



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Portugal*

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Portugal on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PRT/4) at its 44th and 45th meetings (see E/C.12/2014/SR.44 and 45), held on 11 and 12 November 2014, and adopted, at its 70th meeting, held on 28 November 2014, the following concluding observations.

A. Introduction

2. While regretting its late submission, the Committee welcomes the fourth periodic report of Portugal (E/C.12/PRT/4). It also welcomes the submission of the new updated common core document (HRI/CORE/PRT/2014). The Committee is grateful to the State party for the statistical information provided, which has greatly assisted the Committee in assessing the fulfilment of economic, social and cultural rights in the State party. The Committee expresses its appreciation for the detailed written replies to the list of issues (E/C.12/PRT/Q/4/Add.1) as well as the constructive dialogue held with the State party's large multi-sectoral delegation. It also appreciates the supplementary information provided to it in writing in response to issues raised during the interactive dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification on 28 January 2013 of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the acceptance of the inquiry procedure under article 11 of the Protocol.

4. The Committee also welcomes the State party's ratification of, or accession to, the following instruments since the previous dialogue with the State party, held in 2000:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 24 September 2013;

(b) Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 23 September 2009;

* Adopted by the Committee at its fifty-third session (10-28 November 2014).



(c) Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 16 May 2003 and on the involvement of children in armed conflict, on 19 August 2003;

(d) Optional Protocol to the Convention on the Elimination of Discrimination against Women, on 26 April 2002;

(e) Council of Europe Convention on preventing and combating violence against women and domestic violence, on 5 February 2013;

(f) Council of Europe Convention on Action against Trafficking in Human Beings, on 27 February 2008;

(g) 1996 European Social Charter (revised), on 30 May 2002.

5. The Committee notes with appreciation the measures taken by the State party to enhance the promotion and protection of economic, social and cultural rights, including:

(a) The implementation of National Plans for Immigrant Integration since 2007;

(b) The implementation of the project entitled “Intercultural Mediation in the Public Services”;

(c) The adoption of the Third National Action Plan to Prevent and Combat Trafficking in Human Beings 2014-2017;

(d) The adoption of the Fifth National Plan for Gender Equality, Citizenship and Non Discrimination 2014-2017;

(e) The expansion of compulsory education until the age of 18 or until students complete secondary education, under Law No. 85/2009 of 27 August 2009.

C. Principal subjects of concern and recommendations

Obligations of the State party under the Covenant in the context of the economic crisis

6. The Committee notes with concern that, despite the measures taken by the State party to mitigate the economic and social impact of the austerity measures adopted in the framework of the Economic and Financial Adjustment Programme, the financial and economic crisis has had an adverse impact on the enjoyment of economic, social and cultural rights by the population at large, in particular with regard to the rights to work, social security, housing, health and education. Various measures, specifically those that target disadvantaged and marginalized individuals and groups, have not been sufficient to adequately protect them against the consequences of the crisis. The Committee also notes that, in the light of improvements in the economic and financial situation, the State party exited the Economic and Financial Assistance Programme in June 2014 (arts. 2, para 1; 2, para 2; 6; 7; 9 and 11–14).

The Committee reminds the State party of its obligation under the Covenant to respect, protect and fulfil economic, social and cultural rights progressively, to the maximum of its available resources. The Committee draws the State party’s attention to the Committee’s open letter of 16 May 2012 to States parties on economic, social and cultural rights in the context of the economic and financial crisis, in particular to the recommendations contained therein with regard to the requirements resulting from the Covenant regarding the applicability of austerity measures. Such measures can be applicable only if they are temporary, necessary and proportionate, not discriminatory and do not disproportionately affect the rights of disadvantaged and marginalized individuals and groups. In that context, the Committee recommends that the State party review the policies and programmes adopted in the framework of

the Social Emergency Programme implemented since 2011, and any other subsequent post-crisis economic and financial reforms, with a view to ensuring that austerity measures are progressively waived and the effective protection of the rights under the Covenant is enhanced in line with the progress achieved in the post-crisis economic recovery.

Discrimination against Roma

7. The Committee is concerned that, despite various steps taken by the State Party and the progress achieved so far, Roma continue to experience social exclusion and discrimination in the enjoyment of their rights under the Covenant, in particular in the areas of education, employment, health care and housing. While welcoming the adoption in 2013 of the National Strategy for the Integration of Roma Communities for the period 2013-2020, the Committee notes that the lack of accurate and updated data and information on the enjoyment of economic, social and cultural rights by Roma represents a significant obstacle for the effective implementation of the National Strategy (art. 2, para. 2).

The Committee recommends that the State party step up its efforts to combat discrimination against Roma with a view to giving full effect to their economic, social and cultural rights in practice and, to that end, to:

(a) **Collect statistical data on the number of Roma living in the country, on the basis of voluntary self-identification;**

(b) **Carry out a study on the situation of economic, social and cultural rights of Roma, as foreseen in the National Strategy for the Integration of Roma Communities for the period 2013–2020, with a view to effectively implementing and monitoring the current Strategy;**

(c) **Provide adequate earmarked resources, including from the public budget, for the effective implementation of the National Strategy, and assess, on a regular basis, the effectiveness of measures taken;**

(d) **Step up efforts aimed at the elimination of stereotypes and negative prejudices against Roma, including by increasing awareness-raising campaigns that promote tolerance and respect for ethnic diversity.**

Unemployment

8. The Committee is concerned that the unemployment rate remains exceptionally high, affecting disproportionately young people under the age of 24, whose unemployment rate has more than doubled since 2008. The Committee also notes that long-term unemployment has increased from 48.2 per cent in the second quarter of 2008 to 56 per cent in the second quarter of 2013 (art. 6).

The Committee recommends that the State party step up its efforts to reduce unemployment, in particular unemployment among young persons, with a view to moving progressively towards the full realization of the right to work, inter alia, by:

(a) **Strengthening the programmes and strategies aimed at reducing unemployment rates and ensuring that policies to promote employment effectively target groups disproportionately affected by unemployment;**

(b) **Addressing the causes of youth unemployment, creating employment opportunities for young people and enhancing the quality of technical and vocational training and education, taking into account labour market opportunities, including by implementing the Portuguese Youth Guarantee Implementation Plan, which entered into force in January 2014, and other active labour market measures;**

(c) **Reinforcing the support for jobseekers, with special focus on the long-term unemployed, including by providing them with adequate training to enhance their skills.**

In that regard, the Committee refers the State party to its general comment No. 18 (2005) on the right to work.

Gender wage gap

9. The Committee is concerned that the gender wage gap, which is discriminatory against women, although lower than the European average, is still considerable owing to occupational sex segregation (arts. 3 and 7).

The Committee recommends that the State party take measures to close the gender wage gap, including efforts to combat horizontal and vertical occupational sex segregation in the labour market, and to ensure the effective implementation of the principle of equal pay for work of equal value.

Temporary employment, undeclared work and “dependent” self-employment

10. The Committee is concerned at the high incidence of temporary employment in the State party, including involuntary temporary employment, as well as at undeclared work, which is estimated to produce income representing over 20 per cent of gross domestic product. It is also concerned about the phenomenon of “dependent” self-employment (“*falsos recibos verdes*”) and about the negative impact that all of those forms of employment may have on the enjoyment by workers of their rights under articles 6–8 of the Covenant (arts. 6–8).

The Committee recommends that the State party:

(a) **Take all appropriate measures to progressively reduce the use of temporary employment, including by generating decent work opportunities that offer job security and adequate protection of workers, with a view to respecting their labour rights, as set out in articles 6–8 of the Covenant;**

(b) **Step up efforts to tackle undeclared work, including by (i) raising awareness of negative serious consequences for workers in undeclared work and of the benefits of declared work; (ii) providing incentives for regularization and facilitating integration into the regular labour market; (iii) improving identification of such cases, including through the strengthening of labour inspections and training of inspectors on undeclared work; and (iv) providing for deterrent sanctions against employers that use undeclared work;**

(c) **Step up efforts to address the phenomenon of “dependent” self-employment and ensure that the labour and social security rights of persons under that contractual arrangement are fully guaranteed in law and in practice.**

Collective bargaining

11. The Committee is concerned that the reduction in the coverage of labour relations by collective agreements and the increasing trend of transferring collective bargaining to the level of enterprises may put employees in a disadvantaged position in the determination of wages and working conditions by direct negotiation (arts. 6–8).

The Committee calls on the State Party to take all the necessary measures, including the establishment of effective control and monitoring mechanisms, with a view to ensuring that agreements concluded at the enterprise level fully respect the rights of

employees, in particular under articles 6–8 of the Covenant, and that adequate remedies are available in practice.

Minimum wage

12. The Committee notes the increase in the proportion of employees who earn the minimum wage from 5.5 per cent in April 2007 to 12 per cent in October 2013 and, while it welcomes the decision of the State party to increase the minimum wage per month from €485 to €505 as of 10 October 2014, after it had been frozen since 2011, it remains concerned that the level of the minimum wage is still not sufficient to provide workers and their families with a decent living (arts. 7, 9 and 11).

The Committee recommends that the State party ensure that the minimum wage enables workers and their families to enjoy a decent living and that it is periodically reviewed and adjusted in line with the cost of living, in accordance with article 7, paragraph (a), of the Covenant.

Domestic violence

13. While commending the State party for its efforts in combating domestic violence, including the adoption in December 2013 of the Fifth National Action Plan to Prevent and Combat Domestic and Gender-based Violence for the period 2014-2017, the Committee is concerned that domestic violence is still prevalent (art. 10).

The Committee recommends that the State party strengthen measures aimed at preventing and combating domestic violence by addressing its root causes and ensuring the effective implementation of the existing relevant legal and policy frameworks, including by:

(a) Pursuing its awareness-raising efforts to widely sensitize the public at large, and in particular boys and men, about the unacceptability of any form of domestic violence and its criminal nature;

(b) Encouraging the reporting of domestic violence cases by, *inter alia*, continuing to inform women of their rights and existing legal avenues to receive protection against domestic violence and strengthening the services available to victims;

(c) Ensuring that law enforcement authorities, as well as medical and social workers, continue to receive appropriate training to deal with cases of domestic violence;

(d) Ensuring effective prosecution of, and sanctions against, perpetrators.

Poverty and social security

14. The Committee is concerned that the benefits that are based on the social support index (“*Indexante de Apoios Sociais*”), which was frozen in recent years as part of austerity measures, as well as the minimum amount of sickness benefit, are not sufficient to provide recipients and their families with a decent standard of living, affecting in particular the most disadvantaged individuals and groups. In addition, the Committee is concerned that, despite the State party’s efforts to combat poverty, including through social transfers, the resident population at risk of poverty reached 18.7 per cent in 2012, the highest value since 2005, with households that include dependent children, persons aged under 65 years, children and unemployed persons at a greater risk of poverty. The Committee is further concerned at the high level of income inequality in the State party (arts. 9 and 11).

The Committee draws the attention of the State party to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) and recommends that the State party strengthen its efforts to combat poverty, in particular among households with dependent children, persons aged under 65 years, children and unemployed persons by, inter alia:

(a) Addressing, in its post-crisis economic and social efforts, the gaps in social protection coverage and the adequacy of benefits, and ensuring that the social assistance system targets effectively those at high risk of poverty;

(b) Adjusting the social support index in line with the evolving needs of the recipients, with a view to reducing income inequalities and eventually eliminating the adverse impact of austerity measures on the enjoyment of the right to an adequate standard of living;

(c) Raising progressively the reference threshold of the guaranteed minimum income scheme (*Rendimento Social de Inserção*), with a view to increasing the number of eligible beneficiaries.

Access to adequate and affordable housing for Roma

15. The Committee is concerned that a large number of Roma continue to live in substandard housing conditions, often in informal settlements consisting of barracks, shacks or tents, many of them in isolated areas, with little or no public transportation, and without access to basic services, such as safe drinking water or sanitation facilities, electricity or waste disposal facilities. The Committee is also concerned that the living conditions of Roma in social housing are often inadequate, that waiting lists for social housing are long and that many Roma do not meet the requirements for access to social housing through the Special Rehousing Programme as those eligible were identified through a census of informal Roma settlements conducted in 1993 (arts. 2, para. 2; and 11).

The Committee recommends that the State party step up its efforts, including in the framework of the National Strategy for the Integration of Roma Communities for the period 2013–2020, to ensure access to adequate housing and basic services for Roma and facilitate their integration with the general population. To that end, the State party should:

(a) Conduct a new census of informal Roma settlements and revise accordingly the list of those eligible for social housing through the Special Rehousing Programme;

(b) Provide for resources that are proportionate to the unmet need for social housing, and for appropriate forms of financial housing support, such as rental subsidies.

Evictions as a consequence of the financial and economic crisis

16. The Committee is concerned at evictions as a consequence of mortgage and rent arrears. The Committee notes in that regard the measures taken by the State party to address those issues, including the adoption of a legal framework for the prevention and settlement of arrears on credit agreements with household customers and the creation of a Property Investment Fund for Rental Housing (art. 11, para. 1).

The Committee recommends that the State party be guided by human rights standards in tackling the problem of mortgage and rent arrears, with due account for individuals' rights to adequate housing. The State party should ensure that legal aid is available to borrowers in the process of negotiation with credit institutions and that a possibility for an effective remedy is in place. The State party should also dedicate

adequate financial resources, with a view to increasing the social housing stock in order to meet demand. In that respect, the Committee draws the State party's attention to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

Early school leaving

17. The Committee, while acknowledging the progress made by the State party in decreasing the early school leaving (dropout) rate from 43.6 per cent in 2000 to 18.9 per cent in 2013, remains concerned that this rate is still high (arts. 13 and 14).

The Committee recommends that the State party take all necessary measures to reduce further the early school leaving (dropout) rate, including by (a) addressing the factors that lead to early school leaving, in particular socioeconomic factors that put at risk the most disadvantaged and marginalized children; (b) raising awareness of the importance of education and training as a tool towards reducing the future risk of unemployment, poverty and social exclusion; and (c) providing comprehensive support for children at risk of leaving school early and adequate opportunities for education and training tailored to their specific needs.

Education for Roma

18. The Committee expresses concern at the low level of education of Roma, as reflected by the poor school enrolment of Roma (arts. 13 and 14).

The Committee recommends that the State party redouble its efforts to address the insufficient level of education of Roma and take urgent measures to increase attendance rates of Roma students and their retention in school by, inter alia, providing sufficient financial support to cover education-related expenses and raising awareness of the importance of education among Roma families.

D. Other recommendations

19. The Committee, while acknowledging the contribution of the State party to official development assistance, encourages the State party to gradually increase that assistance, with a view to achieving the international commitment of 0.7 per cent of its gross national product and to pursue a human rights-based approach in its development cooperation policy, while fully incorporating the rights contained in the Covenant.

20. The Committee recommends that all future national plans, programmes and strategies that address a wide range of economic, social and cultural rights provide for built-in monitoring and assessment mechanisms, with a view to ensuring that interim results are available at any stage of their implementation in practice, and that such plans, programmes and strategies are adjusted accordingly when the measures taken do not bring about the expected positive impact.

21. The Committee welcomes the development and application of indicators on the implementation of human rights, including economic, social and cultural rights, and in that context takes note of the State party's statement that it had benefited from the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3). The Committee encourages the State party to continue its work on developing indicators for economic, social and cultural rights.

22. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among government officials, members of Parliament and judicial authorities and civil society organizations, and to inform the Committee, in its next periodic report, about the steps taken to implement the present recommendations.

23. The Committee encourages the State party to engage non-governmental organizations and other members of civil society in constructive cooperation in the preparation and submission of its next periodic report.

24. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2019.
