



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Information received from Spain on follow-up to the concluding observations on its sixth periodic report*

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* The present document is being issued without formal editing.



1. In its concluding observations on the sixth periodic report of Spain, the Committee on Economic, Social and Cultural Rights requested that the State provide information, within 18 months of the adoption of those observations, on the action taken to give effect to the recommendations made in paragraphs 14 (austerity measures), 38 (evictions) and 42 (right to health).
2. Accordingly, the Government is providing the following information.

Reply to paragraph 14 of the concluding observations

3. Since submitting its sixth report under the Covenant on Economic, Social and Cultural Rights, Spain has taken a number of steps in connection with the Committee's recommendations.
4. The National Strategy to Prevent and Combat Poverty and Social Exclusion 2019–2023 was adopted in March 2019 and centres on the needs of the most vulnerable persons who are either experiencing or risk experiencing poverty or social exclusion. It takes not only a palliative but also a preventive approach, addressing the numerous factors that lead to poverty, social exclusion and such needs.
5. The Comprehensive National Strategy for Homeless Persons 2015–2020 continues in force. It is a tool intended to tackle the situation of the homeless and to create a comprehensive framework for work with that category of persons; its ultimate aim is to eradicate homelessness in the country by progressively reducing the number of homeless persons in the medium term, as well as through prevention and an improvement in the living conditions of the homeless.
6. The National Strategy to Combat Energy Poverty 2019–2024 has also been approved. It is based on a definition of energy poverty as the situation of households whose basic energy supply needs cannot be met owing to inadequate income levels, which can be exacerbated if the housing is energy-inefficient. The measures it envisages include a prohibition on interrupting the power supply of vulnerable consumers in extreme weather conditions. This is in addition to existing restrictions on power cuts involving vulnerable consumers and beneficiaries of the current social tariffs for electricity consumption who live in households where there is at least one child under 16, a person with a disability of more than 33 per cent, or a person with a Grade II or Grade III degree of dependency.

Reply to paragraph 38 of the concluding observations

7. Between 2018 and 2019, a number of amendments were made to the laws governing evictions so as to comply with the Committee's recommendations and guarantee rights that might be affected in such cases.
8. At the same time, it must be pointed out that civil proceedings should also provide for streamlined legal mechanisms such as would defend the rights of legitimate title holders – natural persons, non-profit entities with a right to possession or public entities that are the rightful owners of low-income housing or are lawfully entitled to possession thereof – who are illegally denied possession of residences without their consent.
9. Among the changes identified in paragraph 11 of this report, it is worth highlighting those brought about under Act No. 5/2018 of 11 June, amending Act No. 1/2000 of 7 January, the Civil Procedure Act, in relation to the illegal occupation of housing, and Royal Decree-Law No. 7/2019 of 1 March on urgent measures related to housing and rent.
10. In relation to the amendment of the Civil Procedure Act under Act No. 5/2018 of 11 June, it should be noted that, as indicated in its preamble, the latter Act seeks to adapt and update the traditional action to recover possession so as to allow for immediate recovery of illegally occupied housing.
11. Under the additional provision of Act No. 5/2018, the competent public administrations are ordered to establish streamlined measures for coordinating and cooperating with social services personnel in order to respond appropriately and as quickly as possible to situations of vulnerability that come to light in the course of eviction proceedings. It is therefore provided that, once the court has accepted the complaint filed by those claiming to be lawfully entitled to possession, the occupants of the premises will have five days from the notification of the complaint to produce titles demonstrating their lawful

possession. If no title is produced within the specified time frame or if the judge deems the title produced to be invalid, the judge will issue an order requiring that the occupants immediately vacate and deliver possession of the premises to the complainant, provided that the title submitted by the complainant together with the complaint is sufficient to demonstrate that party's right to possession. No appeal is available against the order, which will be enforced against any occupants then found in the premises (article 441.1 bis, second paragraph, Civil Procedure Act). The order also requires that the occupants' eviction be communicated to the competent government social services – provided that their consent has been given – so that appropriate protection measures may be taken within seven days (article 150.4 and article 441.1 bis, third paragraph, Civil Procedure Act).

12. Moreover, the aforementioned legislation provides that the defendant may contest the claim within 10 days (article 438.1, Civil Procedure Act), but may do so only on the basis of having better title to the premises than the complainant or the complainant having no title (article 444.1 bis, Civil Procedure Act).

13. The second major change was brought about under Royal Decree-Law No. 7/2019 of 1 March on urgent measures related to housing and rent. The statement of intent of the Decree-Law recalls that article 47 of the Spanish Constitution provides for the right to decent and adequate housing while, at the international level, article 25 of the Universal Declaration of Human Rights lists housing as a fundamental right of individuals, as essential and basic as food, clothing or medical care. The statement further notes that the need to adapt the legal framework in response to this challenge has led various social and political stakeholders to push for legislative amendments, some of which are currently before parliament and which stress the urgency and describe the seriousness of the housing situation currently facing many households.

14. Title III of the Royal Decree includes a change to eviction proceedings involving vulnerable households; it provides that if it is determined that a household is vulnerable, the proceedings will be suspended until measures deemed appropriate by the social welfare services have been adopted for up to one month or, when the complainant is a legal person, up to three months. Proceedings are thereby made clearer, with greater legal certainty and specific measures for handling situations where greater social protection is required.

15. The new article 441.5 of the Civil Procedure Act should be highlighted. Under that article, defendants are to be informed in the order for payment that they may seek assistance from the social welfare services and, if applicable, may authorize the transfer of their personal information to those services for an evaluation of whether they are in a situation of vulnerability. For the same purpose, the court will, ex officio, make the social welfare services aware of the proceedings. If the social welfare services find that the household in question is socially and/or economically vulnerable, they will notify the judicial body immediately. Upon receipt of such a communication, the judicial official will suspend the process until the measures deemed appropriate by social welfare services are adopted for a period of up to one month from receipt of the communication from social services to the judicial body, or of up to three months if the complainant is a legal person. Once the measures have been adopted or the time period has elapsed, the suspension will be lifted and the proceedings will move forward. In such cases, the summons to the defendant must contain identifying information on the social welfare services that members of the public can turn to.

Reply to paragraph 42 of the concluding observations

16. With the publication of Royal Decree-Law No. 7/2018 of 27 July on universal access to the National Health System, health coverage that had been restricted under Royal Decree-Law No. 16/2012 was restored. The right to health protection and health care was thereby guaranteed, on the same terms, to all persons in Spain. This was done by restoring the entitlement to the right to health protection and health care to all persons, regardless of nationality, who had established their residence in the territory of Spain, including persons entitled to the same under European Union regulations or bilateral agreements, on the terms set out therein.

17. Consequently, the new regulatory framework has guaranteed universal health care under the National Health System by establishing an entitlement to the right to health protection and health care for all Spanish nationals and foreign nationals who have

established their residence in the territory of Spain, as well as persons entitled to health care under European Union regulations on the coordination of social security systems or bilateral agreements that cover health care. It also provides that foreign nationals not registered as residents of Spain or residing there without authorization (irregular migrants) are entitled to health protection and health care on the same terms as Spanish nationals, at public expense unless a third party is obligated to cover the costs thereof.

18. Furthermore, Royal Decree-Law No. 7/2018 also included amendments making pharmaceutical benefits available to irregular immigrants in Spain.
