to national institutions other than human rights institutions.

The study is divided in four chapters. Chapter I describes the added value of a human rights based approach (HRBA) to poverty reduction strategies and to poverty measurement in particular. It presents a set of ten Principles that define the HRBA to poverty reduction.

A first set of principles relate to the HRBA to poverty reduction in general, which requires taking into account the requirements of accountability, of equality and non-discrimination, and of participation. The reduction of poverty is both the cause of human rights violations (poor people are at greater risk of human rights violations) and a consequence thereof (human rights violations lead deprivation from essential goods and services and lack of participation, and therefore to socio-economic exclusion). A human rights-based approach (HRBA) to poverty reduction emphasizes that combating poverty is not a matter of choice for the State: it is a duty, grounded in human rights. Therefore, accountability mechanisms should be built into the poverty reduction strategy, including independent monitoring of progress and implementation and the use of indicators grounded in the normative components of human rights, consistent with the multidimensional nature of poverty (Principle 1). In addition, the requirements of equality and non-discrimination should be taken into account (Principle 2). Discrimination on grounds of social condition (or social and economic condition) should be prohibited, and the data concerning access to the basic goods and services that correspond to the enjoyment of human rights (housing, education, healthcare, food, work and social security) should be disaggregated by income, gender, age, race, ethnicity, nationality, migratory status, disability, level of education, geographic location and other characteristics relevant in national context. Participation of the poor is also key, not only for the design and implementation of poverty reduction strategies, but also to guide the methodological choices concerning data collection and poverty measurement (Principle 3).

A second set of principles relates to poverty measurement as such. The study explains that, in order to understand the causes of poverty, we should measure not only the number of the poor, but also who the poor are (Principle 4). It recommends that we design specific methodologies to identify the specific groups that tend to be invisible in statistics, referred to as the "missing poor": this requires the use of a *plurality of methodologies* to collect data about poverty, going beyond the classic reliance on household surveys (Principle 5). Moreover, since numbers alone may not suffice to convey the actual experiences of the poor, statistical data should be complemented by other (qualitative) sources of information about poverty, providing other framings and narratives, ideally coming from the poor themselves (Principle 6). Finally, given the importance of the phenomenon of the non-take-up of rights, the study recommends that we measure the gap between the legal entitlements provided for under the applicable regulatory framework and the effective enjoyment of the right, and the reasons why such a gap persists (Principle 7).

A third set of principles concern the safeguards to be complied with in data collection and processing. The information collected from individuals surveyed should be treated as personal data, which may only be processed in accordance with certain safeguards, prior to their use to

feed into statistics (Principle 8: the protection of personal data). The processing of data related to the ethnic origin, the religion or the language of the persons surveyed in poverty measurement exercises shall in many cases be desirable and even inevitable, but membership in a national minority is a matter of a person's individual choice, and such a choice (whether to be treated or not as a member of a national minority) should be free (Principle 9: self-identification). Finally, the person whose personal data are processed are made fully aware of the purposes of such processing, the legal basis, and his or her rights (Principle 10: transparency).

The study then turns to the contribution of the Sustainable Development Goals to poverty reduction strategies. The SDGs explicitly endorse an approach to poverty that sees it as a multidimensional phenomenon. Chapter II shows, however, that their contribution to strengthening anti-poverty reduction strategies goes beyond that recognition. Target 1.2 of the SDGs, associated with Goal 1, is to reduce by half the proportion of people who are poor according to national poverty measures. This Target therefore encourages European states to significantly increase the level of ambition of their poverty reduction strategies. Target 1.3 of the SDGs requires building social protection floors as entitlements, in other terms, moving from a charity-based to a rights-based approach to social protection. This is empowering, rebalancing the relationship between public authorities and the rights-holders of social protection. It also can improve the effectiveness and targeting of social protection schemes, especially since accountability mechanisms, allowing claims to be filed when social protection is denied, can reduce the risk of underinclusion. Finally, Target 10.1 demands policies that are focused on the reduction of inequalities within countries, ensuring that not only absolute poverty, but also relative poverty, is addressed. This is consistent with the way the poor experience poverty, and it is of course particularly relevant in relatively wealthy European societies where absolute deprivation is less common than relative deprivation. For all these reasons, NHRIs and other actors working in support of poverty reduction and the fulfilment of human rights should seize the adoption of national action plans to implement the SDGs as an opportunity to improve on existing poverty-reduction strategies, and associated measurements of poverty.

Chapter III examines how, in European countries, poverty is measured and how the poor are identified. It first considers developments at the level of the EU. The Europe 2020 strategy launched in 2010 aims to reduce the number of people at risk of poverty and social exclusion by 20 million. The study first describes how poverty is approached under that framework. It then examines how the adoption of the SDGs, as well as the adoption on the European Pillar of Social Rights, are leading to improve the understanding of poverty and its various causes. The study then turns to the national level. It reviews a sample of 16 European jurisdictions, for which, in addition to the results of a two-days consultation involving 13 NHRIs in Berlin in May 2017, NHRIs have provided answers to a questionnaire on the adoption of a national action plan (NAP) to implement the SDGs, or on other national poverty measurement (NPM) efforts. Particular attention was paid to the inclusion of poverty within that NAP, and to how poverty was measured in that context, in comparison to other NPM efforts.

The study shows that the adoption of the SDGs has until now had a minimal impact on how poverty is measured in Europe: the opportunity is still to be seized. It also shows that the disaggregation of data relating to poverty remains insufficient. Moreover, though some jurisdictions do rely on a plurality of methodologies to assess poverty, none of the jurisdictions surveyed has used methodologies that are diverse enough to ensure that poverty measurement is fully inclusive of groups that are not represented in household surveys or, for various reasons, do not appear in statistics: these are in particular undocumented migrants, people in institutions, and the homeless. Finally, few serious attempts to involve the poor in designing methodologies for poverty measurement were reported, although some promising good practices were reported.

Though these findings illustrate the long journey that still should be travelled, the comparison between developments at EU level and developments at national level does highlight the potential for future progress in this area, at least within the EU Member States, under the influence of EU-wide attempts to harmonize data collection relating to poverty.

Finally, building on certain good practices identified by NHRIs, Chapter IV identifies which recommendations NHRIs could address to policy-makers in order to ensure that poverty measurement (and poverty reduction strategies in general) is better informed by the SDGs. Three priorities emerge. First, the delays incurred in the development of NAPs for the implementation of the SDGs can be seen as an opportunity: a potential source of progress remains untapped. Secondly, because statistical offices are in general poorly equipped to develop a plurality of methodologies to count the poor, it is urgent that other actors step in, and highlight the gap that is to be filled, making visible the "missing poor". In addition to NHRIs, academic researchers and non-governmental organisations working with the poor (and who could help bridge the gaps) could be brought into this effort. Thirdly, because the participation of the poor in designing, implementing, evaluation and revising poverty reduction strategies, and in identifying the methodologies to count the poor, remains almost completely non-existent, they should be given a voice: NHRIs are uniquely well positioned to contribute to this. Chapter IV translates these priorities into a total of seven recommendations addressed to NHRIs.

BACKGROUND AND OBJECTIVE

This study aims to assess how the 2030 Sustainable Development Agenda can be seized as an opportunity by European national human rights institutions (NHRIs) to encourage a human rights-based approach to poverty reduction strategies, in particular as regards the measurement of poverty.

With this general objective in mind, the study proceeds in three steps. Chapter I describes the added value of a human rights based approach (HRBA) to poverty reduction strategies and to poverty measurement in particular, identifying ten principles that define the specificity of such an approach, and how it shapes poverty measurement in particular; as well as recalling the standards (personal data protection, self-identification and transparency) that should be complied with in the collection and processing of personal data for statistical purposes to guide poverty reduction strategies.

Next, Chapter II links the HRBA to poverty reduction to the SDGs, assessing the contribution that the SDGs could make to improving poverty reduction strategies and poverty measurement in particular.

Chapter III then examines how, in European countries, poverty is measured and how the poor are identified. It first considers developments at the level of the EU. One pillar of the Europe 2020 strategy launched in 2010 is to move towards inclusive growth, for which one of the targets is to reduce the number of people at risk of poverty and social exclusion by 20 million. The study describes how poverty is approached under that framework, before examining how the adoption of the SDGs, as well as the agreement on the European Pillar of Social Rights, are leading to improve the understanding of poverty and its various causes. The study then turns to the national level. It reviews a sample of 16 European countries. The comparison between these jurisdictions focuses in particular on the inclusion of poverty within the country NAPs, and on how poverty is measured either in the NAP or in other national poverty measurement (NPM) efforts.

Finally, building on certain good practices identified by NHRIs, Chapter IV identifies which recommendations could be addressed to NHRIs -- and which recommendations NHRIs could address to policy-makers -- in order to ensure that poverty measurement (and poverty reduction strategies in general) is better informed by the SDGs.

CHAPTER I

POVERTY REDUCTION IN A HUMAN RIGHTS PERSPECTIVE: THE ADDED VALUE OF A HUMAN RIGHTS-BASED APPROACH TO STRENGTHEN POVERTY REDUCTION STRATEGIES

This chapter builds on the international human rights framework to clarify how the fight against poverty can benefit from a human rights based approach. It addresses three questions. It first presents the added value of a human rights based approach to poverty reduction. In order to do so, it describes in greater detail the components of such a HRBA to poverty reduction, discussing in this regard the roles of the principles of accountability, of equality and non-discrimination, and of participation in the fight against poverty. Section 2 then explores the implications of a HRBA to poverty reduction on the way we measure poverty. Finally, section 3 recalls the safeguards which should be complied with in the collection and processing of information required to guide poverty measurement and poverty reduction strategies: these safeguards relate to the processing of personal data, and to the principles of self-identification and transparency. Section 4 summarizes the conclusions reached on each of these points by providing a grid of analysis of poverty reduction strategies, with a view to assessing such strategies are adequately grounded in human rights.

1. What is the added value of a human rights based approach to poverty reduction?

Until the mid 1990s, poverty had been defined in purely monetary terms, as a lack of income. It is now seen, instead, as a multidimensional phenomenon. The Programme of Action adopted at the 1995 World Summit for Social Development states that: "Poverty has various manifestations, including lack of income and productive resources sufficient to ensure sustainable livelihoods; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion. It is also characterized by a lack of participation in decision-making and in civil, social and cultural life."¹ In a statement adopted in 2001, the Committee on Economic, Social and Cultural Rights defined poverty as "a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights".²

These definitions of poverty allow to frame it as both a cause and a consequence of violations of human rights -- whether civil, cultural, economic, political or social rights.³ In some cases, legislation has explicitly included a definition of poverty that treats it as a violation of human rights.⁴ Indeed,

¹ See para. 19, in chapter II, entitled "Eradication of poverty".

² Committee on Economic, Social and Cultural Rights, Statement on poverty adopted on 4 May 2001 (UN doc. E/C.12/2001/10), para. 8.

³ Although the emphasis has generally been on economic, social and cultural rights in the discussion of poverty-reduction policies, the poor also face systematic violations of their civil and political rights, including as a result of police brutality, of excessive subjection to pretrial detention, or of a denial of voting rights (see Report of the Special Rapporteur on extreme poverty and human rights presented to the 72nd session of the General Assembly (UN doc. A/72/502 (4 October 2017)). This is one important reason why poverty is connected with powerlessness, and why participation of the poor in the design, implementation, evaluation and revision of the policies that affect them is essential.

⁴ In Belgium, the "fight against poverty, and the integration of individuals into society", which are at the heart of the mission attributed to the Combat Poverty, Insecurity and Social Exclusion Service (established in July 1999), is based *inter alia* on "the realisation of social rights as established in article 23 of the Constitution"; and on "equal access to all of such rights for every individual, which may also include measures for positive action" (Cooperation Agreement between the Federal State, the Communities, and the Regions concerning the continuation of the Poverty Reduction Policy was signed in Brussels on 5 May 1998, article 1). Thus, the Cooperation Agreement explicitly links the fight against poverty to the realization of human rights. Beyond the simple (though by no means trivial) question of the definition of poverty, this has an impact on how poverty is measured and on the role of the Combat Poverty, Insecurity and Social Exclusion Service in that regard. Indeed, the said Service is expected to produce every two years a "Report on Insecurity, Poverty, Social Exclusion, and Unequal

people in poverty not only face numerous obstacles in having access to rights and entitlements (including education, housing, nutritious food, healthcare, and work, but also political participation), they also are caught in a vicious cycle in which those deprivations themselves make it more difficult for them to escape poverty. Persons experiencing extreme poverty in particular "live in a vicious cycle of powerlessness, stigmatization, discrimination, exclusion and material deprivation, which all mutually reinforce one another".⁵

It follows from the vicious cycle between poverty and the lack of enjoyment of human rights that an effective anti-poverty strategy should be defined as a strategy aimed at improving the protection of the human rights of people living in poverty.⁶ This is the only way to break this cycle, thus "connecting the powerless with the empowering potential of human rights".⁷ This is well expressed in the 2005 Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, which state:

The human rights approach underlines the multidimensional nature of poverty, describing poverty in terms of a range of interrelated and mutually reinforcing deprivations, and drawing attention to the stigma, discrimination, insecurity and social exclusion associated with poverty. The deprivation and indignity of poverty stem from various sources, such as the lack of an adequate standard of living, including food, clothing and housing, and the fact that poor people tend to be marginalized and socially excluded. The commitment to ensure respect for human rights will act as a force against all these forms of deprivation.⁸

This is at the heart of the idea that, in the context of a human rights based approach to poverty reduction, poverty should be measured as a multidimensional phenomenon, and take into account not only the lack of income (monetary poverty), but also lack of access to the goods or services essential to the enjoyment of human rights: housing, education, healthcare, food, work and social security.⁹ Ideally, indicators should be developed to track, for each of these, availability (in relation to needs), accessibility (including economic accessibility, physical accessibility, and non-discrimination), and adequacy (requiring a more qualitative assessment, to ensure that goods or services benefiting the poor are not of poor quality due to the inability of the poor, typically, to hold government and service providers accountable), in order to identify deprivations that require the most urgent action.

The following section describes in greater detail the contribution of a rigorous measurement of poverty to poverty reduction strategies. First however, the remainder of this section provides further clarifications as to the components of a human rights based approach to poverty reduction: it considers respectively the principle of accountability, the principle of equality and non-discrimination, and the principle of participation,¹⁰ explaining how taking into account these principles can significantly improve the legitimacy and effectiveness of poverty-reduction strategies.

Principle 1: accountability

The Guiding Principles on extreme poverty and human rights provide that "States should devise and adopt a poverty reduction strategy based on human rights that actively engages individuals and groups,

Access to Rights", and it is worth underlining that the 1998 Cooperation Agreement explicitly provides that this report should include "an evaluation of the effective exercise of social, economic, cultural, political, and civil rights, as well as of the inequalities that persist in relation to individuals' access to rights" (Article 2).

⁵ Guiding Principles on extreme poverty and human rights, para. 4. The Guiding Principles were adopted by consensus by the Human Rights Council on 27 September 2012 in resolution 21/11.

⁶ For a detailed description of the relationship between poverty and human rights, see *Human Rights and Poverty Reduction: A Conceptual Framework* (Office of the High Commissioner for Human Rights, Geneva, 2004).

⁷ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 6.

⁸ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (Office of the High Commissioner for Human Rights, Geneva, 2005), para. 15.

⁹ On the notion of the multidimensional understanding of poverty and its value, see in particular Sabina Alkire, James. E. Foster, Suman Seth, Maria Emma Santos, Jose M. Roche, and Paola Ballon, *Multidimensional poverty measurement and analysis* (Oxford: Oxford University Press, 2015); and the report coordinated by A. Atkinson for the World Bank, *Monitoring global poverty. Report of the Commission on Global Poverty* (Washington DC: World Bank, 2017).

¹⁰ On the requirement and benefits of participation, see also chapter III, section 3.

especially those living in poverty, in its design and implementation. It should include time-bound benchmarks and a clear implementation scheme that takes into account the necessary budgetary implications. It should clearly designate the authorities and agencies responsible for implementation and establish appropriate remedies and grievance mechanisms in the event of non-compliance".¹¹

A human rights-based poverty reduction strategy sees the adoption of such a strategy not as a voluntary for the State (a matter of choice), but as a legal obligation imposed under its human rights commitments, and for which the State must be held accountable. It follows that the strategy should provide beneficiaries with rights that they may claim: once rights are introduced into the context of policymaking, "the rationale of poverty reduction no longer derives merely from the fact that the people living in poverty have needs but also from the fact that they have rights—entitlements that give rise to legal obligations on the part of others. Thus, the human rights perspective adds legitimacy to the demand for making poverty reduction the primary goal of policymaking".¹²

It also follows that the implementation of the strategy should be monitored by independent mechanisms, such as national human rights institutions,¹³ but also courts, parliamentary committees and regional and international human rights mechanisms.¹⁴ For such monitoring to be effective, the strategy should include appropriate indicators (both quantitative and qualitative), benchmarks and timetables (both sufficiently ambitious and realistic), ensuring that progress shall be achieved in accordance with a specific timeline.¹⁵ It should also include a participatory dimension, in order to ensure that the poor themselves are involved in monitoring adequate implementation.¹⁶

The indicators to measure progress should reflect that fact that the poor have rights, and that States have duties towards them. This is why human rights-based indicators are distinct from macro-economic indicators or development indicators that simply register socio-economic facts. Human rights-based indicators include indicators referring to the *commitments* made by the State, or to the legal, institutional and policy frameworks that the State establishes (*structural indicators*); indicators referring to the *efforts* made by the State to ensure that the commitments are effectively implemented, i.e., translated into the adoption of concrete measures and policies (*process indicators*); and finally, indicators relating to the *results* achieved (*outcome indicators*).¹⁷ These three categories of indicators are interdependent and mutually supportive: the structural indicators ensure that the beneficiaries of measures adopted by the State shall have access to remedies (both judicial and non-judicial), and that the States' performances shall be adequately monitored, in particular, by independent bodies (including national human rights institutions); the process indicators ensure that States shall effectively deliver on their promises, in particular by making the required budgetary investments; and the outcome indicators, which present the closest resemblance to development indicators, serve to ensure the policies actually make a difference -- that they are having an impact --, so that misguided or ineffective policies can be revised and improved.

Principle 2: equality and non-discrimination

¹¹ Guiding Principles on extreme poverty and human rights, para. 50.

¹² *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, Office of the High Commissioner for Human Rights (2005), para. 19.

¹³ See, referring explicitly to national human rights institutions, the Guiding Principles on extreme poverty and human rights, para. 103.

¹⁴ *Id.*, para. 107.

¹⁵ Guiding Principles on extreme poverty and human rights, para. 104.

¹⁶ Guiding Principles on extreme poverty and human rights, para. 107. On the requirement of participation, see further below, section 4 of this chapter.

¹⁷ See in particular, introducing this framework, the Report by the Office of the United Nations High Commissioner for Human Rights on Indicators for Promoting and Monitoring the Implementation of Human Rights (HRI/MC/2008/3 (6 June 2008)) (explaining in para. 8 that the human rights indicators framework proposed in the report "opted for using a configuration of structural-process-outcome indicators, reflecting the need to capture a duty-bearer's commitment, efforts and results, respectively. In other words, by identifying structural-process-outcome indicators for each attribute of a human right, it becomes possible to bring to the fore an assessment of steps taken by the States parties in meeting their human rights obligations").

It is noteworthy that article 2(2) of the International Covenant on Economic, Social and Cultural Rights mentions "social origin" and "property" among the prohibited grounds of discrimination, alongside, *inter alia*, race, colour, sex, language or religion. Indeed, the Committee on Economic, Social and Cultural Rights insists that such grounds should be included in the anti-discrimination framework adopted by the States parties to the Covenant.¹⁸ In its General Comment No. 20 on non-discrimination, the Committee reiterated that: "Individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society. A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places".¹⁹ As regards the homeless in particular, the Special Rapporteur on the right to adequate housing noted more recently that: "Discrimination is both a cause and a consequence of homelessness. Those who face discrimination on the grounds of race, ethnicity, place of origin, socioeconomic status, family status, gender, mental or physical disability, health condition, sexual orientation and/or gender identity and age are more likely to become homeless and, once homeless, experience additional discrimination".²⁰

This emphasis on equality and non-discrimination is not surprising. "Discrimination may cause poverty, just as poverty may cause discrimination".²¹ Therefore, protecting the poor against discrimination is key to remove the structural determinants of poverty.²² This means that (to borrow from the classic definition of discrimination in human rights law) any distinction, exclusion, restriction or preference or other differential treatment that is based on social condition or property and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms, should be prohibited as a form of unlawful discrimination. The reference in article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights to "property" (in French: "fortune") implies that the poor cannot be treated adversely simply because they are poor: in principle, their underprivileged socio-economic situation cannot be allowed to result in a reduced ability to enjoy human rights.

In addition, human rights law prohibits any action or omission that disproportionately affects members of a particular group, in the absence of a reasonable and objective justification, thus constituting *de facto* discrimination.²³ Thus, regulatory or policy measures that are neutral on their face may be considered discriminatory if they do not take into account the disparate impacts they may have on certain groups of the population, defined for instance on the basis of "property", or income levels. Indeed, in order to prevent discriminatory results, States may have to provide for differential treatment benefiting certain categories of the population facing systemic disadvantage. In cases of entrenched discrimination, States may be under an obligation to adopt special measures to attenuate or suppress conditions that perpetuate discrimination. In human rights law, such measures are legitimate to the

¹⁸ See, e.g., Concluding Observations on the sixth periodic report of Canada (UN doc. E/C.12/CAN/CO/6 (23 March 2016)), para. 17 (referring to "social condition" as a prohibited ground of discrimination).

¹⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in economic, social and cultural rights (E/C.12/GC/20 (2 July 2009)), para. 35.

²⁰ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 39.

²¹ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 11.

²² Though this should not be limited to them, such prohibition from discrimination on grounds of social condition should also protect the homeless against the many forms of discrimination they face: see Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 49, b) ("States must combat discrimination, stigma and negative stereotyping of homeless people as a matter of urgency and provide legal protection from discrimination because of social and economic situation, which includes homelessness").

²³ Human Rights Committee, General Comment No. 18 : Non-discrimination (thirty-seventh session, 1989) ; Committee on Economic, Social and Cultural Rights, General Comment No. 20 : Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2) (UN doc. E/C.12/GC/20), par. 8.

extent that they represent reasonable, objective and proportionate means to redress *de facto* discrimination and are discontinued when substantive equality has been sustainably achieved.²⁴

It thus follows from the requirements of human rights instruments that States should dedicate greater resources to improve the condition of groups who face systemic discrimination.²⁵ Indeed, once it is recognized that "a great deal of poverty originates from discriminatory practices—both overt and covert", it follows that poverty reduction strategies shall only be fully effective if they also address "the socio-cultural and political-legal institutions which sustain the structures of discrimination. Thus, the human rights approach to poverty reduction requires that the laws and institutions which foster discrimination against specific individuals and groups be eliminated and that more resources be devoted to the areas of activity with the greatest potential to benefit the poor".²⁶ The fight against inequalities, based in particular on social condition, should concern not only the sphere of economic, social and cultural rights, but also the sphere of civil and political rights, since inequalities in access to political influence and socio-economic inequalities are mutually reinforcing.²⁷

The requirement of non-discrimination against the poor is especially important where States face an economic or financial crisis and adopt fiscal consolidation (so-called "austerity") programmes in order to reassure their creditors as to the health of their public budgets. In his Letter of 16 May 2012 to the States parties to the Covenant on austerity measures, the Chairperson of the Committee emphasized that fiscal consolidation policies "must not be discriminatory and must comprise all possible measures, including tax measures, to support social transfers to mitigate inequalities that can grow in times of crisis and to ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately affected".²⁸

A variety of tools can be used in order to prevent discrimination against people in poverty, even in circumstances where it may not be direct but rather indirect -- the result of the disparate impact certain apparently neutral policies may have on certain disadvantaged groups --. Three tools in particular could be mentioned as best practices. *Poverty impact assessments* are useful to alert policy-makers to the impacts on the poor of the policies they design and implement, ideally as part of broader human rights impact assessments.²⁹

A second tool is to provide for an *explicit protection from discrimination on grounds of social condition*, as recommended by the Committee on Economic, Social and Cultural Rights. This not only has symbolic value, sending a clear message to policy-makers in particular that people may not be treated less favourably because they are poor. It also has institutional consequences (in particular, allowing Equality Bodies to contribute more effectively to the fight against poverty, alongside the specific contribution NHRIs can make). Equality Bodies do report that relying on such a ground of

²⁴ Committee on Economic, Social and Cultural Rights, General Comment No. 20, cited above, par. 9.

²⁵ *Id.*, para. 39.

²⁶ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, cited above, para. 21.

²⁷ See Report of the Special Rapporteur on extreme poverty and human rights to the twenty-ninth session of the Human Rights Council (UN doc. A/HRC/29/31 27 May 2015), para. 21; and United Nations Research Institute for Social Development (UNRISD), *Combating Poverty and Inequality: Structural Change, Social Policy and Politics* (United Nations publication, Sales No. E.10.III.Y.1 (2010)). See also, concerning in particular the homeless, the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 21 ("Homeless people are subject to constant intimidation and harassment by authorities and the general public; they are denied access to basic services or places to shower, urinate or defecate; they are rounded up and forced out of cities and relocated to uninhabitable places; they are walked over and passed by; they are subject to extreme forms of violence, including hate crimes and sexual violence; and they are often the subject of vilification").

²⁸ See also the Statement adopted by the Committee on Economic, Social and Cultural Rights, *Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights* (E/C.12/2016/1) (24 June 2016), para. 2 (noting, by reference to article 2, para. 2 of the Covenant, that "Low-income families, especially with children, and the workers with the lowest qualifications are disproportionately affected by measures such as loss of jobs, freezing of the minimum wage and cutbacks in social assistance benefits, potentially resulting in discrimination on grounds of social origin or property").

²⁹ Such a tool is under development within the Belgian Service to Combat Poverty, Insecurity and Social Exclusion: see for details (in Dutch): <http://www.armoedebestrijding.be/themaarmoedetoets.htm>

discrimination raises specific challenges, both because "the meaning, situation and character of the socio-economic status ground is not understood by many people in the society and even within the equality body" and because, in the large majority of cases, discrimination on grounds of social condition (or socio-economic status) is combined with discrimination on other grounds (particularly sex, race or ethnic origin, disability or age), requiring specific methodologies to be developed to address appropriately multiple discrimination.³⁰ However, Equality Bodies generally favor the inclusion of such a ground in anti-discrimination legislation, noting that poverty is often an obstacle to the filing of discrimination claims, and that the explicit reference to social condition (or socio-economic status) in their mandate could help overcome this barrier.

Finally, a third tool concerns specifically poverty measurement, which is the main focus of this study. In such measurement efforts, general poverty indicators should be *disaggregated* in order to improve our understanding of how poverty disproportionately affects certain groups rather than others. As noted by the Office of the High Commissioner for Human Rights in its submission to the June 2015 session of the Conference of European Statisticians:

Disaggregating indicators by grounds of discrimination prohibited by international human rights law in order that no-one is excluded or left behind, and in conformity with SDG17.18 which states that indicators should be disaggregated by "income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national context" [31]. This requires strengthening capacities to produce and analyse more disaggregated data, measure the disparities between groups and monitor the reduction of inequalities, in order to close the gaps between groups.³²

The data concerning access to the basic goods and services that correspond to the enjoyment of human rights (housing, education, healthcare, food, work and social security) should therefore be disaggregated by income, gender, age, race, ethnicity, nationality,³³ migratory status, disability, geographic location and other characteristics relevant in national context. This is essential to arrive at a realistic understanding of the structural causes of poverty as they concern disproportionately certain groups.³⁴ At the same time, it is important to note, as did one reviewer of the initial draft of this study,

³⁰ See in this regard Equinet (European Network of Equality Bodies), *Addressing Poverty and Discrimination: Two Sides of the One Coin*, Equinet Opinion, December 2010, available at:

http://www.equineteurope.org/IMG/pdf/poverty_opinion_2010_english.pdf

³¹ In fact, this Target 17.18 reads: "By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts". Regrettably therefore, the Target as it is formulated is presented as primarily of relevance to poor countries, and as requiring that statistical offices in these countries be supported by external assistance. This is unfortunate, for high-income countries are far from all systematically disaggregating data relevant to the implementation of the SDGs by the different grounds listed; indeed, some countries explicitly oppose doing so.

³² *Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights*, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (a).

³³ Although nationality is not mentioned in SDG indicator 17.18 which has been quoted above, it is recognized as a prohibited ground of discrimination: see, for a recent restatement, the Statement of the Committee on Economic, Social and Cultural Rights on the duties of states towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights (UN doc. E/C.12/2017/1 (13 March 2017)); for the rise of nationality as a prohibited ground of discrimination in international and European human rights law, see O. De Schutter, *Links between migration and discrimination* (Study prepared at the request of the European Commission and the European network of legal experts in gender equality and non-discrimination, 2016).

³⁴ For instance, the EU Fundamental Rights Agency EU MIDIS II study (Second European Union minorities and discrimination survey) (December 2017) (<http://fra.europa.eu/en/project/2015/eu-midis-ii-second-european-union-minorities-and-discrimination-survey>) shows that certain groups of children such as Roma children are at a higher risk of poverty and severe poverty compared to children in the general population. More specifically, in five EU Member States data show that more than 90% of Roma children covered by the survey were at-risk-of-poverty. Furthermore, FRA data has showed that between 16% (Spain) and 48% (Greece) of Roma children were living in households where at least one person went to bed hungry at least once in the preceding month when the data was collected. It is therefore a source of concern that some EU Member States still appear reluctant to collect data based on ethnicity, particularly since the principles of personal data protection, of self-identification and of transparency discussed below (see section 4 in this chapter) should avoid any risk of abuse in the collection and processing of such data for statistical purposes. See on this issue, more generally, O. De Schutter

that "disaggregated data may increase the risk that policy reduction strategies may look primarily to individual characteristics (needs) and not to structural mechanisms (rights), and be directed to the groups that 'need it the most' thereby creating competition between groups in different deprived situations". This is an important consideration: the following section (section 3) emphasizes that a human rights based approach to poverty reduction should be based on the idea of entitlements, that may be claimed before independent bodies. The disaggregation of data, though essential to allow to identify the structural mechanisms that lead to poverty and to identify the groups that are disproportionately affected, should not be seen as a substitute to the establishment of such accountability mechanisms, that allow each individual to claim his or her human rights, without facing the obstacle of poverty.

Principle 3: participation

In Belgium, article 3 of the 1998 Cooperation Agreement between the Federal State, the Communities, and the Regions concerning the continuation of the Poverty Reduction Policy, which led to establish the Combat Poverty, Insecurity and Social Exclusion Service in 1999, provides that "Following consultation with the scientific community, the competent administrations and institutions, the social partners, and the organisations where people living in poverty have a voice, the [different entities of the country, signatories of the Cooperation Agreement] shall investigate what quantitative and qualitative indicators and tools can be employed and/or developed to analyse the evolution in all areas [to be covered in the biennial Report on Insecurity, Poverty, Social Exclusion, and Unequal Access to Rights]".

The origins of this provision and the ambitious view of participation it is based on are discussed below in greater detail.³⁵ But the point it makes is a more general one: the institutionalisation of the participation of the poor in the design of poverty measurement tools is key both to their legitimacy and to their effectiveness.³⁶ Indeed, as noted by the Committee on Economic, Social and Cultural Rights, "a policy or programme that is formulated without the active and informed participation of those affected is most unlikely to be effective. Although free and fair elections are a crucial component of the right to participate, they are not enough to ensure that those living in poverty enjoy the right to participate in key decisions affecting their lives".³⁷ The Guiding Principles on extreme poverty and human rights provide that "States must ensure the active, free, informed and meaningful participation of persons living in poverty at all stages of the design, implementation, monitoring and evaluation of decisions and policies affecting them. This requires capacity-building and human rights education for persons living in poverty, and the establishment of specific mechanisms and institutional arrangements, at various levels of decision-making, to overcome the obstacles that such persons face in terms of effective participation. Particular care should be taken to fully include the poorest and most socially excluded persons".³⁸ Poor education, poor access to information, the difficulty to organize collectively, time poverty, and lack of trust in the officials or institutions organizing the consultation are all important obstacles that poor people face in exercising their right to take part in the conduct of public affairs.³⁹ Yet, ensuring such effective participation is the only way to break the vicious cycle in which poor people are underrepresented in decision-making, so that the policies do not prioritize removing the obstacles they face, resulting in further economic marginalization and, thus, in their political disempowerment.

and Julie Ringelheim, *Ethnic Monitoring. The processing of racial and ethnic data in anti-discrimination policies : reconciling the promotion of equality with privacy rights* (Bruxelles, Bruylant, 2010).

³⁵ See chapter II, section 2 (Box 4), as well as chapter III, section 3.

³⁶ In this regard, see the promising research coordinated by Xavier Godinot (ATD Fourth World) and Prof. Robert Walker (Oxford University), to be completed in 2019, on involving the poor in designing methodologies to measure poverty more effectively, taking into account the experience of poor families: <http://www.atd-fourthworld.org/measuring-poverty-differently/> (last accessed on Oct. 3rd, 2018).

³⁷ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 12.

³⁸ Guiding Principles on extreme poverty and human rights, para. 38.

³⁹ For further details and a reference to good practices, see below, chapter III, section 3.

The Guiding Principles on extreme poverty and human rights also note that anti-poverty strategies and plans of action "should be devised and periodically reviewed through a transparent, inclusive, participatory and gender-sensitive process. The process by which the strategy and plan of action are devised, and their content, should pay particular attention to vulnerable or marginalized groups. States should define and publicize opportunities for participation and information about proposed policy measures should be disseminated widely and in an accessible manner".⁴⁰ Participation is important not only for the design and implementation of poverty reduction strategies, but also to guide the methodological choices concerning data collection and poverty measurement. Indeed, as noted by the Special Rapporteur on the right to adequate housing, those concerned (such as, among the most marginalized groups, the homeless) "are best placed to ensure that methods of measurement are accurate and inclusive and at the same time sensitive to their circumstances".⁴¹ In order to ensure such a participation is effective, collaboration between national statistical offices and national human rights institutions could be recommended.⁴²

At the same time, it is important not to see participation of the poor in the design, implementation, assessment and revision of poverty reduction strategies as a substitute for ensuring that the poor are protected from any form of discrimination in the exercise of civil and political rights (such as freedom of assembly, freedom of association, freedom of expression, and the right to vote) that ensure accountability and allow participation in the polity in general.⁴³

2. Why does it matter how we measure poverty?

An adequate measurement of poverty is essential for a poverty reduction strategy to be effective.⁴⁴ Measuring poverty allows the issue of poverty to remain visible and to be kept on the top of the political agenda. Insofar as poverty measurement includes a disaggregation of data, it also provides a guide to action: it allows poverty-reduction measures to be better targeted, and it is only if poverty is properly measured and poverty data disaggregated that regulations or policies that might result in discrimination against the poor can be identified and, where necessary, changed in order to ensure that they do not have such an impact. Finally, poverty measurement and monitoring serve to assess the results of poverty reduction strategies and interventions: an adequate measurement of poverty, taking into account its various dimensions as they relate to the enjoyment of human rights, is therefore also required to ensure that poverty reduction strategies are successful, not simply in reducing monetary poverty, but also in addressing the other dimensions of poverty and, thus, its structural causes, particularly where human rights violations are among those causes.

As regards how poverty is to be measured however, the consensus documents are less explicit. The Guiding Principles on extreme poverty and human rights state:

⁴⁰ Guiding Principles on extreme poverty and human rights, para. 104.

⁴¹ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 73.

⁴² Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (c) (recommending "facilitating participation of the population, especially disadvantaged and marginalized members of society and other relevant stakeholders in the measurement process. Participation is a fundamental principle of human rights. ... This would require a more institutionalized partnership between official statistics and the human rights community, e.g. through participation of National Human Rights Institutions (NHRIs) or civil society organisations...").

⁴³ As noted by the Special Rapporteur on extreme poverty and human rights, the focus on "participation" could become "a substitute for more concerted and specific efforts to address the particular situation of the poor when addressing each of the civil and political rights in a given community. ... This is not to minimize the importance of participation, but rather to suggest that a more important but neglected dimension is to factor those living in poverty into broader analyses of how voting rights, free speech rights and the like are shaped and implemented in order to achieve the desired results" (Report of the Special Rapporteur on extreme poverty and human rights presented to the 72nd session of the General Assembly (UN doc. A/72/502 (4 October 2017), para. 61).

⁴⁴ See United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017) (UN doc. ECE/CES/STAT/2017/4), para. 20.

States should entrust an independent national body with the task of monitoring the quantitative and qualitative aspects of poverty from a human rights perspective, and providing the disaggregated data sets necessary for effective implementation. Information must be collected and processed in accordance with internationally accepted norms so as to protect human rights and ensure confidentiality and respect for privacy.⁴⁵

The 2005 Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies are slightly more explicit in this regard, noting that the identification of the poor consists in two steps: (i) the *definition of the attributes of poverty*, which is highly context-specific, and thus should rely on the participation of the poor, who should assist in listing the basic capabilities the deprivation of which constitutes poverty in a particular society; and (ii) *identifying the poor*, as the group of the population that is deprived of these basic capabilities, a task that the Principles and Guidelines describe as "informationally demanding".⁴⁶ Four key principles emerge from the international consensus in this area and from the information collected in preparation of this study.

Principle 4: Measure not only the number of the poor, but who the poor are

The Principles and Guidelines emphasize that "the objective of the exercise should not merely be to come up with a number, such as the percentage of poor people in the population, but to ascertain who these people are and how poor they are" and to identify, within the poor, those who are "especially deprived and marginalized".⁴⁷ This is another reason why the disaggregation of data related to poverty and social exclusion matters in a human rights perspective: in addition to identifying potential instances of discrimination, as discussed above in section 2, it allows to identify *who is poor*, taking into account characteristics such as sex, age, ethnic origin, nationality, disability, or place of residence in particular, thus allowing more targeted action to be taken towards the groups affected.

Identifying who the poor are also allows better distinguishing transient poverty (resulting from temporary setbacks that individuals or families may face) from chronic poverty (affecting individuals or families that face permanent obstacles in a life-cycle perspective).⁴⁸ Indeed, it is only by asking who the poor are that statistical offices and other actors can assess whether the poor in year 1 are the same as the poor in year 0 or in year -2. This is an important information to guide policies, since short- and long-term impacts of poverty respectively call for very different poverty-reduction approaches. "Although short spells of poverty are always unwelcome, they may not threaten subsistence or significantly damage life prospects if individuals and households can reduce expenditure, run down savings or borrow. However, these tactics are unlikely to be sufficient in the long run. Only by using longitudinal data can one understand the processes behind cross-sectional statistics: the events leading individuals into and out of poverty, and the associated impact on their living standards. Longitudinal poverty analysis can also identify ways in and out of poverty, which can help policymakers adopt better safety nets or other inclusion policies"⁴⁹.

Principle 5: Design specific methodologies to identify the "missing poor"

Measuring certain dimensions of poverty may pose specific challenges, particularly where the groups concerned are difficult to include in surveys covering a sample of the general population.⁵⁰ This is the case in particular for institutionalized people (in elderly care homes, children's homes, and mental health institutions), for undocumented migrants or for homeless people, as well as for street children.⁵¹

⁴⁵ Guiding Principles on extreme poverty and human rights, para. 105.

⁴⁶ Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, cited above, para. 33.

⁴⁷ *Id.*, paras. 35-36.

⁴⁸ Michael Hoy, Brennan Scott Thompson, Buhong Zheng, "Empirical Issues in Lifetime Poverty Measurement", *The Journal of Economic Inequality*, vol. 10(2) (2012), pp. 163-189.

⁴⁹ United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), cited above, para. 81.

⁵⁰ See generally Roger Tourangeau, Brad Edwards, Tomithy P. Johnson, Kirk M. Wolter, and Nancy Bates (eds.), *Hard-to-Survey Populations* (Cambridge: Cambridge University Press, 2014).

⁵¹ United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), cited above, para. 75 and paras. 428-432.

Data on homelessness, for instance, is scarce in most countries because of the sheer difficulty of collecting such data, because governments may prefer not to be held accountable, and because it is insufficient to track homelessness by counting only the homeless who use the social services, since many may not rely on such services: it is, for instance, relatively easier to collect data on single men visiting shelters than to collect data on other categories of homeless people, which creates the risk of distorting the understanding of the phenomenon of homelessness.⁵² As regards street children, the Committee on the Rights of the Child notes that data often "are not systematically collected or disaggregated, so it is not known how many children are in street situations", resulting in these children being invisible, "which leads to policies not being developed or measures that are ad hoc, temporary or short-term. This results in the persistence of multiple rights violations that force children onto the streets and that continue when children are on the streets".⁵³ For some groups, moreover, such as street children or irregular migrants, "being identified by government authorities may be threatening",⁵⁴ and this may result in additional obstacles to proper data collection.

Yet, without accurate measurement of this dimension of poverty, there emerges an accountability gap, and the effectiveness of poverty reduction strategies is significantly reduced. "Measuring the extent of homelessness among different groups", for instance, "helps to assess priorities, ensure effective design and implementation of policy responses and determine whether States are meeting their human rights obligations".⁵⁵ Specific challenges are attached to reaching to these "missing poor", and good practices should be shared in order to help overcoming such obstacles (see Box 1).

Box 1. Counting the homeless in Italy, 2011-2014

In Italy, the Italian statistical office Istat teamed with the Ministry of Education and Social Policy, the Italian Federation of Associations for the Homeless (fio.PSD), and the charity Caritas, to develop an understanding of how many people were homeless in Italy and whom they were. The study was conducted between 2011 and 2014, by relying on night shelters and canteens, a method that was deemed more feasible than by conducting surveys in public spaces (parks) where the homeless may also be found. After the service providers were identified in 158 municipalities, interviews were conducted during a one-month period, with the keeping of individual diaries to reduce the risk of double counting of homeless people using multiple services during the month. In total, 50,724 homeless people were estimated to have used at least one of the services (canteens or night shelters) in the 158 municipalities concerned during the November-December 2014 period, which represents about 2.43 people per thousand in the whole population, a small increase in comparison to 2011 estimates; and a larger proportion were homeless since more than three months (83 %) as well as for more than two years (41 %), again in comparison to that reference year. The survey also illustrated that the vast majority of the homeless were men (85.7 %), foreigners (58.2 %), and living alone (76.5 %).

Source: United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), pp. 30-31.

Box 2. The "missing poor" in the Belgian context: beyond the EU-SILC surveys

⁵² Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para 70 ("Homelessness among single men living on the streets or using emergency shelters is more easily measured. It is more difficult to measure homelessness among women, children and young people living temporarily with family or friends, or among those most marginalized and precariously housed within informal settlements, who may be altogether left out of census or data collection").

⁵³ Committee on the Rights of the Child, General Comment No. 21 (2017) on children in street situations (UN doc. CRC/C/GC/21 (21 June 2017)), para. 7.

⁵⁴ *Id.*, para. 72.

⁵⁵ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 65.

One major deficiency of the EU-SILC surveys (EU surveys on income and living conditions, discussed further below) is that some categories of the population are underrepresented, either because they do not respond or only respond in part to the survey, or because they are "unreachable". Paradoxically perhaps since the EU-SILC surveys are meant to allow to measure poverty, the rates of non-response may be presumed to be particularly high among the poorest segments and immigrants, in particular due (for this latter category) to language barriers. Indeed, as regards households who responded in the course of a first survey but did not respond in later rounds, it could be established that the "attrition rate" could be explained by lack of income from employment, low educational status of parents or the residential status of tenant (rather than owner of the dwelling), all characteristics that are closely correlated with socio-economic condition; moreover, the poor move more frequently from one housing to another, which may result in their underrepresentation in longitudinal studies involving successive rounds of surveys for a number of years (as are EU-SILC surveys, at least in part). It is not so much that the poor and those out of employment fear to express themselves out of shame; rather, they distrust the interviewers, are discouraged by the complexity of the questionnaires, and often live in flats or apartments in which the initial contact with the interviewer is by interphone rather than face to face, leading to a higher rate of refusals.

These findings formed the departure point for an initiative conducted in 2010-2012 at the initiative of the Service to Combat Poverty, Insecurity and Social Exclusion, to improve the representation of the most deprived households in EU-SILC surveys. Two key recommendations emerge. First, in order to improve the rate of response from these households, the questionnaires should be simplified, and the option should be offered to answer only certain questions; the interviewers should be better trained to support the interviewees in answering complex questions such as those related to income levels; and the more experienced interviewers should identify good practices that could improve response rates, for instance in the way the initial contact is made or in the kind of support provided to the persons surveyed.

Secondly, as regards the "missing poor" – people living in institutions, caravan dwellers or homeless people, or undocumented migrants, constituting in total between 2 and 3% of the Belgian population – , surveys complementary to household surveys should be conducted at regular intervals, in close collaboration with the social sector services. The methodology was tested to reach homeless people and undocumented migrants (particularly difficult to reach due to both to language barriers and to their fear of contacts with public authorities). The research concluded from this pilot survey that "the fact that this has worked in two target groups that are very hard to reach suggests that it should also work with other target groups, provided the required resources and preparation are envisaged for this"; and that this practice should be generalized at EU level.

Source: Ingrid Schockaert, Ann Morissens, Sebastiano Cincinnato and Ides Nicaise (2012). *Poverty between the cracks. Complements and corrections to EU-SILC for hidden groups of poor people.*

Finally, it should be noted that in addition to the persons who are generally underrepresented (such as undocumented migrants) or even entirely omitted from classic household surveys such as EU-SILC (such as institutionalized people or homeless people), poor families may themselves be reluctant to engage in such surveys, for reasons none other than the precariousness of their living conditions. This may be especially the case in countries where social services may threaten to remove children from their families based on the consideration that their parents are unable to care for them adequately, due to poor living conditions. The jurisprudence of the European Court of Human Rights offers various examples of such situations (Box 3). Clearly, in such circumstances, beyond the shame that may in itself be an obstacle to responding to surveyors' requests, some poor parents may be hesitant to engage with administrative agents in general, and in particular, to divulge the precariousness of their situation to interviewers who appear as representatives of the authorities.

Box 3. When being poor is a liability: removing children from poor families

The case-law of the European Court of Human Rights provides various illustrations of situations where poor families have been penalized for being poor, as children were placed in institutions or in foster families based on the consideration that their parents were unable to provide them with adequate living conditions. In the case of *Wallová and Walla v. the Czech Republic*, the Court held unanimously that Article 8 of the European Convention on Human Rights (right to respect for private and family life) has been violated on account of the fact that the applicants' five children had been taken into care at the initiative of the local social protection services, whose position the domestic courts endorsed on the ground that Mr Walla did not have stable employment and that his wife, who was unemployed, had not yet complied with the formalities which would have enabled her to obtain social benefits, leading the courts to conclude that the parents had not made sufficient effort to overcome their material difficulties and find a home for their family, and were thus unable to bring up their children properly.⁵⁶ In the case of *A.K. and L. v. Croatia*, the second applicant (L.) had been placed, with his mother's consent, in a foster family in another town, on the grounds that his mother had no income and lived in a dilapidated property without heating, and the mother was subsequently divested of her parental rights in respect of L., on the grounds that she had a mild mental disability and was not able to provide proper care to him: the Court unanimously found that article 8 of the European Convention on Human Rights had been violated, since despite the legal requirement and the authorities' findings that the first applicant suffered from a mild mental disability, she had not been represented by a lawyer in the proceedings divesting her of parental rights.⁵⁷

Perhaps even more telling is the case of *Saviny v. Ukraine*, in which the children of the applicants were removed from their home because of the very poor living conditions of the household, leading the authorities to conclude that they were unable to provide their children with adequate care and upbringing: both parents were blind from birth and received only minimal levels of income.⁵⁸ The Court noted that: "In taking a decision on removal of a child, a variety of factors may be pertinent, such as whether by virtue of remaining in the care of its parents the child would suffer abuse or neglect, educational deficiencies and lack of emotional support, or whether the child's placement in public care is necessitated by the state of its physical or mental health (...). On the other hand, the mere fact that a child could be placed in a more beneficial environment for his or her upbringing does not on its own justify a compulsory measure of removal (...). Neither can this measure be justified by a mere reference to the parents' precarious situation, which can be addressed by less radical means than the splitting of the family, such as targeted financial assistance and social counselling" (para. 50).

Principle 6: Combine quantitative data with qualitative data

For the same reasons, while quantitative data about all groups facing poverty is important both for purposes of accountability and to ensure poverty reduction strategies work effectively, numbers alone may not suffice. Thus, in her 2015 report on homelessness, the Special Rapporteur on the right to adequate housing relied on conclusions of the Institute of Global Homelessness⁵⁹ to underline "the critical importance of qualitative evidence, including, for example, oral testimony, photographs or videos. A human rights-based measurement of homelessness should focus on prevention and on addressing underlying causes, and qualitative information capturing actual experiences often reveals more about how to prevent or solve it than numbers alone. It is also vital to understand the trajectories into and out of homelessness, with longitudinal analysis of how people become homeless, how long they are homeless and how they escape from it to supplement point-in-time counts".⁶⁰ The Office of the High Commissioner for Human Rights makes a similar point where it remarks that: "For the smallest groups or those invisible in official statistics, new partnerships and use of innovative

⁵⁶ Eur. Ct. HR, *Wallová and Walla v. the Czech Republic* (appl. no. 23848/04), judgment of 26 October 2006.

⁵⁷ Eur. Ct. HR, *A.K. and L. v. Croatia* (appl. no. 37956/11), judgment of 13 Jan. 2013.

⁵⁸ Eur. Ct. HR, *Saviny v. Ukraine* (appl. no. 39948/06), judgment of 18 December 2008.

⁵⁹ See Institute of Global Homelessness, "A global framework for understanding and measuring homelessness" (2015).

⁶⁰ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 72.

technology and statistical techniques, including mapping, targeted surveys, small area estimation may be required".⁶¹

These recommendations take as departure point that the experience of the poor about the obstacles they face cannot be adequately reflected solely in statistical data. Such data should be complemented by other means to convey information, to provide different framings and narratives both to policy-makers and to the broader public, in order to improve the salience of poverty in public discourse and the broaden political imagination.⁶² Moreover, insofar as the combination of qualitative data with quantitative data is achieved through the participation of the poor -- their contribution to developing a plurality of narratives --, this can support the poor in becoming more reflective about their predicament. This contributes to empowerment and capacity-building, especially in circumstances where, as described by the *World Development Report 2015*, poverty ends up generating its own taxes due to the obstacles that poor people face in imagining different futures for them and to the cognitive limitations poverty entails.⁶³ Thus, the participation of the poor, the design of a plurality of methodologies to measure poverty, and capacity-building, are mutually reinforcing and, combined, can form a virtuous cycle.

Principle 7: Measure not only theoretical access to rights, but also the non-take-up of rights

The phenomenon of the non-take-up of rights (whether in the form of benefits or of services) should be given specific treatment in poverty measurement, in order to understand better why potential beneficiaries of support schemes do not claim their rights and what can be done about this.⁶⁴ Specific indicators should be designed to this effect, that focus neither solely on the effective enjoyment of the right (to social security, to housing, to education, to healthcare, to food), nor solely on the legal entitlements provided for under the applicable regulatory framework, but on the gap between the two.

Why is it that certain people do not claim what they have a right to, or do not rely on certain services that are in principle available to them⁶⁵? This may be because of a lack of information about their rights; because of the bureaucratic hurdles (the complexity of the procedure and the length of the forms, especially as compared to the level of the benefits and the unpredictability of the procedures to claim them)⁶⁶; because the potential claimants need an urgent solution and cannot afford the wait for the outcome of lengthy procedures; because of a lack of trust in the authorities before which the benefit should be claimed, or before which, if the claimed benefit is denied, a remedy may be sought⁶⁷;

⁶¹ Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (a).

⁶² On the importance of such framing and of the provision of such narratives, based on the insights from the neurosciences, see George Lakoff, *The Political Mind. A cognitive scientist's guide to your brain and its politics* (Penguin Books: New York, 2008); and *World Development Report 2015: Mind, Society and Behaviour* (World Bank Group: Washington, D.C., 2015).

⁶³ *World Development Report 2015: Mind, Society and Behaviour*, cited above, chapter 4.

⁶⁴ On this phenomenon, see in particular the work of the Observatoire des non-recours aux droits et services, launched in 2003 (<http://odenore.msh-alpes.fr/>); Antoine Math, "Le non-recours en France : un vrai problème, un intérêt limité", *Recherches et Prévisions*, n° 43 (1996); W. Van Oorschot, "Failing selectivity: On the extent and causes of non-take up of social security benefits", in H. J. Andress (ed.), *Empirical poverty research in comparative perspective* (Ashgate: Aldershot, 1998), pp. 101-132.

⁶⁵ For an excellent summary, see Natascha Van Mechelen and Michiel Van Der Heyden, *La lutte contre le non-take-up: un inventaire des mesures de politiques et réflexion à la lumière de la littérature scientifique et des expériences de politique au Royaume-Uni et en Suède*, Policy Brief No. 1/2017, TAKE project (Reducing poverty through improving the take-up of social policies) (Oct. 2017). See also, in particular, W. Van Oorschot, *Take it or leave it: a study of non-take-up of social security benefits* (Tilburg: Tilburg University Press, 1994); and F. De Boe, H. Van Hootegem, N. Bernard, G. de Kerchove, M. Decuyper, H. Dubois, P. Mazet, I. Nicaise, P. Spicker and F. Tulkens, *Armoede en ineffectiviteit van rechten. Non-take-up van rechten / Pauvreté et ineffectivité des droits. Non-recours aux droits* (Die Keure/ La Chartre: Brussel, 2017).

⁶⁶ It has been reported for instance that in France, up to 80% of the potential beneficiaries of the revenu minimum d'insertion (RMI) have not claimed this benefit, due to the disproportion between the administrative complexities involved and the level of support provided by the RMI: see Philippe Warin, "What is the Non Take-up of Social Benefits?", *Books and Ideas*, 9 June 2014. ISSN : 2105-3030, <http://www.booksandideas.net/What-is-the-Non-Take-up-of-Social.html#nh9>

⁶⁷ This is the case in particular for undocumented migrants, who may fear that schools or healthcare services shall denounce them to law enforcement authorities, facing them with the risk of deportation. This, indeed, is why the Special Rapporteur on the human rights of migrants recommended that States put in place "firewalls" "between immigration enforcement and public

because of the so-called "welfare stigma", the shame people may experience when they are seen to depend on public support; because the benefits are means-tested, and they consider that they shall be unable to prove the lack of income; or to the conviction of potential beneficiaries that they shall be unable to comply with conditionalities attached to the benefit, for instance where support is provided only on the condition that they prove that they are actively seeking to be employed or that they undergo some form of training.

Non-take-up may be the result of a vicious cycle in which the lack of access to a certain right (such as housing) may lead to a denial of other rights (such as education), which the individual concerned does not seek to exercise because he or she considers the chances of having access to the service concerned to be minimal: homeless parents, for instance, would generally not seek to place their children in crèches, in part because of shame, and in part because the crèche may require that the parents provide an address or may be easily contacted⁶⁸. Such vicious cycles may be triggered by the regulatory framework itself, as when tariff reductions on public transport are made conditional on the person benefiting from social aid. It may also occur that people underestimate their chances of having access to certain public services, such as child-care facilities, which have the reputation of being in short supply: it is generally people who are most subject to exclusion in other spheres that "self-exclude" themselves in such situations.

Which lessons can be drawn from the non-take-up of rights (both in the form of financial benefits and in the form of public services) in the design of poverty measurement tools? As explored in greater detail in section 1.1. above, where the principle of accountability was presented, a HRBA to poverty reduction should combine the use of structural, process and outcome indicators, assessing respectively the legal/regulatory and institutional framework, the efforts of public authorities (including budgetary commitments), and the results achieved. In principle therefore, this combination should allow to identify gaps between accessibility in theory of certain benefits (whether financial or in kind), as measured by structural and process indicators, and their enjoyment in fact, as measured by outcome indicators. A well designed indicators framework should therefore allow to address the phenomenon of the non-take-up of rights: for instance, if the legislation provides that all individuals without other forms of support should have a right to social assistance (so that the country scores well on a structural indicator related to the universality of social protection), but three quarters of adults without other forms of support do not claim that benefit (as highlighted by an outcome indicator), the gap shall be identified, and the problem of the poor take-up of social assistance benefits shall be given political salience.

3. Which safeguards should be complied with in data collection?

The right to respect for private life of the poor has often been ignored, in the name of targeting social protection schemes effectively as well as in order to avoid fraud or abuse in the delivery of social protection, but also, unfortunately, in the context of measuring poverty.⁶⁹ The requirements imposed under data protection rules and the right to respect for private life under international human rights law are therefore an important consideration in the conduct of poverty assessments. Specifically, three principles should be complied with: this section reviews in turn the principles of personal data protection; of self-identification; and of transparency.

Principle 8: personal data protection

services such as police, health care and education, in order to make sure that irregular migrant workers enjoy their civil, economic, social and cultural rights without fear of being identified, arrested, detained and deported" (see Report of the Special Rapporteur on the human rights of migrants to the twenty-sixth session of the Human Rights Council, UN doc. A/HRC/26/35 (3 April 2014), para. 103).

⁶⁸ See in particular A. Catrice-Lorey, "Inégalités d'accès aux systèmes de protection sociale et pauvreté culturelle", *Revue française des Affaires sociales*, vol. 30 (4) (1976), pp. 127-137.

⁶⁹ See for instance, for the example of the United States, Khiara M. Bridges, *The Poverty of Privacy Rights* (Stanford, CA: Stanford Univ. Press, 2017).

A first principle is that the information collected from individuals surveyed should be treated as personal data, which may only be processed in accordance with certain safeguards, prior to their use to feed into statistics. At universal level, the applicable standards are codified in the 1990 United Nations Guidelines for the Regulation of Computerized Personal Data Files and in the 2009 International Standards on the Protection of Privacy with regard to the processing of Personal Data.⁷⁰ On the European continent, the Council of Europe 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data sets out the key principles.⁷¹ These principles in turn have to read in the light of the clarifications contained in Recommendation No. R (97) 18 of the Committee of Ministers to member States, concerning the protection of personal data collected and processed for statistical purposes⁷².

The applicable standards which can be derived from these instruments do not exclude the processing of personal data for statistical purposes, for instance to measure poverty, it being understood that such purposes exclude the use of the information obtained for the adoption of any decision or measure concerning a particular individual ; nor do they create insuperable obstacles to the processing of so-called "sensitive" data (related, for instance, to ethnicity or religion⁷³), where this appears necessary to identify the root causes of poverty within certain categories of the population. However, strict safeguards should be put in place to avoid any risk of abuse.

It should be noted, first of all, that the processing of personal data (even if processed for statistical purposes) should respect the right to privacy of the persons concerned. This implies in particular that the persons involved in such processing should be subjected to a duty of professional secrecy, and that -- to reduce to the minimum necessary interference with the right to respect for private life -- the personal data collected for statistical purposes should be anonymized as soon as possible (as soon, that is, as preserving them in an identifiable form allowing to trace the information back to the individual becomes unnecessary),⁷⁴ and not exceed what is necessary for the statistical purpose to be achieved.⁷⁵ The processing of personal data for statistical purposes should also be lawful, either by being prescribed by law, or by being permitted by law and consented to by the individual concerned (the "data subject"). Such consent should in principle be explicit, free and informed.⁷⁶ It may however be presumed in situations where the data subject has been informed of the collection or processing of his or her data and has not opposed it, unless the processing concerns sensitive data. Moreover, it is not unusual in surveys, particularly household-based surveys, that one individual is asked information about other individuals, for instance the other members of the household: this is allowable even without the consent of these other individuals, "in so far as there is manifestly no risk of infringing on the privacy of such others, and in particular that the processing does not involve sensitive data".⁷⁷

In the context of the recent negotiation of a set of amendments of the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, the following summary was provided: the "further processing of personal data", the negotiators noted, when this is done for instance for statistical purposes,

⁷⁰ These Standards were welcomed by the 31st International Conference of Data Protection and Privacy Commissioners, held in Madrid 4-6 November 2009.

⁷¹ ETS No. 108, opened for signature in Strasbourg on 28 January 1981. The Convention has been complemented by Additional Protocol of 2001 regarding supervisory authorities and transborder data flows (ETS No. 181). Most recently, an Amending Protocol, agreed at the 128th Session of the Committee of Ministers (Elsinore, Denmark, 17-18 May 2018), which shall be opened for signature on 10 October 2018, shall enter into force once it shall have been ratified by all the States parties to the main instrument.

⁷² Adopted on 30 September 1997 at the 602nd meeting of the Ministers' Deputies.

⁷³ "Sensitive data" are defined in article 6 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, in the consolidated version following the entry into force of the 2018 Amending Protocol.

⁷⁴ Recommendation No. R (97) 18 of the Committee of Ministers to member States, concerning the protection of personal data collected and processed for statistical purposes, principle 3.

⁷⁵ Id., principle 4.7: "Only those personal data shall be collected and processed which are necessary for the statistical purposes to be achieved. In particular, identification data [allowing the direct identification of the data subject] shall be collected and processed only if this is necessary".

⁷⁶ Id., principle 6.

⁷⁷ Id., principle 4.3.

is *a priori* considered as compatible provided that other safeguards exist (such as, for instance, anonymisation of data or data pseudonymisation, except if retention of the identifiable form is necessary; rules of professional secrecy; provisions governing restricted access and communication of data for the above-mentioned purposes, notably in relation to statistics and public archives; and other technical and organisational data-security measures) and that the operations, in principle, exclude any use of the information obtained for decisions or measures concerning a particular individual.⁷⁸

As already noted, the Council of Europe standards do not exclude the processing of sensitive data where necessary for statistical purposes. Where this is the case, however, such data "should be collected in a form in which the data subjects are not identifiable".⁷⁹ This rule is not absolute, however: "If the processing of sensitive data for specified, legitimate statistical purposes necessitates the identification of the data subjects, domestic law shall provide appropriate safeguards including measures to separate identification data as from the stage of collection unless it is manifestly unreasonable or impracticable to do so".⁸⁰ This is particularly important where longitudinal surveys have to be conducted on population groups defined by certain characteristics that are "sensitive", such as ethnicity or religion, in order to assess the effectiveness of interventions on those groups. The rule is confirmed most recently in the Explanatory Report to the Protocol Amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data:

Where sensitive data has to be processed for a statistical purpose it should be collected in such a way that the data subject is not identifiable. ... Where there is a legitimate need to collect sensitive data for statistical purposes in identifiable form (so that a repeat or longitudinal survey can be carried out, for example), appropriate safeguards should be put in place.⁸¹

In the European Union, these principles have been most recently codified under the General Data Protection Regulation (GDPR), which applies since 25 May 2018.⁸² The GDPR applies to the processing of personal data for statistical purposes (i.e., for statistical surveys or for the production of statistical results), and therefore "Union or Member State law should, ..., determine statistical content, control of access, specifications for the processing of personal data for statistical purposes and appropriate measures to safeguard the rights and freedoms of the data subject and for ensuring statistical confidentiality".⁸³ Article 89(1) of the GDPR confirms this:

Processing for ... statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation.

While rules pertaining to the protection of private life in the processing of personal data remain applicable even where such processing is followed by anonymization of data for statistical purposes, the GDPR allows for a number of derogations to such rules, including those concerning the right of access (i.e., the right of the data subject "to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the

⁷⁸ Explanatory Report to the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) (CM(2018)2-addfinal, 18 May 2018), para. 50.

⁷⁹ Recommendation No. R (97) 18 of the Committee of Ministers to member States, concerning the protection of personal data collected and processed for statistical purposes, principle 4.8.

⁸⁰ *Id.*

⁸¹ Explanatory Report to the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) (CM(2018)2-addfinal, 18 May 2018), para. 61.

⁸² Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), OJ L 119, 04.05.2016; corr. OJ L 127, 23.5.2018.

⁸³ GDPR, Preamble, Recital 162.

personal data and ... information [about the conditions of data processing]"⁸⁴), the right to rectification (i.e., the right of the data subject to "obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her" and to "have incomplete personal data completed, including by means of providing a supplementary statement"⁸⁵), the right to restriction of processing,⁸⁶ or the right to object to the processing of the information⁸⁷: according to article 89(2) of the GDPR, domestic legislation may allow derogations to these various safeguards "in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes [of the statistical processing of data], and such derogations are necessary for the fulfilment of those purposes".

Principle 9: self-identification

Since poverty measurement should include disaggregated data, allowing to identify instances of discrimination and to better target poverty-reduction efforts towards certain groups, the processing of data related to the ethnic origin, the religion or the language of the persons surveyed in such poverty measurement exercises shall in many cases be desirable and even inevitable. As noted above, specific safeguards apply to such categories of data, as least as regards ethnicity and religion which are considered "sensitive" under data protection rules.⁸⁸ However, as stated in the Recommendations for the 2010 Censuses of Population and Housing prepared by the Conference of European Statisticians under the auspices of the United Nations Economic Commission for Europe (UNECE):

Ethno-cultural characteristics have generally a subjective dimension, they can be politically sensitive and population groups are often small. The free and open declaration of the respondents is therefore of essential importance. Members of certain minority groups may be particularly vulnerable to discrimination on the grounds of ethnic group or religion. Special care, therefore, may be required in census procedures and outputs relating to ethnic group and religion in order to demonstrate to respondents that appropriate data protection and disclosure control measures are in place.⁸⁹

Strict adherence to the principle of self-identification is essential to create such trust. As regards categorisation among national minorities, the principle of self-identification was initially expressed in paragraph 32 of the Document adopted on 25 June 1990 at the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (since 1995 the the Organization for Security and Cooperation in Europe (OSCE)), which stated that "To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice". This was codified in 1995 in article 3 of the Council of Europe Framework Convention for the Protection of National Minorities⁹⁰:

Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

This does not mean that the individual may choose arbitrarily to belong to any national minority;

⁸⁴ GDPR, article 15(1).

⁸⁵ GDPR, article 16.

⁸⁶ GDPR, article 18.

⁸⁷ GDPR, article 21.

⁸⁸ Data concerning national origin, for instance based on the nationality of the parents or the place of birth, as well as a data concerning linguistic affiliation, are not "sensitive" in that specific sense, although it could be argued that information concerning national origin is merely a proxy for ethnicity. However, the principle of self-identification described here does extend beyond "sensitive data" alone, to all characteristics that may relate to the belonging in a specific national minority. (Conversely, the principle of self-identification does not apply to some sensitive data, such as those related to health, genetic data, or criminal records. The two categories therefore overlap only partly.)

⁸⁹ Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe (ECE/CES/STAT/NONE/2006/4), para. 415.

⁹⁰ ETS 157 (adopted 1 February 1995, came into force 1 February 1998).

rather, it leaves it to each individual to "decide whether or not he or she wishes to come under the protection flowing from the principles of the framework Convention"⁹¹. The implication is that, in census or in surveys, the persons surveyed should be left the choice whether or not to answer questions concerning their ethnicity, religion or language (all characteristics by which national minorities are identified), and if they do answer, to opt for more than one affiliation⁹². As also noted by the Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing:

426. Respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so.

427. In order to guarantee the free self-declaration of ethnicity, respondents should be allowed to indicate "none" or "not declared" when asked for their ethnicity. Countries should explain in the census instructions and the census documentations how the ethnicity of children from mixed couples is determined.

The principle of self-identification is not absolute. The Advisory Committee of the FCNM noted, for instance, that "a person's free self-identification may ... be questioned in rare cases, such as when it is not based on good faith. Identification with a national minority that is motivated solely by the wish to gain particular advantages or benefits, for instance, may run counter to the principles and purposes of the Framework Convention".⁹³ However, it is difficult to see how exceptions to the right to self-identification could be justified in the context of surveys or censuses aimed a poverty measurement, since the objective of such surveys or censuses is not to provide specific advantages to the persons surveyed, but rather to assess the scope of the challenge and the effectiveness of the interventions to combat poverty.

Principle 10: transparency

Finally, the principle of transparency, our third principle, is a requirement that the person whose personal data are processed are made fully aware of the purposes of such processing, the legal basis, and his or her rights. It essentially requires that the data subjects are informed about the identity and habitual residence or establishment of the data controller (i.e., the person or body having decision-making power concerning the purposes and means of the processing); the legal basis and the purposes of the intended processing; the categories of personal data processed; the recipients or categories of recipients of the personal data, if any; and the means through which the data subject can exercise his/her rights such as the right "to obtain, at request, at reasonable intervals and without excessive delay or expense, confirmation of the processing of personal data relating to him or her, the communication in an intelligible form of the data processed, all available information [in particular] on their origin, on the preservation period", the right "to obtain, on request, knowledge of the reasoning underlying data processing where the results of such processing are applied to him or her", or the right "to object at any time, on grounds relating to his or her situation, to the processing of personal data concerning him or her unless the controller demonstrates legitimate grounds for the

⁹¹ Explanatory report to the FCNM, para. 34.

⁹² This summarizes the position of the Advisory Committee established under the FCNM. For instance, in its most recent examination of the situation in Cyprus, the Advisory Committee noted with regret that "The questionnaire used in the context of the 2011 population and housing census, ..., contained a question to Cypriot citizens related to "ethnic/religious group" where the head of household had to choose from a closed list of five possible responses, Greek Cypriot, Armenian, Maronite, Latin, or Turkish Cypriot. The Advisory Committee deeply regrets that there was no possibility to indicate affiliation as Roma, nor was it possible to respond "other" or "do not wish to respond", or to opt for multiple affiliations despite the fact that these are very commonly found in contemporary society as a result of mixed marriages, for instance. According to international standards, questions on ethnic origin should be non-mandatory (i.e. questions should include the possibility for respondents to answer "none") and possibilities for the indication of multiple affiliations should be included. The possibility to indicate multiple responses to questions related to languages used in daily communications should equally be provided" (Opinion adopted on 18 March 2015 on the Fourth Cycle of control, under Article 3 FCNM). It is of course not possible, in the context of this study, to provide an exhaustive analysis of the positions adopted by the Advisory Committee.

⁹³ Advisory Committee, Thematic Commentary No. 4: The Scope of Application of the Framework Convention for the Protection of National Minorities (ACFC/56DOC(2016)001) (adopted on 27 May 2016), para. 10.

processing which override his or her interests or rights and fundamental freedoms".⁹⁴

Beyond the information provided to the individual data subject, to achieve transparency and build trust in the methods for the preparation of statistics, official statistical agencies should document the processes used to collect, combine and analyze data from multiple sources and make that documentation publicly available.⁹⁵

Conclusion: the ten principles of a human rights-based approach to poverty reduction

Because human rights violations and income poverty or poverty as material deprivation are interlinked, the measurement of poverty should take into account that it is a *multidimensional* phenomenon. Measuring poverty requires to take into account not only the lack of income (monetary poverty), but also lack of access to the goods or services essential to the enjoyment of human rights, such as housing, education, food, healthcare, work and social protection. Ideally, *indicators* should be developed to track, for each of these, availability (in relation to needs), accessibility (including economic accessibility, physical accessibility, and non-discrimination), and adequacy (requiring a more qualitative assessment), in order to identify deprivations that require the most urgent action.

The following Ten Principles emerge from the discussion in this chapter of the characteristics of a human rights-based poverty reduction strategy, and of the role of poverty measurement in this regard:

The components of a human rights-based approach (HRBA) to poverty reduction

Principle 1. Accountability. A human rights-based approach (HRBA) to poverty reduction should reflect the fact that the reduction of poverty, which is both the cause of human rights violations and a consequence thereof, is not a matter of choice for the State: it is a duty, grounded in human rights. Therefore, accountability mechanisms should be built into the poverty reduction strategy, including independent monitoring of progress. The human rights-based indicators that should be developed in support of such monitoring should include indicators referring to the commitments made by the State, and to the legal, institutional and policy frameworks that the State establishes (*structural indicators*); indicators referring to the efforts made by the State to ensure that the commitments are effectively implemented, i.e., translated into the adoption of concrete measures and policies (*process indicators*); and finally, indicators relating to the results achieved (*outcome indicators*).

Principle 2. Equality and non-discrimination. Such a human rights-based approach (HRBA) to poverty reduction must also include a component related to equality and non-discrimination. This requires not only an explicit protection from discrimination on grounds of social (or social and economic) condition, but also that the data concerning access to the basic goods and services that correspond to the full enjoyment of human rights (housing, education, healthcare, food, work and social security) are disaggregated by income, gender, age, race, ethnicity, nationality, migratory status, disability, educational background, geographic location and other characteristics relevant in national context. If such disaggregated data reveal disparities in outcomes, targeted policies should be adopted to close the gaps identified.

Principle 3. Participation. Participation is important not only for the design and implementation of poverty reduction strategies, but also to guide the methodological choices concerning data collection and poverty measurement. This can be time-consuming and demanding, but it is the only way to

⁹⁴ This formulation of the principle of transparency paraphrases from articles 8 and 9 of the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, as they shall be introduced in the convention by the 2018 Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. See also, Recommendation No. R (97) 18 of the Committee of Ministers to member States, concerning the protection of personal data collected and processed for statistical purposes, principle 5 (on the right to information of the persons questioned).

⁹⁵ National Academy of Sciences, *Federal Statistics, Multiple Data Sources, and Privacy Protection: Next Steps* (The National Academies Press, Washington, D.C., 2018), p. 39.

ensure that the strategies and the poverty measurement methods are sufficiently inclusive and well informed by the experience of those living in poverty or at risk of poverty or social exclusion.

The implications of a human rights-based approach (HRBA) on poverty measurement

Principle 4: Measure not only the number of the poor, but who the poor are. The measurement of poverty should allow therefore to arrive not at a single figure (such as the percentage of the population at risk of poverty or the absolute number of people facing severe material deprivation), but at an improved understanding of the causes of poverty (the deprivations in housing, education, healthcare, food, work and social security, which may both explain poverty and be the consequence of poverty), in accordance with the multidimensional nature of poverty, and to identify who the poor are: this too requires the *disaggregation of data* as already referred to in principle 2.

Principle 5: Design specific methodologies to identify the "missing poor". In measuring poverty, particular care should be taken not to ignore the specific groups that tend to be invisible in statistics, for instance because (such as the homeless or institutionalized people) they are not covered by household surveys or because (such as undocumented migrants) they avoid contacts with social services. This requires the use of a *plurality of methodologies* to collect data about poverty, going beyond the classic reliance on household surveys.

Principle 6: Combine quantitative data with qualitative data. Numbers alone may not suffice to convey the actual experiences of the poor -- the circumstances in which they live, the obstacles they encounter, and the solutions they imagine for themselves. Thus, statistical data should be complemented by other sources of information about poverty, providing other framings and narratives, ideally coming from the poor themselves.

Principle 7: Measure not only theoretical access to rights, but also the non-take-up of rights. It is not unusual for the poor not to take up the financial benefits they could claim, or not to use the services that would normally be accessible to them, even when such services are free or very unexpensive and thus affordable. The phenomenon should be given specific treatment in poverty measurement, in order to understand better why potential beneficiaries of support schemes do not claim their rights and what can be done about this. The gap between the legal entitlements provided for under the applicable regulatory framework (measured by structural and process indicators) and the effective enjoyment of the right (to social security, to housing, to education, to healthcare, to food) (measured by outcome indicators, particularly by indicators measuring the percentage of the population or of the poorest decile of the population reached), therefore deserves specific attention.

The safeguards to be complied with in data collection and processing

Principle 8: Personal data protection. The information collected from individuals surveyed should be treated as personal data, which may only be processed in accordance with certain safeguards, prior to their use to feed into statistics. The applicable international and European standards do not exclude the processing of personal data for statistical purposes, for instance to measure poverty, provided strict safeguards are put in place to avoid any risk of abuse. Even sensitive data, such as data relating to ethnicity or religion -- the processing of which is essential where data are the disaggregated, to assess which groups are particularly at risk of poverty or in the context of poverty impact assessments --, may be processed, under certain conditions.

Principle 9: Self-identification. Since poverty measurement should include disaggregated data, the processing of data related to the ethnic origin, the religion or the language of the persons surveyed in such poverty measurement exercises shall in many cases be desirable and even inevitable. However, the principle of self-identification is based on the idea that membership in a national minority is a matter of a person's individual choice, and that choice should be free -- no disadvantage should result from the exercise of such a choice. In census or in surveys, the persons surveyed should therefore be left the choice whether or not to answer questions concerning their ethnicity, religion or language (all

characteristics by which national minorities are identified), and if they do answer, to opt for more than one affiliation.

Principle 10: Transparency. The principle of transparency requires that the person whose personal data are processed are made fully aware of the purposes of such processing, the legal basis, and his or her rights. To achieve transparency and build trust in the methods for the preparation of statistics, official statistical agencies should also document the processes used to collect, combine and analyze data from multiple sources and make that documentation publicly available.

CHAPTER II. THE CONTRIBUTION OF THE SUSTAINABLE DEVELOPMENT GOALS TO HUMAN RIGHTS-BASED POVERTY REDUCTION STRATEGIES

Introduction

On 25 September 2015, the Heads of State and governments present at the UN General Assembly adopted the 2030 Sustainable Development Agenda. They resolved

to end poverty and hunger everywhere; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources. We resolve also to create conditions for sustainable, inclusive and sustained economic growth, shared prosperity and decent work for all, taking into account different levels of national development and capacities. As we embark on this great collective journey, we pledge that no one will be left behind.⁹⁶

Though the Sustainable Development Goals are not intended as a human rights document, the set of objectives they bring together have the potential of significantly contributing to the human rights agenda; conversely, basing the implementation of the SDGs in a human rights framework can strengthen the ability of the SDGs to deliver on their promises.⁹⁷

Within the SDGs, Goals 1, 10 and 16, are the most relevant to the design of poverty-reduction strategies that, stimulated by the 2030 Agenda for Sustainable Development, could advance human rights in the framework of poverty-reduction strategies: the SDGs define "ending poverty in all its forms everywhere" as Goal 1; they refer to the reduction of inequalities in Goal 10; and they include the promotion of "peaceful and inclusive societies for sustainable development", the provision of "access to justice for all", and the establishment of "effective, accountable and inclusive institutions at all levels" in Goal 16. The targets and indicators from those three goals that are the most relevant for the purposes of this study, focused on poverty-reduction as a component of national action plans on the SDGs in European countries, are captured in the table presented as Annex 1.⁹⁸

Although they too do not refer to human rights specifically, other goals are also relevant, insofar as they relate to certain dimensions of well-being broadly conceived that correspond to human rights, such as the right to food, the right to highest attainable standard of health, the right to education, gender equality, the right to water and sanitation, the right to housing or the right to work: they include goal 2 ("end hunger, achieve food security and improved nutrition and promote sustainable agriculture"), goal 3 ("ensure healthy lives and promote well-being for all at all ages"), goal 4 ("ensure inclusive and equitable quality education and promote lifelong learning opportunities for all"), goal 5 ("achieve gender equality and empower all women and girls"), goal 6 ("ensure availability and sustainable management of water and sanitation for all"), goal 7 ("ensure access to affordable, reliable, sustainable and modern energy for all") and goal 8 ("promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all").

⁹⁶ See *Transforming our world: the 2030 Agenda for Sustainable Development*, Resolution 70/1 of the General Assembly, adopted on 25 September 2015, paras. 3-4.

⁹⁷ It has been estimated that 90% of the SDG Goals and Targets relate to international human rights or labour standards. See, in detail, Danish Institute for Human Rights, *SDG Data, Indicators and Mechanisms. A Human Rights Reference Paper* (2015), available at:

https://www.humanrights.dk/files/media/dokumenter/sdg/dihr_human_rights_reference_paper_to_the_sdg_indicators_new.pdf

⁹⁸ See also, for an extensive discussion of poverty measurement under the SDGs framework, United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), cited above, paras. 27-33.

All 17 sustainable development goals are interdependent. In future NAPs implementing SDGs, it therefore would be legitimate, and consistent with the guiding philosophy of the SDGs as an integrated whole, to insist on a multidimensional definition of poverty being preferred, consistent in particular with the various goals listed.⁹⁹

The targets and indicators included in the 2030 Agenda for Sustainable Development (and derived, in particular, from Goals 1, 10 and 16) are not all equally relevant to the fight against poverty in high-income countries. In particular, Target 1.1 refers to the international poverty line, a baseline that can be based on the 1.25 USD/day (using PPP (parity of purchasing power) exchange rates to take into account the differences in the costs of living between countries), or on the definition of the international poverty line currently used by the World Bank, which (since October 2015) is 1.90 USD/day in PPP. But in European countries, this target would be relevant only for a small segment of the population, concentrated in precise categories (particularly refugees, people living in slums and Roma living in settlements in segregated areas), and the homeless. Because people falling below this internationally defined extreme poverty line are relatively few in comparison to the total population in the EU, but are concentrated in certain specific categories such as those mentioned, a targeted approach (addressing, for instance, the specific needs of the refugees, the Roma or the homeless) might be more appropriate than to include this objective in general poverty-reduction strategies.¹⁰⁰ In human rights terms, this may require designing positive action programmes specifically aimed at these groups. General poverty-reduction strategies in European countries shall generally rely, not on the international poverty line as defined above, but on regionally or nationally defined poverty lines.

With these provisos however, these targets and indicators accompanying the implementation of the SDGs apply to all countries, whatever the income group they belong to. They provide a renewed opportunity to build a rights-based approach to combating poverty. The comparison of the SDGs with the poverty-reduction strategies that are currently deployed in European countries shows that significant benefits would result from anchoring poverty-reduction strategies more explicitly under the SDGs framework, provided this framework is read, as it must, in accordance with the human rights duties of States.

This is in part because the SDGs encourage States to strengthen policy frameworks for the eradication of poverty -- or more precisely, to "create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions". It is also because of the reference contained in the SDGs to a multidimensional understanding of poverty: Indicator 1.2.2 refers to the "proportion of men, women and children of all ages living in poverty *in all its dimensions* according to national definitions" (emphasis added).

In addition, the contribution of the SDGs framework matters for three reasons: first, the SDGs call for the adoption of poverty reduction strategies that are more ambitious than the targets currently set by European countries; secondly, in contrast to social protection frameworks that are conceived as either mere policy frameworks or as charity-based cash transfer programs to support the families in need, the SDGs recommend that social protection be based on the guarantee of entitlements, grounded in the right to social security; thirdly, it follows from the commitment contained in the SDGs to reduce inequalities, that not only absolute poverty should be addressed, but also relative poverty, measured by the gap between the richest and the poorest segments of the population. The three sections of this chapter explore these contributions of the SDGs in turn.

1. Raising the level of ambition

⁹⁹ On the multidimensional understanding of poverty as consistent with a human rights-based approach to poverty reduction, see above, chapter I, section 1.

¹⁰⁰ An additional difficulty in transposing target 1.1 of the SDGs to these categories is that they generally do not fit under household-based surveys, such as the Household Budget Surveys (see R. Carr-Hill, "Missing millions and measuring development progress", *World Development*, vol. 46 (2013), pp. 30-44). We return to this point below.

In order to illustrate the first contribution of the SDGs, it is convenient to compare the objectives that they set in poverty reduction with those stated in the Europe 2020 strategy. Under the SDGs, Target 1.2 is to "reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions", by 2030. As to the Europe 2020 strategy includes a commitment to reduce by 20 million the number of people in (or at risk of) poverty or social exclusion. This corresponds to a reduction of about 17% over a period of ten years. The targets set respectively by the Europe 2020 strategy and by the SDGs are based on different timelines and approaches: the Europe 2020 target concerns the year 2020 using the year 2010 as a benchmark,¹⁰¹ whereas the Sustainable Development Goals relate to the period 2015-2030; and the Europe 2020 strategy chose as a target a reduction in the absolute number of people at risk of poverty rather than a decrease in the proportion of the population at risk. Nevertheless, it may be said that the objectives of the Europe 2020 strategy are significantly less ambitious than the SDGs.

Indeed, transposing the SDG Goal 1 (setting the 1.2 Target) to the EU would require halving the proportion of people who live below the nationally defined poverty line, which would mean to move from 23.7% of the EU population affected by poverty or social exclusion (a total of 118.8 million people for the EU-28) to 11.85% by 2030, corresponding to a reduction of about 60 million people affected. This would require a far more significant emphasis on poverty reduction that has been the case until today: whereas the EU's ambition under the Europe 2020 strategy is to reduce poverty by about one fifth over a period of 10 years, which corresponds to a reduction of one quarter over a period of 15 years, it is double that effort that would be required under the SDGs.¹⁰² Therefore, within the EU-28, integrating the SDG poverty-reduction objectives and substituting them to the current Europe 2020 targets would result in a significant improvement.¹⁰³

2. Social protection floors as entitlements

Target 1.3 of the SDGs commits States to "Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable".

This target implicitly refers to the adoption by the International Labour Conference of the 2012 Recommendation (No. 202) concerning National Floors of Social Protection.¹⁰⁴ Recommendation No. 202 defines social protection floors as "nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion."¹⁰⁵ The Recommendation calls on ILO member States, "in accordance with national circumstances", to "establish as quickly as possible and maintain their social protection floors comprising basic social security guarantees."¹⁰⁶ Social protection floors as envisaged in Recommendation No. 202 should include at least four basic social security guarantees: (a) access to a nationally defined set of goods and services, constituting essential health care, including maternity

¹⁰¹ In 2010, when the strategy was launched, the most recently available data from the EU Statistics on Income and Living Conditions were from 2008. For the EU-27 (not including Croatia, which joined the EU on 1 July 2013), 116.2 million people were at risk of poverty or social exclusion in 2008. The target set for 2020 in the EU is therefore that not more than 96.2 million people in the EU-27 should be at risk of poverty or social exclusion.

¹⁰² See A. Atkinson, A.-C. Guio and E. Marlier (eds), *Monitoring social inclusion in Europe. 2017 edition* (Eurostat, Publications Office of the European Union, Luxembourg, 2017), at 46.

¹⁰³ Moreover, at the time of writing, the most recent data available concerning the headline indicator (from 2016; data concerning the year 2017 were available only for Denmark and Latvia) show that the EU is failing to meet even the relatively modest target it has set for itself. The overall figure of persons at risk of poverty or social exclusion rose from 116 million in the reference year 2008 to more than 120 million in 2012-2014, and by 2015, it was still as high as 118 million: in other terms, although the impacts of the financial and economic crisis of the period 2009-2012 have almost been erased, the target (of 96 million by 2020) seems significantly out of reach.

¹⁰⁴ Adopted by the 101st session of the General Conference of the International Labour Organisation, on 14 June 2012. An overwhelming majority of delegates from the ILO's 185 member States, including government, employer and worker delegates, supported the initiative, with 453 votes in favour of adopting the Recommendation and one abstention.

¹⁰⁵ International Labour Organisation, Text of the Recommendation Concerning National Floors of Social Protection, para. 2 (2012).

¹⁰⁶ ILO, Recommendation Concerning National Floors, para. 4.

care, that meets the criteria of availability, accessibility, acceptability and quality; (b) basic income security for children providing access to nutrition, education, care and any other necessary goods and services, at a nationally defined minimum level; (c) basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and (d) basic income security, at least at a nationally defined minimum level, for older persons.¹⁰⁷

The Social Protection Floors Recommendation clearly adopts a rights-based approach, insisting that these various guarantees should be provided in the form of entitlements that individuals may claim before independent bodies. Indeed, among the principles that should guide the adoption of social protection floors are, in particular, "universality of protection, based on social solidarity"; "entitlement to benefits prescribed by national law"; "adequacy and predictability of benefits"; "non-discrimination, gender equality and responsiveness to special needs"; and "efficiency and accessibility of complaint and appeal procedures".¹⁰⁸ As noted in the 2012 Guiding Principles on extreme poverty and human rights: "Persons living in poverty are often seen as passive recipients of Government aid or charity when, in fact, they are rights holders with entitlements to whom policymakers and other public officials must be accountable".¹⁰⁹ It is also this message that the Social Protection Floors Recommendation sends to governments.

This does not mean that social aid or unemployment benefits cannot be made subject to the beneficiary complying with certain conditions, such as to undergo training, to search for employment or to accept employment offers which are "suitable".¹¹⁰ However, a human rights based approach to the establishment of social protection floors does require that both the levels of entitlements and the conditions at which such entitlements can be claimed are consistent with the right to social security guaranteed in Article 9 of the International Covenant on Economic, Social and Cultural Rights, and that the rights and duties of both the beneficiaries and of the social services are clearly defined and enforceable before independent bodies, including courts.

3. Reducing inequalities within countries

Target 10.1 of the Sustainable Development Goals provides that States should "progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average". This emphasis on the reduction of inequalities is one of the most significant advances of the SDGs in comparison to the MDGs.

For poverty-reduction strategies, the message is an important one: it is not only *absolute* poverty that should be addressed, but also *relative* poverty, as measured by the gap between the income of the household and the median disposable income. We shall see below that in the Europe 2020 strategy, the measure of monetary poverty (one of the three measures in the strategy's multidimensional approach to poverty) takes into account relative poverty, since it is defined as the situation of a household whose total disposable income, divided by the number of household members, is below 60 % of the national median disposable income after social transfers.

Conclusion: the SDGs as an opportunity

The SDGs explicitly endorse an approach to poverty that sees it as a multidimensional phenomenon. But their contribution to strengthening anti-poverty reduction strategies goes beyond that. Because Target 1.2 is to reduce by half the proportion of people who are poor according to national poverty measures, they encourage European states to significantly increase the level of ambition of their

¹⁰⁷ ILO, Recommendation Concerning National Floors, para. 5.

¹⁰⁸ ILO, Recommendation Concerning National Floors, para. 2 (a), b), c), d) and o)).

¹⁰⁹ Guiding Principles on extreme poverty and human rights, para. 45.

¹¹⁰ On this transformation of welfare policies, see Anton Hemerijck, *Changing Welfare States* (Oxford: Oxford University Press, 2013); and for an analysis of the human rights implications, see Olivier De Schutter, "Welfare State Reform and Social Rights", *Netherlands Quarterly of Human Rights*, vol. 33(2) (2015), pp. 123-162.

poverty reduction strategies. Target 1.3 of the SDGs requires building social protection floors as entitlements, in other terms, moving from a charity-based to a rights-based approach to social protection. This not only is empowering, rebalancing the relationship between public authorities and the rights-holders of social protection – a shift well illustrated by the quote reported in the *Voices of the Poor* project, from a participant in a group discussion in Brazil who stated about social services that "When they assist you, they treat you like a beggar".¹¹¹ It also can improve the effectiveness and targeting of social protection schemes, especially since accountability mechanisms, allowing claims to be filed when social protection is denied, can reduce the risk of underinclusion. Finally, Target 10.1 demands policies that are focused on the reduction of inequalities within countries, ensuring that not only absolute poverty, but also relative poverty, is addressed. This is consistent with the way the poor experience poverty, and it is of course particularly relevant in relatively wealthy European societies where absolute deprivation is less common than relative deprivation. For all these reasons, NHRIs and other actors working in support of poverty reduction and the fulfilment of human rights should seize the adoption of national action plans to implement the SDGs as an opportunity to improve on existing poverty-reduction strategies, and associated measurements of poverty.

¹¹¹ Deepa Narayan, *Voices of the Poor, Can Anyone Hear Us?* (World Bank and Oxford University Press, 2000), at 2.

CHAPTER III

HOW POVERTY IS MEASURED AND HOW THE POOR ARE IDENTIFIED: THE PRACTICE OF EUROPEAN COUNTRIES

Introduction

Chapter III seeks to map how poverty is framed in European countries, both in the poverty-reduction strategies that preexisted the adoption of the SDGs and following that adoption. Section 1 examines the developments concerning poverty measurement at EU level, starting with the Europe 2020 strategy launched in 2010. Section 2 analyses a sample of European countries, based on the responses to a questionnaire sent to the NHRIs. The study shows that, despite the ambitious goal set in Target 1.2 of the SDGs, the adoption of the SDGs has until now had a minimal impact on how poverty is measured in Europe: the opportunity has been missed. At the same time, the comparison between developments at EU level and developments at national level highlights the potential for future progress in this area, at least within the EU Member States, under the influence of EU-wide attempts at harmonization data collection relating to poverty.

1. How poverty is framed at EU level

a) The Europe 2020 strategy

The Europe 2020 strategy launched in 2010 pursues three priorities to make Europe "a smarter, more sustainable and more inclusive place to live": *smart growth* is to be achieved through the development of an economy based on knowledge, research and innovation (which is measured by indicators such as the percentage of the GDP that goes to research development, the reduction of school drop-out rates, and the share of the population aged between 30 and 34 that has completed tertiary education); *sustainable growth* is to be achieved through the promotion of resource efficient, green and competitive markets (the "20-20-20" target is to reduce greenhouse gases by 20% in comparison to 1990 levels, to increase the share of renewable energy in final energy consumption by 20%, and to improve energy efficiency by 20%); *inclusive growth* finally aims at fostering job creation and poverty reduction, the targets here being to increase employment rate for the working age part of the population (from 20 to 64 years of age) to 75% and, as already noted above,¹¹² to reduce the number of people at risk of poverty and social exclusion by 20 million.

It is with this last of the eight targets that we are concerned here. The following paragraphs discuss how poverty is measured in the Europe 2020 strategy, including some limitations of the current approach; and how the conceptualization of poverty and its measurement are gradually being improved, under the influence of the SDGs and of the European Pillar of Social Rights.

b) Measuring poverty: headline and contextual indicators in the Europe 2020 strategy

If one of the eight targets of the Europe 2020 strategy is to lift 20 million people from being at risk of poverty or social exclusion, how is this measured? European countries differ between themselves as regards how poverty is measured. The approach used by Eurostat, however, on which the Europe 2020 strategy is based, reaches across the EU Member States. This approach relies on three measures of poverty: *monetary poverty* is defined as the situation of a household whose total income, after tax and other deductions, that is available for spending or saving, divided by the number of household members (weighted according to their age), is below 60 % of the national median disposable income

¹¹² See chapter I, section 6 (noting that the targets set under the Europe 2020 strategy are significantly less ambitious than Target 1.2 concerning poverty reduction in the SDGs).

(weighted according to age) after social transfers (people in this category are at risk of poverty (AROP)); *severe material deprivation* refers to the inability of the household to afford a number of essentials (four of a list of nine), according to a methodology discussed below; *very low working intensity* is defined as the situation of the person who is living in a household where the members of working age population (between 18 and 65 years of age) worked less than 20 % of their total potential during the previous 12 months. For the purposes of the Europe 2020 strategy, persons at risk of poverty or social exclusion (AROPE) are all persons who fall in one or more of these categories.

This headline indicator used to measure poverty ('people at risk of poverty or social exclusion (AROPE)') is complemented with so-called 'contextual' indicators, based for instance on age, household composition, national origin, educational level. As noted by the European Commission in its presentation of the Europe 2020 indicators, "identifying groups with a heightened risk of poverty or social exclusion and determining the reasons behind this vulnerability is the key to creating sound policies to fight poverty".¹¹³ Such contextual indicators allow to identify certain of the determinants of poverty or social exclusion by identifying which groups are particularly at risk: they serve to highlight, for instance, that whereas approximately one fourth of the population was at risk of poverty or social exclusion in 2014, this was the case for more than 30% of young people (aged 18 to 24 years), and it was much lower for the elderly (17.8% of those aged 65 years and over were at risk of poverty); children are also particularly at risk (27.8% of children (below the age of 18) were at risk of poverty or social exclusion in 2014); those born in a country outside the EU are also at particular risk of poverty or social exclusion (40.1%); those with a lower educational level also face a higher risk of poverty or social exclusion : 35% of adults with at most lower secondary education level were at risk, and so were 63.8% of children whose parents have a low educational level.

Material deprivation

For the purposes of measuring the rate of people at risk of poverty or social exclusion (AROPE), the EU's Social Protection Committee (the EU advisory policy committee preparing the meetings of the Ministers of Employment and Social Affairs within the Employment and Social Affairs Council (EPSCO)) lists nine items "considered by most people to be desirable or even necessary to lead an adequate life". These are the ability for individuals to afford

1. to pay their rent, mortgage or utility bills;
2. to keep their home adequately warm;
3. to face unexpected expenses;
4. to eat meat or proteins regularly;
5. to go on holiday;
6. a television set;
7. a washing machine;
8. a car;
9. a telephone.

Material deprivation refers to the situation where an individual cannot afford at least three of these nine items; *severe material deprivation*, which is one of the dimensions of poverty and at risk of social exclusion, is the inability to afford at least four of these items. Such material deprivation is "persistent" if an individual cannot afford these items during the current year and at least two of the three preceding years. Such persistent material deprivation (or persistent severe material deprivation) can only be identified through longitudinal surveys, allowing individuals to be followed of a period of four years.

This list of nine essential items is not informed by the human rights framework; nor is it consistent with the SDGs. The list is silent, for instance, about the ability to meet healthcare needs or to have

¹¹³ See http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe_2020_indicators_-_poverty_and_social_exclusion (last consulted on 8.5.2018).

access to education, and although one item refers to food, the reference is very problematic from the point of view of what is understood to be a nutritious or adequate diet. Other points are worth noting:

(i) Whereas two of the nine items listed relate to the affordability of housing and of electricity and heating, "adequate housing", in the view of the Committee on Economic, Social and Cultural Rights, is one that, in addition to the basic amenities (more or less captured in the list),¹¹⁴ should be "free of structural hazards"¹¹⁵ and "in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities [in particular since] the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households".¹¹⁶

In this regard, the list of items serving to identify material deprivation or severe material deprivation could also gain from a reference to adequate housing in Goal 11 of the SDGs (Make cities and human settlements inclusive, safe, resilient and sustainable). Under this goal, Target 11.1 of the SDGs is: by 2030, to "ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums". The concept of "adequacy" in this target should be read in the light of the definition of adequate housing under the International Covenant on Economic, Social and Cultural Rights: it should be understood as housing "with adequate public facilities",¹¹⁷ and sufficiently well connected to health facilities, places of work and schools.

(ii) The list of the nine items "necessary to lead an adequate life" also makes a reference to being able to afford a car. This is outdated and it is not in line with the objective of sustainable development. Target 11.2 of the SDGs is "By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, ... notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and other persons", and the corresponding indicator (11.2.1) is the proportion of the population that has convenient access to public transport, by sex, age and persons with disabilities. It is perhaps telling that, in the EU SDG indicators set (discussed below), there is currently a specific indicator on "Difficulty in accessing public transport" (sdg 11 30), located under SDG 11 concerning cities.¹¹⁸

(iii) The reference to owning a television set is equally outdated. Rather, this should be replaced by a reference to a personal computer and high-bandwidth internet connection.¹¹⁹ It is noteworthy that, in many Concluding Observations, the Committee on Economic, Social and Cultural Rights refers to the duty of States to improve internet access in all parts of the national territory.¹²⁰

The limitations of the EU statistics on income and living conditions (EU-SILC)

Within the EU, income distribution and social inclusion are generally based on the EU statistics on income and living conditions (EU-SILC), a tool to collect comparable data on income, poverty, social

¹¹⁴ Adequate housing should include access to "safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities" (General Comment 4, The right to adequate housing (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991), para. 8, (b)).

¹¹⁵ Id., para. 8, (d). The Committee on Economic, Social and Cultural Rights regularly expresses its concern at the impacts on the right to health of people being forced to live near sources of pollution: see, e.g., Concluding Observations on the third periodic report of the Republic of Moldova (UN doc. E/C.12/MDA/CO/3 (19 October 2017), paras. 68-69)

¹¹⁶ Id., para. 8, (f).

¹¹⁷ For instance, in its Concluding Observations on the third periodic report of the Republic of Moldova, the Committee on Economic, Social and Cultural Rights recommends that they "increase the provision of social housing with adequate public utilities to young people, persons with disabilities, Roma families and large families, and improve and maintain the quality of existing public housing" (UN doc. E/C.12/MDA/CO/3 (19 October 2017), para. 55).

¹¹⁸ It is anticipated that this indicator shall later be replaced by an indicator on "Share of population with access to public transport by service level" (as explained further below, this indicator is currently on hold).

¹¹⁹ Target 9.c of the SDGs is vaguer: "Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020". The corresponding Indicator is the "proportion of population covered by a mobile network, by technology".

¹²⁰ The reference to internet access is generally made under Article 15, para. 1, (a), of the International Covenant on Economic, Social and Cultural Rights, which recognizes the right to everyone to take part in cultural life.

exclusion, housing, labour, education and health.¹²¹ To ensure cross-country comparability of the data collected, a common framework guides the methodology of the surveys that the participating countries conduct at national level. This common framework defines a harmonised lists of target variables, transmitted to Eurostat on an annual basis (primary target variables, transmitted on 30 November of the following year), or every four years (secondary target variables, transmitted to Eurostat by 31 March of the year + 2); it sets out common guidelines and procedures; and it defines common concepts (such as household and income) and classifications. For the collection of cross-sectional data, which are data on income, poverty, social exclusion and other living conditions pertaining to a given time or a certain time period, about 130,000 households and 270,000 persons aged 16 and more are interviewed in the EU countries; for the collection of longitudinal data pertaining to individual-level changes over time, observed periodically over a four-year period, about 100,000 households and 200,000 persons aged 16 and more are interviewed in the European Union countries.

One important limitation of the EU-SILC surveys is that they focus on households, which are defined in this context as "either one person living alone or a group of people, not necessarily related, living at the same address with common housekeeping, i.e. sharing at least one meal per day or sharing a living or sitting room". Collective or institutional "households" are not covered, however, so that people living in institutions are generally excluded. Yet, this category of the population includes groups such as detainees, asylum-seekers or foreigners facing expulsion and placed in institutions, or people with disabilities in institutions, which are particularly at risk of extreme poverty. Another limitation is that the views of children are not sought in EU-SILC surveys: all household members are surveyed, but only adults above 16 years of age being interviewed. This would appear to be incompatible with the requirement of article 12 of the Convention on the Rights of the Child, which establishes the right of every child to freely express his or her views in all matters affecting him or her, and for those views to be given due weight in accordance with the child's age and maturity.¹²²

c) Updating the measurement of poverty in the EU

Two developments are now leading the EU to rethink the indicators related to poverty, either to complement the indicators that have been used until now, or to prepare the post-Europe 2020 strategy. The first development is the adoption of the Sustainable Development Goals in 2015. The second development is the endorsement, in 2017, of the European Pillar of Social Rights. Both are considered in turn.

The EU SDG indicators set

After the SDGs were adopted in 2015, the EU sought to develop a set of indicators to measure progress in the SDGs in the EU, in order to complement, in particular, the Europe 2020 strategy and its associated targets and indicators,¹²³ and after Europe 2020 shall have expired, to replace it. The initial EU SDG indicator set 2017 received the favourable opinion of the European Statistical System Committee (ESSC) on 18 May 2017. Then, between December 2017 and March 2018, a review took place, for the preparation of the 2018 edition of the EU SDG Monitoring Report.

The current EU SDG indicators related to SDG 1 ("End poverty in all its forms everywhere") is reproduced in annex 2 to this study. The set of indicators related to this goal includes the three measures of poverty that, in combination, are used in the Europe 2020 for the headline indicator

¹²¹ The tool was initially launched in 2003 for a handful of States but it now covers all EU Member States (feeding into the Europe 2020 strategy) as well as Norway, Iceland, Switzerland and Turkey.

¹²² See in particular Committee on the Rights of the Child, General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4) (UN doc. CRC/C/GC/19 (20 July 2016)), paras. 52-56.

¹²³ This was launched by the Communication from the Commission, "Next steps for a sustainable European future", COM(2016) 739 final of 22.11.2016.

"persons at risk of poverty or social exclusion (AROPE)", presented above.¹²⁴ These three measures are complemented by six additional indicators. Four of these additional indicators refer to housing conditions. They are: "population living in a dwelling with a leaking roof, damp walls, floors or foundation or rot in window frames or floor" (sdg 01 60); "population having neither a bath, nor a shower, nor indoor flushing toilet in their household" (sdg 06 10); "population unable to keep home adequately warm" (sdg 07 60); "overcrowding rate" (sdg 11 10).¹²⁵ The two other additional indicators relate respectively the "working poor" (the number of people "In work at-risk-of-poverty rate" (sdg 01 41)); and to access to healthcare ("self-reported unmet need for medical care" (sdg 03 60)).

Two comments are in order. First, the new indicator on the "working poor" replaces what, in the 2017 edition of the EU SDG indicators set, was "housing cost overburden" (sdg 01 50). The new indicator is useful since it allows to assess the development of "mini-jobs" paying very low wages, which may be one important cause of people being at risk of poverty or social exclusion in certain countries. As to the removal of the indicator on the housing cost overburden, it is justified by the consideration that the indicator was considered to have little added value, since it was strongly correlated with income poverty, which is (and remains) part of the indicators both under the Europe 2020 strategy and under the EU SDG framework.¹²⁶ This is not a particularly convincing explanation, however: although, by definition, low-income households shall find it more difficult to meet the costs of housing, it cannot be excluded that, as a result of speculation on the housing markets, these costs increase at a much faster rate than general costs of living, so that even families who otherwise are not at risk of poverty or social exclusion (and are not facing monetary poverty) may be forced to move to more affordable housing, but perhaps less well connected to schools, health care centres or place of employment, leading to socio-economic geographical segregation. Moreover, the "adequacy" of housing under the International Covenant on Economic, Social and Cultural Rights, includes a dimension of affordability¹²⁷: it would be consistent with a human rights based approach to the measurement of poverty to include this dimension in the indicators set.

Secondly, it is paradoxical that whereas the EU SDG indicators set includes a total of five indicators related to adequate housing, there is no indicator on homelessness. The introduction of a new indicator on the "extent of homelessness in the EU" has in fact been considered, but it was considered premature to add this, and this new indicator is therefore "on hold": it is considered relevant under SDG 1, but not yet ready to use, presumably due to a lack of sufficiently reliable data across the EU Member States.

The failure to include the new indicator on the extent of homelessness is symptomatic of a broader problem, already alluded to above, which is that certain groups that are particularly at risk of poverty remain invisible, precisely because it is difficult to collect reliable data about these groups. This, we noted, is already recognized as a problem under the EU-SILC, since the household surveys on which this format of data collection is based reach neither people who are institutionalized, nor people who are homeless or who, like undocumented migrants, are on the move. Yet, without data on these groups, poverty-reduction strategies shall be unable to reach them effectively; to examine whether certain measures might impact them negatively; and to address the causes of marginalisation of these groups.

¹²⁴ For the future, it is anticipated that under the same SDG the indicator on "Severely materially deprived people" shall be replaced by "Material and social deprivation rate (MSD)": the latter indicator is currently "on hold", in other terms, although it is considered relevant, it is not in use yet, because of limited data availability.

¹²⁵ In addition, under SDG 11 concerning cities, the EU SDG indicators set currently includes an indicator on the "difficulty in accessing public transport" (sdg 11 30). In due course, this shall be replaced by an indicator on the "share of population with access to public transport by service level", once this new indicator shall be fully developed and ready-to-use. Thus the EU SDG indicators set in fact has five indicators related to adequate housing.

¹²⁶ European Commission - Eurostat, *EU SDG Indicator set 2018. Result of the review in preparation of the 2018 edition of the EU SDG Monitoring Report*, Final version, 3 April 2018, p. 14.

¹²⁷ In its general comment n°4 on the right to adequate housing, the Committee on Economic, Social and Cultural Rights notes that "Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels" (para. 8, (c)).

The impact of the European Pillar of Social Rights

The European Pillar of Social Rights (EPSR) was endorsed by the European Parliament, the Council and the Commission on 17 November 2017, at the Social Summit for Fair Jobs and Growth held in Gothenburg.¹²⁸ It is now entering the implementation phase. On 13 March 2018, a communication from the Commission described how implementation of the EPSR would be monitored. This monitoring includes a regular assessment of the employment and social performances of the EU Member States on the basis of a Social Scoreboard, comprised of 35 social, educational and employment indicators, broken down by age, gender and education, grouped into three dimensions corresponding to the broad areas covered by the EPSR (equal opportunities and access to the labour market; dynamic labour markets and fair working conditions; and public support, social protection and inclusion). The most relevant indicators for the purposes of this study are the following :

I - Equal opportunities and access to the labour market

03 Inequality and upward mobility

Income inequality

Variation in performance explained by students' socio-economic status

04 Living conditions and poverty

At-risk-of-poverty or social exclusion rate (AROPE)

At-risk-of-poverty-rate (AROP)

Severe material deprivation rate (SMD)

Persons living in a household with a very low work intensity

Severe housing deprivation (% of owners, with mortgage or loan)

Severe housing deprivation (% of tenants, with rent at market price)

II - Dynamic labour markets and fair working conditions

08 Income, including employment-related

In-work at-risk-of-poverty rate

III - Public support / Social protection and inclusion

09 Impact of public policies on reducing poverty

Impact of social transfers (other than pensions) on poverty reduction

General government expenditure in social protection

General government expenditure in health

General government expenditure in education

Aggregate replacement ratio for pensions

Two aspects of this new Social Scoreboard are particularly interesting. First, these indicators go beyond measuring outcomes, or symptoms, as do classic development or socio-economic indicators: indeed, the indicators by which the Scoreboard intends to assess the "impact of public policies on reducing poverty" focus on the efforts invested by States -- they are, in the structural-process-outcomes tripartite typology of human rights indicators referred to above,¹²⁹ "process" indicators. This is a source of accountability, since poor outcomes can more directly be traced to a failure by the State to improve social support or to match macroeconomic choices with its commitment to poverty reduction.

¹²⁸ The initiative to establish a European Pillar of Social Rights was initially announced on 9 September 2015, in the State of the Union address of the President of the European Commission. It was then presented as a means to encourage a move towards a "deeper and fairer Economic and Monetary Union" (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Launching a consultation on a European Pillar of Social Rights*, COM(2016) 127final of 8.3.2016, para. 2.1), and to complement macroeconomic convergence with greater convergence in three broad areas -- equal opportunities and labour market participation, fair working conditions, adequate and sustainable social protection and access to high quality essential services --, covering in total 20 policy domains.

¹²⁹ See chapter I, section 3.

Second, and relatedly, the Social Scoreboard shall gradually influence the orientation of the macroeconomic policies in EU Member States: it is aimed at "supporting the broader process of upward convergence".¹³⁰ The Scoreboard should, in particular, influence the annual Joint Employment Report and the Country Reports presented as part of the European Semester, which seeks to promote macro-economic convergence in the EU.¹³¹

d) An assessment

It was noted above that a human rights based approach to poverty reduction called for adequate monitoring of progress, relying on structural, process and outcome indicators, to improve accountability, and linking the measurement of progress to the normative components of human rights; that it should include an equality or non-discrimination component; and that it should ensure the participation of the poor.¹³² The tools currently developed at EU level in support of the Europe 2020 strategy are gradually being improved, in particular under the influence of the SDGs, and it is especially encouraging to note that the multidimensional understanding of poverty is gaining in breadth, and that process indicators, tracking the efforts of States are being introduced as part of the Social Scoreboard based on the European Pillar of Social Rights. Significant gaps remain, however, before the poverty reduction strategy encouraged at EU level can be assessed to be fully human rights based, both because a number of rights are neglected (the right to healthcare, to education, and to adequate food in particular), and because of the absence of any reference to structural indicators that would measure the strength of the mechanisms that protect the entitlements of the poor and enforce duties of public authorities.

This study also concluded provisionally that a HRBA to poverty measurement included a number of core requirements¹³³:

- first, that poverty be treated as a **multidimensional phenomenon** which often is caused by, and may cause in turn, human rights violations, in the form of a lack of access to the goods or services essential to the enjoyment of human rights, such as housing, education, food, healthcare, work and social protection;
- secondly, that poverty measurement be designed not only to identify the causes of poverty, but also who the poor are, which implies the **disaggregation of data** by income, gender, age, race, ethnicity, nationality, migratory status, disability, geographic location and other characteristics relevant in national context;
- thirdly, that **various methodologies** be used for data collection, to reach groups that would otherwise not show up in statistics; and
- fourthly, that the methodological choices concerning data collection and poverty measurement be based on **participation** by the poor.

Based on these indicators, the EU-level measurement of poverty scores well with respect to the multidimensional framing of poverty as well as the disaggregation of data (with the notable exception of data based on ethnicity, due to the sensitivity of this issue in certain Member States); it scores poorly on the plurality of methodologies to capture "invisible" groups, as well as on participation -- two failures that are of course closely connected and mutually reinforcing. The EU is improving its understanding of poverty in general, but it misses a number of its specific manifestations because they

¹³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Monitoring the implementation of the European Pillar of Social Rights, COM(2018) 130 final of 13.3.2018,

¹³¹ See Proposal for a Council Decision on guidelines for the employment policies of the Member States, COM(2017) 677 final of 22.11.2017.

¹³² For details, see above, chapter I, section 2.

¹³³ For details, see above, chapter I, section 3. A requirement not included in this summary is to include indicators tailored to measure the non-take-up of rights (of financial benefits or of public services) and to identify the reasons for such non-take-up. That requirement will be satisfied however, if structural and outcome indicators and properly complementing one another. In that sense, it does not constitute a requirement separate from that of analyzing poverty as a multidimensional phenomenon resulting in the violation of a range of human rights, the fulfilment of which can be assessed through the structural, process and outcome indicators that are familiar in human rights practice.

do not appear in general statistics; and in the absence of adequate participatory mechanisms to alert it to this gap, the invisibility of the "missing poor" remains unchallenged.

2. How poverty is framed in European countries: a sample

15 ENNHRI members¹³⁴ answered a questionnaire which aimed at assessing whether the countries covered had developed national action plans (NAPs) to implement the SDGs and, if so, whether poverty measurement had improved existing national poverty measurement as a result, in particular by strengthening the HRBA to poverty measurement. In addition, in the course of the preparation of this study, information was received for Slovakia from the Slovak Centre for Human Rights. In total therefore, the answers cover 14 States,¹³⁵ including 13 EU Member States: Moldova, which is one of the European countries where the poverty rate is highest, was the only non-EU State for which a questionnaire was completed. The sample is therefore hardly representative of the full network of European National Human Rights Institutions. It does nevertheless provide sufficiently solid empirical ground to allow some preliminary lessons to be drawn and identify ways forward.

a) Are the SDGs making a difference?

Of the 14 countries (16 jurisdictions) covered, 8 had adopted NAPs to implement the SDGs (BE, DK, FI, DE, LV, LT, NL, SK¹³⁶); all these countries are EU Member States. This does not imply that these countries converge on their measurement of poverty, however: the indicators associated with Target 1.2 of the SDGs leave a broad margin of appreciation to States, as they refer to the national definition of poverty whatever such definition may be¹³⁷; moreover, States may choose, within the full range of (169) targets and (244) indicators adopted at UN level, which they shall prioritize. Of the 8 States that have adopted a NAP to implement the SDGs, at least 6 included the reduction of poverty (BE, DE, LV, LT, NL and SK), with a specific focus on the Roma in the case of Slovakia.¹³⁸ There is one area in which the SDGs provide a clear benchmark: Target 1.2 sets an objective to "reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions", by 2030. Despite this, none of the 5 countries which adopted a NAP to implement the SDGs and included poverty reduction felt compelled to redefine its objectives in the light of that Target.

The indicators associated, in the SDGs, with Target 1.2, are more general and vague than the indicators relied on in by Eurostat for the purpose of the Europe 2020 Strategy. Therefore, it should probably not come as a surprise that only in one State (Lithuania), did the adoption of a NAP for the SDGs' implementation lead to improve the approach to poverty, by going beyond monetary poverty (measuring the rate of persons at-risk-of-poverty (AROP)) to include, in addition, the S80/S20 income quintile share ratio, the share of disposable income spent on housing maintenance, and the average

¹³⁴ The jurisdictions covered were Belgium (Service to Combat Poverty, Insecurity and Social Exclusion), Croatia (Office of the Ombudsman), Denmark (Danish Institute for Human Rights), Finland (Finnish Human Rights Centre/Parliamentary Ombudsman Office), France (Commission Nationale Consultative des Droits de l'Homme), Germany (German Institute for Human Rights), Greece (Greek National Commission for Human Rights), Ireland (Irish Human Rights and Equality Commission), Latvia (Ombudsman of the Republic of Latvia), Lithuania (the Seima's Ombudsman Office), Republic of Moldova (People's Advocate), the Netherlands (Netherlands Institute for Human Rights), Northern Ireland (Northern Ireland Human Rights Commission), Scotland (Scottish Human Rights Commission), and Great Britain (Equality and Human Rights Commission).

¹³⁵ The United Kingdom of Great Britain and Northern Ireland was covered in three separate answers, related respectively to England and Wales, to Scotland, and to Northern Ireland.

¹³⁶ Though the Slovak Centre for Human Rights did not contribute to the initial questionnaire, Slovakia is included in this count since information was received subsequently. The Slovak Government adopted Baselines for the national implementation for the 2030 Agenda for SD and SDGs in March 2016 (UV-10537/2016).

¹³⁷ In the SDGs, the indicators associated with Target 1.2 on the reduction by half of the proportion of people in poverty are the "proportion of population living below the national poverty line, by sex and age" (1.2.1) and the "proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions" (1.2.2).

¹³⁸ The situation of Slovakia is unclear in this regard.

useful floor area per capita (in m²).¹³⁹ In the other countries where a NAP was adopted to implement the SDGs, either poverty was left out entirely (DK and FI), or the existing national definition of poverty was not changed as a result (BE, DE, LV, NL and SK).

In general therefore, it cannot be said that European countries have seized the opportunity of the adoption of the SDGs to significantly strengthen their commitment to poverty reduction, or to rethink, in particular, their understanding of how poverty is to be measured. Although this could occur, in the next few years, by the EU framework on indicators being enriched by the SDGs (as seen above), this not occurring at present at Member State level. It is noteworthy in this regard that in some countries, for instance in Belgium, the National Poverty Measurement (NPM) that pre-existed the adoption of the SDGs (and has been in place since almost twenty years) actually goes further than the National Action Plan (NAP) adopted to implement the SDGs. At the same time, this conclusion is provisional, since the survey on which this study is based did not explicitly focus on the impacts on poverty-reduction strategies of measures adopted to implement the SDGs; a more targeted inquiry would be required to confirm this.

b) Are European countries adopting a human rights-based approach (HRBA) in poverty measurement?

Almost all NHRIs having provided answers to the questionnaire concluded that a HRBA was "partly" taken into account in poverty measurement. This hesitation may reflect in part the uncertainty about what, exactly, is implied by a HRBA to poverty measurement. Part I of this study suggested that a HRBA to poverty measurement include four requirements: a **multidimensional approach** of poverty based on the attributes of human rights; the **disaggregation of data**; the reliance on a plurality of **methodologies** for data collection, to ensure the measurement is inclusive; and **participation** of the poor in the methodological choices concerning data collection and poverty measurement.

The four requirements listed above are demanding, and it should not be surprising that none of the 16 jurisdictions covered satisfy all of them. This reflects, in part, the need to involve more systematically human rights experts, and NHRIs in particular, in the design of the NAPs implementing the SDGs: it is obvious from the results of the samplly survey that this has not been at their own initiative by the administrations in charge of the drafting such NAPs. If however we take into account the four indicators that emerge, we arrive at the following results concerning national poverty measurement, whether under a NAP for SDGs' implementation or under pre-existing NPM, depending on which is most detailed¹⁴⁰:

	Poverty as multidimensional	Disaggregation of data	Plurality of methodologies for data collection	Participation of the poor
Belgium	Yes	No, except as regards low-income families.	Not sufficiently, since some groups (homeless, undocumented migrants) seem to be omitted	
Croatia	No. The NPM is focused on income.	Disaggregation of data relating to income is by age, sex, most frequent activity status, household type,	Four separate methodologies are used, however they rely on household surveys and therefore not all	The National Strategy for Combating Poverty and Social Exclusion in the Republic of Croatia

¹³⁹ At least this last indicator anticipates the implementation by the EU of the EU SDG indicators set which, as we have seen, includes since 2018 "overcrowding rate" (sdg 11 10) among the EU SDG indicators related to SDG 1 ("End poverty in all its forms everywhere").

¹⁴⁰ The boxes in the table that are left empty are those for which no information was provided, making it difficult to make an assessment.

		work intensity, and tenure status (renting or owning the dwelling).	relevant groups are reached, particularly institutionalized people.	2014-2020 was developed through a participatory process.
Denmark	No NPM			
Finland	Yes, although whereas the 2050 Agenda includes others measuring societal inequalities, discrimination and participation in society, health and quality of work, it lacks data on poverty as such	Yes, the <i>Finndicators</i> assess poverty and income differentials with a specific focus on disabled persons, immigrants, Roma people and Saami people	Not sufficiently, institutionalized people are omitted.	
France	Yes, in addition to the poverty line (60% median income threshold), poverty in living conditions is monitored, and the National Observatory on Poverty and Social Exclusion (ONPES) maintains a scoreboard covering four areas: inequality and incomes, extreme poverty, access to fundamental rights and social inclusion	Disaggregation is insufficient. Poverty measurement overlooks vulnerable groups such as women, children, and single parent families, and due to the absence of ethnic statistics, there is little information about population from migrant origin		
Germany	Yes.	Yes, but not sufficiently comprehensive disaggregation of data (age, gender, type of household, employment status and educational level, Federal State, but not vulnerable groups; however migrant background is taken into account in assessing the risk-at-poverty rate)	Four separate methodologies are used, but unclear whether this allows to reach all relevant groups.	The NAP on SDGs involved participation through a multistakeholder process, but failed to involve the most vulnerable groups.
Greece		Poverty measurement identifies some population groups as of special concern: children; people aged 65 and over; people living	No, the only framework is that of the EU-SILC (household surveys).	

		in households with very low work intensity; women; single parents with one dependent children. Data disaggregation remains incomplete.		
Ireland	To a certain extent: the NPM counts any person who is either at-risk-of-poverty (household income is below 60% of the median) or suffers from basic deprivation (lacking 2 or more of 11 basic necessities), or both.	The Central Statistics Office provides annually poverty rates for the following: employment status, highest educational level attained by “head of household”, household composition, number of people in the household, housing tenure. Further, the Department for Social Protection reports on children, young people, people with disabilities, non-Irish people, older people, lone parent families, and the unemployed. Data disaggregation remains incomplete.	Not sufficiently, since some groups (Travellers and Roma, homeless, people living with direct provisions and LGBT people) seem to be omitted.	
Latvia	Yes	Central Statistics Bureau monitors income inequality disaggregating by the following groups: retired persons, unemployed persons, seniors, single parent families and families with more than two children, single elderly woman, and persons with disabilities		
Lithuania	Yes, though some important omissions (access to healthcare or to education in particular)	No		
Netherlands	Although income is	Yes, specific		

	the measure of poverty or risk of poverty, the Dutch Statistics Agency has put these numbers in a larger context whereby it has started to also study parts it relates to social exclusion. The annual <i>Poverty and Social exclusion</i> report collects data on: trust and participation; health; criminality; debt; and housing.	attention given to vulnerable groups (such as women, people with a migrant background, people with disabilities, single-parent families, children, youth, people with flexible contracts and self-employed persons)		
Rep. of Moldova	Minimally: the NPM primarily is based on income, although the share of the population below the minimum food consumption, expressed in energy value (2282kcal/day), is also monitored.	No.		
Slovakia	Partially. Poverty is measured through indicators on income, living conditions and social exclusion. However, it omits access to education or healthcare.	Data disaggregation is only partially achieved, based on age groups, household employment status, child poverty by household employment status household size, housing tenure and gender.	Insufficient as people without housing or those in institutional care are completely omitted from data collection.	No participation.
United Kingdom: Northern Ireland	No. The Annual Northern Ireland Poverty Bulletin produced by the NI Statistics and Research Agency, Department for Communities, provides an analysis on two measures of poverty (relative and absolute), both based on income.			
United Kingdom: Scotland	Partly: the National Performance Framework monitors the proportion of people living in	Specific data are collected in relation to: age; household composition (by gender); household living with a		The 2018 National Performance Framework was preceded by broad consultations, involving 16,000

	poverty (defined as individuals living in private households with an equivalised income of less than 60% of UK median before housing costs), as well as children's deprivation (measured as the percentage of children in combined material deprivation and low income).	disabled child or adults; ethnicity; number of children in the household; urban/rural; housing tenure; working age adult poverty by household employment status; child poverty by household employment status; child poverty by age of mother. In addition, specific monitoring is provided for children; working age adults; and pensioners. The ethnic breakdown remains insufficient: Scottish Gypsy/Travellers' situation is not currently reflected in national annual poverty data.		people in public meetings and 400,000 people online in the initial preparatory phase (2015-2016). In 2016-2017 further consultations took place with ordinary people, facilitated by the UK Carnegie Trust Fund, Oxfam Scotland and the Children's Parliament; 220 organisations were involved in three separate consultations. Moreover, the SHRC facilitated the "Tackling Poverty through Human Rights" Innovation Forum on 10 Dec. 2014, in preparation of the Scottish National Action Plan on Human Rights.
United Kingdom: Great Britain	No. NPM relies on household income levels.	Yes. Disaggregation of data takes into account the following characteristics: age, disability (including impairment type and intersections with age and socio-economic category), ethnicity, gender, marital status, socio economic category. However, poverty among Gypsies, Travellers, homeless people and people living in B&B accommodation is not monitored, as the Household Below Income Average (HBAI) survey does not look outside household population.	Not sufficiently: no attempt is made to cover the "missing poor" ..	

c) An assessment

These results are difficult to interpret, not only because the information collected in the table remains fragmentary, but also in part because some of the indicators can only be met partially, making a binary answer (in conformity / not in conformity with a HRBA to poverty measurement) impractical. For instance, even where poverty is recognized as a multidimensional concept, some dimensions, though they correspond to human rights attributes, may be omitted; while various methodologies may be mobilized for collecting data, they may still not be sufficiently plural to actually reach certain groups that are particularly marginalized; disaggregation of data can take place, but some grounds may nevertheless be neglected; and participation of course, may remain purely tokenistic.

Despite these limitations, some clear lessons emerge. First, significant progress remains to be achieved for poverty to be measured as a multidimensional phenomenon, interlinked with the attributes of human rights, as would be required under a HRBA to poverty measurement: of the 13 jurisdictions for which information was available (leaving aside Denmark which does not measure poverty, and Greece where the situation is unclear), only 7 (BE, FI, DE, LT, LV, FR and IE) clearly have a multidimensional definition of poverty, though none fully aligned with human rights; Moldova, Slovakia and, in the United Kingdom, Scotland, only very partially have moved towards adopting such an approach; the other jurisdictions (Northern Ireland and England and Wales in the UK, NL and HR) remain wedded to a definition of poverty that is focused on income.

Apart from the fact that this is not aligned with what a HRBA to poverty measurement would seem to require, the choice to focus on income poverty sends a message, which though it remains implicit is nevertheless powerful: the message is that income growth is the pathway out of poverty, whereas strengthening social services and improving their accessibility would matter much less; and that people are poor because they have too few opportunities to make money, not because they face poor housing conditions, high levels of rent, poor health or educational disadvantage.

Second, the disaggregation of data relating to poverty remains incomplete. Five jurisdictions perform satisfactorily in this regard (FI, NL, EI, GB and Scotland), but a same number of jurisdictions are weak (BE, LT, FR and MD), barely disaggregating data relating to poverty at all. These jurisdictions missing an opportunity to identify the groups of the population that require the most support and to address the structural causes of the disadvantage they face. Six other jurisdictions are in an intermediate situation: some disaggregation of data occurs, but it remains insufficient, as not all relevant grounds are included (DE, LV, HR, GR, SK and England and Wales in the UK).¹⁴¹ In at least four of the total 13 jurisdictions, ethnicity-based poverty data are not collected (LV, HR, GR and FR), which may betray a fear to reveal that some ethnic groups fare much worse than others and would therefore deserve special, targeted treatment.

Third, though some jurisdictions do rely on a plurality of methodologies to assess poverty (Germany and Croatia, for example, both rely on a set of four separate methodologies), no jurisdiction has used methodologies that are diverse enough to ensure that poverty measurement is fully inclusive of groups that are not represented in household surveys or, for various reasons, do not appear in statistics: these are in particular undocumented migrants, people in institutions, and the homeless.

Fourth and finally, few serious attempts have been made to truly involve the poor in designing methodologies for poverty measurement was reported: even in Germany, where a multistakeholder process involving about 40 organisations (including unions and civil society groups) and academic experts was convened to develop the NAP to implement the SDGs, the process is reported to have "failed to consult with relevant vulnerable groups in order to take their concerns into considerations".

¹⁴¹ It could not be determined, based on the information received, how Northern Ireland could be classified under this indicator. Denmark, for the reasons already mentioned, is not included in this count.

This is probably the gap that NHRIs can most usefully fill, and some have already been trying to do so. Inspiration may be found in this regard in the some important exceptions to the general neglect of participation. One example is the organisation on 10 December 2014, by the Scottish Human Rights Commission, of a "Tackling Poverty through Human Rights" Innovation Forum,¹⁴² one of the outcomes of which was the development of the Adequate Standard of Living reference group (to work within SNAP) to drive action on poverty and human rights. Since the forum took place, the group has been supported by the Commission's participation officer and has held thematic meetings exploring issues such as food poverty, the experience of Scottish Gypsy/Travellers and they have collectively responded to the Scottish Government Social Security and Fuel Poverty Consultations. This voice has been heard, and the process has significantly improved the participatory quality of these consultations. Another example is the practice inaugurated in Belgium in the mid 1990s, when work was launched (coordinated by the Service to Combat Poverty, Insecurity and Social Exclusion) on reports, now to be prepared every two years, on the situation of poverty in Belgium, following an original "dialogue method". Box 4 provides a description.

Box 4. Involving the poor in assessing poverty: the example of Belgium

The biennial report on poverty in Belgium coordinated by the Service to Combat Poverty, Insecurity and Social Exclusion addresses insecurity, poverty, and social exclusion and unequal access to rights. It is compiled in conjunction with associations in which the poor have a say and other partners, and applies the dialogue method, in order to be fully informed by the perspectives of the poor and to benefit from their experience. Importantly, the 1998 Cooperation Agreement establishing the Service to Combat Poverty, Insecurity and Social Exclusion and tasking it with the coordination of the biennial report provides that the report shall be forwarded via the Interministerial Conference on Social Integration, to the Federal Government and to the respective Governments of the Communities and the Regions (the different entities of the country), which in turn undertake to forward it on to their Councils, Parliaments, or Assemblies, as well as to various advisory bodies, and (at Federal level) the National Labour Council (which brings together the social partners) and the Central Economic Council. This ensures that the recommendations contained in the report shall be followed upon at political level, raising the stakes of the participatory process that precedes it.

According to article 1 of the Cooperation Agreement, the fight against exclusion should be based on a number of principles, including "the realisation of social rights as established in article 23 of the Constitution"; "equal access to all of such rights for every individual, which may also include measures for positive action"; "the introduction and reinforcement of modes of participation of all public administrations and individuals concerned, in particular those living in poverty, and the development, implementation and evaluation of these policies"; and "a policy of social integration is an inclusive, global, and coordinated policy, meaning it must be implemented throughout all of the areas of competence and requires an ongoing evaluation of all of the initiatives and actions undertaken and contemplated". The third principle, of participation, *inter alia*, of people living in poverty, informs the dialogue method through which the biennial reports are prepared.

This emphasis on participation has its source in the preparation, in 1994-1995, of the *General Report on Poverty*, which prepared the ground for what, with the 1998 Cooperation Agreement, became a regular exercise.¹⁴³ The *General Report on Poverty* was highly innovative at two levels: "On the one hand, the classic conception of poverty—low level of revenues and consumption—was considerably enlarged in the report, being expressed more in terms of human rights violations. On the other hand, the report was drawn up cooperatively by all the parties concerned; in particular, populations well below the poverty line were implicated through the medium of the associations which represent

¹⁴² See for an extensive written report on the forum:

<http://www.scottishhumanrights.com/media/1439/povertyinnovationforumeventreportehversion5.pdf>

¹⁴³ *Rapport Général sur la Pauvreté (General report on Poverty)* (ATD Quart Monde, Belgian Union of Towns and Communes (CPAS section), King Baudouin Foundation, Brussels, 1994).

them".¹⁴⁴

This dialogue with the poor and their representative organisations highlighted a range of problems resulting from the lack of participation, including the following: "current indicators do not take daily reality, as it is experienced by the poor, sufficiently into account, whether quantitatively or qualitatively"; "the poorest people are barely being reached by the statistical mechanisms deployed", for a mix of reasons including the "missing poor" problem discussed above, the technical difficulties involved in assessing incomes that are precarious and changing on an often daily basis, the lack of interest for the poorest segment of the population which is the most difficult to reach, and the politically motivated manipulation of data to hide poor results in the fight against poverty¹⁴⁵; moreover, "some of the indicators currently used have the effect of stigmatizing certain categories of people, causing these to be afraid of expressing themselves and to develop an attitude of mistrust toward the rest of society".¹⁴⁶

These considerations led to a particular initiative of Research-Action-Training in order to conduct indepth work with people living in extreme poverty on how indicators for assessing poverty could be improved in Belgium.¹⁴⁷ The participatory method was seen as a tool to combine different sources of knowledge: the program "involved those actually living in poverty working together with the scientists and the representatives of the various government bodies and institutions to create the conditions necessary to ensure that the knowledge and experience of each could interact and contribute to a common reflection on the concept and use of poverty indicators".¹⁴⁸

The program illustrated the importance of involving the poor, not only in order to obtain information, but also to help interpret such information and put in appropriate context. For instance, figures concerning income levels are barely useful unless related to the "available budget" once the costs of accommodation and debt repayment are subtracted, and to estimates about the costs that are incurred for access to goods and services that correspond to fundamental rights (not only housing but also food, education, healthcare). Similarly, it is only by involving the poor in assessing the obstacles to employment that we can measure the disproportionate impacts on the poor that result from the reliance, to assess qualifications, on formal criteria, such as the successful completion of training programs or diplomas: in these dialogues, the poor noted "the difficulty of having their particular competences and work experience accepted at their just value, given that the poor usually have little in the way of education/qualification, but rather a variety of experience gained in precarious employment".¹⁴⁹ The participatory process also highlighted various reasons why the general approach to measuring poverty (particularly through household surveys) could be improved, not only to ensure poor people are not underrepresented and that the indicators are appropriate, but also to ensure that such indicators (and the associated survey questions) adopt a holistic approach to poor people's lives, in which various sources of exclusion are interrelated and mutually reinforcing: "Serious poverty always concerns several areas of existence. That which affects one area has repercussions on the others (chain reaction effect). This reality put a finger on one of the inherent limitations of current indicators, which analyze specific areas. The participants highlighted the importance of cross-referring

¹⁴⁴ Johan Bellens, Régis De Muylder, Béatrice Meurant, Henk Van Hoetegem, and Frank Vereecken, "Another Approach to Poverty Indicators in Belgium", X. Godinot and Q. Wodon, *Participatory Approaches to Attacking Extreme Poverty : Cases Studies Led by the International Movement ATD Fourth World*, World Bank Working Paper No. 77 (Washington, DC: World Bank, 2006), pp. 107-115, at p. 108.

¹⁴⁵ See X. Godinot, "Making Services Work for Very Poor People: Comments on the World Development Report 2004", in X. Godinot and Q. Wodon, *Participatory Approaches to Attacking Extreme Poverty : Cases Studies Led by the International Movement ATD Fourth World*, World Bank Working Paper No. 77 (Washington, DC: World Bank, 2006), at pages 28-29.

¹⁴⁶ Johan Bellens, et al., "Another Approach to Poverty Indicators in Belgium", cited above, pp. 107-115.

¹⁴⁷ There were 23 programme participants in the preparation of the report, 12 of whom live in poverty. These latter were chosen from among those associations within which the poor can express their opinions. The participants came from the country's three regions. A pedagogical team, responsible for the project, was charged with the mission of regulating the tasks.

¹⁴⁸ Id., p. 110.

¹⁴⁹ Johan Bellens, et al., "Another Approach to Poverty Indicators in Belgium", cited above, p. 111.

data in order to take this accumulative cause and effect into account".¹⁵⁰ These and other examples illustrate the importance of the participation of the poor in poverty assessment exercises -- to improve relevance of the findings, to better connect data collection with policy recommendations, to arrive at a more realistic picture of the poor's life experiences, and to build trust.

¹⁵⁰ Id., p. 114.

CHAPTER IV

SEIZING THE MOMENTUM: USING THE SUSTAINABLE DEVELOPMENT GOALS AS AN OPPORTUNITY TO RETHINK POVERTY

If the current situation is not satisfactory, what can be done to improve it? Three priorities emerge. First, the delays incurred in the development of NAPs for the implementation of the SDGs can be seen as an opportunity: a potential source of progress remains untapped. It is now, not in five years, that advocacy efforts should focus on the content of such NAPs, to ensure that they fully acknowledge the centrality of tackling poverty in order to contribute to the achievement of the SDGs, and that they adopt a HRBA to poverty reduction -- including, but not limited to, as regards the measurement of poverty. Secondly, because statistical offices generally are poorly equipped to develop a plurality of methodologies to count the poor, it is urgent that other actors step in, and by partly compensating for this lacuna, highlight the gap that is to be filled: making visible those who are invisible in statistics, identifying the "missing poor" and documenting their condition. Thirdly, because the participation of the poor in design, implementation, evaluation and revision of poverty reduction strategies, and in identifying the methodologies to count the poor, has hitherto been largely neglected, giving them a voice should be an immediate priority.

NHRIs in Europe can contribute to all three objectives; indeed, they can take a leading role in these areas. They cannot act alone, however, both because of a lack of capacity and because of the limited resources at their disposal particularly in the conduct of large-scale surveys, and because other actors may have a better expertise, and a stronger legitimacy, vis-à-vis certain groups. Charities work with the homeless, for instance; various NGOs promote the participation of people with disabilities in decision-making; some groups specialize in ensuring children are heard in the decisions that concern them: these are indispensable allies in any of the three tracks described below.

1. Implementing the SDGs: a strengthened role for HRBAs to poverty reduction

NHRIs are already insisting that countries that have not done so yet should, as swiftly as possible, develop a NAP for the implementation of the SDGs. But the adoption of a NAP is of course not an end in itself. Instead, it should be a springboard for action, and for improving on already existing policies. This can be achieved if the SDGs are interpreted in line with the requirements of a HRBA, at the same time that poverty reduction strategies are enriched by taking into account the SDGs as an integrated whole. The ten Principles outlined in chapter I of this are intended to provide a grid of analysis of existing national action plans to implement the SDGs, as well as of other poverty-reduction strategies, in order to ensure that they are consistent with the HRBA. In European countries (and particular in the EU-28, as a result of the Europe 2020 strategy), most poverty reduction strategies pre-dated the adoption of the SDGs: this makes it doubly important to assess them, since the SDGs provide a new framework (and generally a framework that is more demanding than the Europe 2020 framework) to make progress in the fight against poverty. Against that background, four messages are key:

(a) Target 1.2 of the SDGs sets a clear objective: to *reduce by half* the proportion of men, women and children of all ages living in poverty *in all its dimensions* according to national definitions. For European states, two requirements follow: to revise existing targets, as they are set in existing poverty reduction strategies, in accordance with this objective; and to adopt a national definition of poverty (or national poverty measurement (NPM)) that takes into account its multidimensionality.

(b) The NPM should be based on the consideration that all the goals of the SDGs are interrelated and interdependent, and that income poverty and human rights violations are mutually reinforcing. Therefore, the definition of poverty should take into account the right to food (supported by goal 2 on food security and improved nutrition), the right to health (goal 3 on health and well-being), the right to education (goal 4 on education and lifelong learning), the right to water and sanitation (goal 6), the right to housing in its various dimensions (including those covered by goal 7 on energy and goal 11, which refers, inter alia, to access for all to adequate, safe and affordable housing and basic services,

and to access to public transport), the right to social security (supported by Target 1.3 under goal 1), the right to work (goal 8 referring to decent work), and the right to take part in cultural life by access to broadband internet (supported by Target 9.a under goal 9).

Sustainable development goals and human rights should be integrated in defining a set of indicators covering all the dimensions of poverty and social exclusion, to ensure that the corresponding goods and services are available, accessible, and adequate. This should replace the current list of items by which, under the Europe 2020 strategy, (severe) material deprivation is defined; indeed, this is already the revision that is being undertaken at EU level, with the introduction of the EU SDG Indicators Set.

(c) The enjoyment of the goals should benefit all individuals, in accordance with the pledge of the SDGs to "leave no one behind". This requires that, in the measurement of poverty, data are disaggregated not only by income, but also by gender (as is supported by goal 5) and by age, race, ethnicity, nationality, migratory status, disability, geographic location and other characteristics relevant in national context (as supported by Target 17.18). It also requires that social condition (or social and economic condition) be defined as a prohibited ground of discrimination, in accordance with article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights. Finally, poverty impact assessments, as part of broader human rights impact assessments, should be generalized, forming a routine part of law- and policy-making.¹⁵¹ NHRIs could pilot the preparation of such impact assessments, as they already have significant expertise in this area.

(d) Accountability towards results shall not be served by relying on outcome indicators alone, but by a combination of structural, process and outcome indicators. At EU level, the Social Scoreboard launched as a means to monitor the European Pillar of Social Rights is a step in this direction. In addition to an anti-discrimination legislation prohibiting discrimination on grounds of social (or social and economic) condition, structural indicators should include an indicator about the role of NHRIs (as encouraged under goal 16 by the indicator 16.a.1), and an indicator about the participation of the poor in the design, implementation, assessment and revision of poverty-reduction strategies, including as regards poverty measurement. Process indicators should allow to measure the efforts of States to progressively realize the full range of rights that people in poverty may be denied. Outcome indicators shall serve to measure the results achieved, and therefore, whether the efforts are well directed. The combination between structural, process and outcome indicators should not only improve accountability, but also help identify the problem of the low (or absence of) take-up of financial benefits or publicly accessible services, which has been referred to above as the problem of the no-take-up of rights.

Recommendations to NHRIs:

1. NHRIs could use the ten Principles presented in chapter I of this study to **assess NAPs adopted to implement the SDGs, as well as any other poverty reduction strategy that may have been adopted, to ensure that such NAPs or strategies are fully consistent with the requirements of a HRBA** -- ensuring that they improve accountability, promote equality and non-discrimination, as well as particular; that they measure poverty in order to take into account its multidimensionality and the specific challenges associated with such measurements; and that they comply with the standards applicable to the collection and processing of data for statistical purposes.
2. In order to strengthen the implementation of principle 2, NHRIs could **insist on social (or social and economic) condition being taking into account among the prohibited grounds of discrimination in domestic law**; they also could ensure **poverty impact assessments** are part of broader human rights impact assessments accompanying law- and policy-making; and to ensure that data relating to poverty are appropriately **disaggregated** to identify instances of discrimination or disparate impact. They could collaborate in this regard with Equality Bodies, such as those established in EU member states under the Racial Equality Directive (2000/43).
3. In order to strengthen the implementation of the principles of data protection, self-identification and transparency (principles 8, 9 and 10, as outlined in chapter I), NHRIs could cooperate with

¹⁵¹ These three tools were briefly discussed above (chapter I, section 1, under Principle 2).

independent data protection supervisory bodies, such as the independent supervisory authorities established in EU member states in accordance with chapter VI of the General Data Protection Regulation (GDPR). Such a cooperation would be particularly useful to **clarify the precise implications of principles 8 to 10 in the domestic regulatory framework**, and to **translate such principles into practical guidelines or handbooks**.

4. To ensure that poverty measurement reflects the multidimensionality of poverty and its relationship to human rights, NHRIs could **encourage the reliance on structural, process and outcome indicators measuring the degree of realization of human rights under their different normative components (grouped under the headings of availability, accessibility, and adequacy) of human rights**, as defined by human rights monitoring bodies, but tailored to suit the national context. NHRIs could in particular design such a set of indicators in collaboration with national statistical officers, academic institutions and the poor as well as their representative organisations, and propose such a set of Indicators for adoption to national statistical offices.

2. Counting the poor: a plurality of methodologies

As noted above, a major infirmity of all NPMs in European countries is that they rely on household surveys: official statistics therefore do not count the people who are institutionalized, live on the streets, or avoid contacts with social services -- and this may include poor families who fear such contacts because of the risk that their children will be removed (Box 3). These are the missing poor. To ensure that they are visible and that the specific obstacles they face are addressed, they should be reached by other means. NHRIs, in collaboration with researchers and with organisations working with the groups concerned, could contribute to make them visible, and help identify the specific nature of the deprivations that they face.

Indeed, some good practices have been highlighted above in this regard (Boxes 1, 2 and 4), and a number of such practices reported by the NHRIs provide illustrations as to how this can be achieved. In Belgium, the National Commission on the Rights of the Child, a platform of organisations working on the rights of the child bringing together the different governments of the country, identified gaps in the information available on child poverty, regarding certain "invisible" children: in collaboration with several actors in the field, it therefore started carrying out a survey for children in migration and children in closed youth institutions. In Denmark, the Danish Institute for Human Rights has launched an initiative to monitor the situation of persons with disabilities in cooperation with the National Bureau of Statistics. In Latvia, the Ombudsman felt compelled to draw the attention of both government and parliament on the high risk of poverty and social exclusion in the country, stressing the poor living conditions of the old people, children and families with low income. In Croatia, the Office of the Ombudsman has routinely been visiting Roma settlements in recent years (at least 21 visits have been recorded), alerting the authorities to the living conditions documented.

Recommendations to NHRIs:

5. **Pool experiences** emanating not only from NHRIs, but also from academic researchers, charities / non-governmental organisations, social services and national statistical offices, **concerning methodologies alternative to household surveys to track poverty** and ensure that (i) the "missing poor" are adequately identified and their situation better understood, and that (ii) the poorest groups of the population are not under-represented, despite the many obstacles household surveys face in seeking to incorporate their responses.

6. **Provide trainings to surveyers / national statistical officers** to encourage a better understanding of the limitations of household-based surveys to measure poverty (extreme poverty in particular) and its underlying causes.

3. Giving the poor a voice: participation

Citing the *Voices of the Poor* landmark study supported by the World Bank,¹⁵² the Committee on

¹⁵² Deepa Narayan, *Voices of the Poor, Can Anyone Hear Us?*, cited above.

Economic, Social and Cultural Rights noted that "the common theme underlying poor people's experiences is one of powerlessness".¹⁵³ It appears from the sample of 16 European jurisdictions prepared as a background to this study that participation is nowhere seen as a priority; indeed, with some remarkable exceptions, it is studiously ignored in policy design and implementation, at all levels. NHRIs are uniquely placed to start to fill this gap, by providing a forum in which people in poverty can share their experiences, describe the obstacles they face, and how these obstacles could be overcome. This requires actively reaching out to the poor, and building their capacity to be effectively heard. But it can significantly contribute to enhancing the effectiveness of poverty reduction strategies: more perhaps than for any other human right, guaranteeing the right to participation is a question both of legitimacy and of sound policy-making.

Participation thus should be seen both as an end in itself -- a requirement of democracy and a source of accountability --, and as instrument to improve the quality of poverty-reduction strategies. Specifically, this study illustrates that participation can serve a number of objectives:

- to identify the most appropriate structural, process and outcome indicators that should be used in order to assess progress towards poverty reduction targets (chapter I, section 1, under the Principle (1) of accountability);
- to identify the areas in which poverty can become a source of discrimination, leading to a vicious cycle, or a poverty "trap", in which the obstacles they face prevent the poor from effectively benefiting from the interventions targeted towards them (chapter I, section 1, under the Principle (2) of equality and non-discrimination);
- to identify gaps in existing national poverty measurement approaches, and to help identify a variety of methodologies that could serve to reach out to the "missing poor" (chapter I, section 2, under the Principle (5) about designing specific methodologies to identify the "missing poor");
- to identify potential reasons why the poor do not claim certain benefits, or do not seek access to certain services, despite such benefits or services being in principle open to them, thus helping to address the problem of the "non-take-up" of rights (chapter I, section 2, under the Principle (7) concerning the non-take-up of rights);
- to create trust between the surveyors in charge of collecting data and the broader public, thus helping to increase the rate of response to surveys and the confidence that the participants in surveys have that the information collected shall be used in ways that are lawful, transparent, and useful to guide policies (as illustrated by the experience described in Box 4).

Of course, participation requires appropriate capacity-building: it is meaningful where adequate information has been provided to those involved; where adequate time and resources are dedicated to the process; and where substantive answers are provided to the suggestions made, to ensure that participation is not merely symbolic or, even worse, tokenistic. However, some preconceived idea about whether the poor are fit to participate should not become an obstacle to the launch of participatory processes. As all those who have worked with people in poverty will have experienced, the information they possess and the experiences they can share typically go far beyond, and are complementary to, that of social workers, technocrats from public administrations, or researchers. Moreover, the very fact that participatory processes are established constitutes a powerful incentive for the poor involved (as well as for representative organisations) to invest in seeking information in order for their participation to be worthwhile: capacity-building, in that sense, is as much a consequence as it is a prerequisite for meaningful engagement.

Recommendations to NHRIs:

7. NHRIs could usefully **set up participatory processes**, giving the poor and their representative organisations a voice in the choice of indicators to measure poverty taking into account its multidimensionality, in the expansion of the range of methodologies used to measure poverty beyond household-based surveys, and in understanding the reasons for the low or absence of take-up of rights by the poorest groups of the population.

¹⁵³ Committee on Economic, Social and Cultural Rights, Statement on poverty adopted on 4 May 2001 (UN doc. E/C.12/2001/10), para. 6.

Annex 1. Goals 1, 10 and 16 of the Sustainable Development Goals, with the associated Targets and Indicators, most relevant to the preparation of poverty reduction strategies in European countries

Goal 1. End poverty in all its forms everywhere	
1.2 By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions	1.2.1 Proportion of population living below the national poverty line, by sex and age 1.2.2 Proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions
1.3 Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable	1.3.1 Proportion of population covered by social protection floors/systems, by sex, distinguishing children, unemployed persons, older persons, persons with disabilities, pregnant women, newborns, work-injury victims and the poor and the vulnerable
1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance	1.4.1 Proportion of population living in households with access to basic services 1.4.2 Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure
1.b Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions	1.b.1 Proportion of government recurrent and capital spending to sectors that disproportionately benefit women, the poor and vulnerable groups
Goal 10. Reduce inequality within and among countries	
10.1 By 2030, progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average	10.1.1 Growth rates of household expenditure or income per capita among the bottom 40 per cent of the population and the total population
10.2 By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status	10.2.1 Proportion of people living below 50 per cent of median income, by sex, age and persons with disabilities
10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard	10.3.1 Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law
10.4 Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality	10.4.1 Labour share of GDP, comprising wages and social protection transfers
Goal 16. Promote peaceful and inclusive societies for sustainable development, provide	

access to justice for all and build effective, accountable and inclusive institutions at all levels	
16.5 Substantially reduce corruption and bribery in all their forms	16.5.1 Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months 16.5.2 Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months
16.6 Develop effective, accountable and transparent institutions at all levels	16.6.1 Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar) 16.6.2 Proportion of population satisfied with their last experience of public services
16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels	16.7.1 Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions 16.7.2 Proportion of population who believe decision-making is inclusive and responsive, by sex, age, disability and population group
16.b Promote and enforce non-discriminatory laws and policies for sustainable development	16.b.1 Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law

Annex 2. The EU SDG indicator set for 2018 monitoring report

Code	MPI	Indicator name	Evaluation outcome	Frequency of data collection	Quality rating (3 = high)	Data provider
Goal 1. End poverty in all its forms everywhere						
01_10		People at risk of poverty or social exclusion	No modification.	every year	3.00	Eurostat
01_20	-> 10	People at risk of income poverty after social transfers	No modification.	every year	3.00	Eurostat
01_30		Severely materially deprived people	No modification. Might be replaced by new indicator "Material and social deprivation rate (MSD)" with updated list of deprivation items once Europe 2020 strategy has run out.	every year	3.00	Eurostat
01_40		People living in households with very low work intensity	No modification.	every year	3.00	Eurostat
01_41 (new)	-> 8	In work at-risk-of-poverty rate	New indicator is a secondary indicator of the Social Scoreboard and replaces sdg_01_50 "Housing cost overburden rate". Also considered as multipurpose indicator for monitoring decent work in SDG 8.	every year	3.00	Eurostat
01_50 (del)	-	Housing cost overburden rate	Replaced by new indicator "In work at-risk-of-poverty rate" to allow further alignment with the the Social Scoreboard of the European pillar of Social Rights. It is expected that the new 'working poor' indicator contributes supplementary insights on poverty issues while the rates and trends of housing cost overburden were strongly correlated to income poverty already addressed by other indicators of SDG 1.	every year	3.00	Eurostat
01_60	-> 11	Population living in a dwelling with a leaking roof, damp walls, floors or foundation or rot in window frames or floor	No modification. Breakdown by household type will be implemented on the dedicated section of Eurostat's website.	every year	2.83	Eurostat
<i>Multipurpose indicators: Supplementary indicators of other goals which complement the monitoring of this goal</i>						
03_60		Self-reported unmet need for medical care	Presentation of breakdown by 3 main reasons will be replaced with breakdown by sex in the indicator table as for other indicators under SDG 3. However, analysis based on the 3 main reasons (too	every year	2.83	Eurostat

			expensive, too far to travel & waiting list) will still be addressed in the narrative part of the EU SDG monitoring report.			
06_10		Population having neither a bath, nor a shower, nor indoor flushing toilet in their household	No modification.	every year	2.83	Eurostat
07_60		Population unable to keep home adequately warm	No modification.	every year	2.83	Eurostat
11_10		Overcrowding rate	No modification.	every year	3.00	Eurostat
<i>Indicators put on hold or not retained for the EU SDG indicator set 2018</i>						
on hold		Material and social deprivation rate (MSD)	Preference is given to the Europe 2020 indicator sdg_01_20 "Severely materially deprived people (SMD)". Inclusion to consider once Europe 2020 strategy has run out.	every year		Eurostat
on hold		Extent of homelessness in the EU	Kept on hold as a topic to consider for monitoring EU progress towards SDG 1 once regularly produced data based on agreed methodology becomes available for all MS and meet minimum quality requirements.			

Source: European Commission - Eurostat, *EU SDG Indicator set 2018. Result of the review in preparation of the 2018 edition of the EU SDG Monitoring Report*, Final version, 3 April 2018, p. 14.

Notes: 1. Multi-purpose indicators (MPI) are indicators that can play a role under more than one of the SDGs. The other goals concerned are indicated in the column under "MPI". 2. Each indicator has a "quality rating", based on a number of criteria including frequency of dissemination, timeliness, reference area (whether the indicator can be collected for all EU Member States), cross-country comparability, time coverage and comparability across time. The highest quality rating is 3. Only indicators with an average quality rating of at least 1.5 are included.