



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the combined fourth and fifth reports of Bulgaria, adopted by the Committee at its forty-ninth session (12-30 November 2012)

1. The Committee on Economic, Social and Cultural Rights considered the combined fourth and fifth periodic reports of Bulgaria on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BGR/4-5) at its 41st and 42nd meetings (E/C.12/2012/SR.41-42), held on 20 November 2012, and adopted, at its 58th meeting, held on 30 November 2012, the following concluding observations..

A. Introduction

2. The Committee takes note with satisfaction of the submission by Bulgaria of its combined fourth and fifth periodic reports, which are in conformity with the Committee's reporting guidelines and reflects the State party's effort to provide an account of the steps taken to implement the recommendations made by the Committee in its preceding concluding observations. The Committee also takes note with satisfaction of the detailed written replies which it received to its list of issues (E/C.12/BGR/Q/4-5/Add.1), and welcomes the constructive dialogue held with the State party's high level inter-ministerial delegation.

B. Positive aspects

3. The Committee welcomes the State party's ratification of the following instruments:
- (a) The Convention on the Rights of Persons with Disabilities, on 26 January 2012;
 - (b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2006;
 - (c) The United Nations Convention against Transnational Organized Crime (2001);
 - (d) ILO Conventions No. 177 (1996) on Home Work, and No. 161 (1985) on Occupation Health Services, and the Maritime Labour Convention (2006).
4. The Committee takes note with appreciation of the State party's efforts to promote the implementation of economic, social and cultural rights, which have included:

- (a) The establishment of the National Council on Integration of Persons with Disabilities in 2004;
- (b) The adoption of the Combating Trafficking in Human Beings Act in 2003, and the establishment of the National Commission for Combating Trafficking in Human Beings;
- (c) The amendments introduced to the Health Act in 2012 to prohibit smoking indoor in public places and certain outdoor places.

C. Principal subjects of concern and recommendations

5. The Committee regrets that the International Covenant on Economic, Social and Cultural Rights is still rarely invoked by domestic courts, one reason being the reduced knowledge of the Covenant by judges, lawyers, and prosecutors.

The Committee recommends that the State party improve human rights training programmes in such way as to ensure better knowledge, awareness and application of the International Covenant on Economic, Social and Cultural Rights, in particular among the judiciary, law enforcement officials and other actors responsible for the implementation of the Covenant. The Committee also draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

6. The Committee notes with concern that the Ombudsman and the Commission for Protection against Discrimination, as national human rights institutions, do not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

The Committee recommends that the State party adopt the necessary measures to enable the Ombudsman and the Commission for Protection against Discrimination to fully comply with the Paris Principles. The Committee also urges the State party to ensure that economic, social and cultural rights are fully covered by the mandate of the two national human rights institutions, and that they are provided with the necessary resources for their effective functioning.

7. The Committee is concerned that minorities, particularly the Roma and the Turkish populations, continue to be the victims of widespread discrimination in the areas of education, employment, health and housing (arts. 2, 6, 11, 12 and 13).

The Committee recommends that the State party pursue its efforts to eliminate any forms of discrimination against its minorities, particularly the Roma and Turkish populations, stating clearly and officially that it does not tolerate any form of discrimination or violence against persons because of their national or ethnic origin, and promoting the involvement of the population at large in this process. The State party should also guarantee the access of all to employment, education, adequate housing and health services, and should ensure the investigation, prosecution and punishment of any act of discrimination or violence motivated by the victim's national or ethnic identity. In this regard, the Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

8. The Committee expresses concern at the prevailing gender role stereotypes in society and their negative impact on the enjoyment by women of their economic, social and cultural rights. The Committee is further concerned at the gender disparity in the fields of education and employment, and it regrets that no specific legislation exists on equal opportunities for women and men (art. 3).

The Committee recommends that the State party intensify its efforts to eliminate the societal gender role stereotypes and prejudices, including through awareness-raising campaigns, and through the improvement of gender balance in education disciplines traditionally dominated by either sex. The Committee also calls on the State party to adopt specific legislation on equality between men and women. It also requests the State party to include, in its next periodic report, statistics, disaggregated by sex, on participation in the labour market and on the average actual earnings disaggregated by occupation, branch of activity, and level of qualifications, with respect to both the public and private sector.

9. The Committee is concerned about the situation of asylum seekers who are not allowed to work during the first year of their stay in the State party, and therefore only have access to the monthly allowance in application with the Social Assistance Act, highly prejudicing their access to the rights set out in the Covenant. The Committee is also concerned that the assistance provided to newly recognized refugees does not give them access to adequate housing, food, clothing and education needs (art. 3).

The Committee recommends that the State party take the appropriate steps to amend its legislation, allowing asylum seekers to obtain a work permit within the year of their arrival to the State party. The State party should also reinforce its National Programme for the Integration of Refugees throughout its territory, including through the implementation of language training courses more adapted to the persons in need, of social orientation and vocational training programmes, and providing special attention to vulnerable persons, including older persons and persons with disabilities.

10. The Committee is concerned that, despite the restriction of child labour by current legislation and the adoption of the National Plan for Combating the Worst Forms of Child Labour, the protection of self-employed children under 18 years is not guaranteed, and socially vulnerable children, especially Roma children, remain engaged in harmful and exploitative labour, particularly in agriculture, industry and domestic service. Furthermore, the Committee is concerned that there is no adequate or recent disaggregated data on child labour (arts. 3 and 10).

The Committee recommends that the State party examine the situation of child labour and street children in order to develop specific strategies to strengthen awareness, prevention and assistance programmes, including through the systematic collection of updated and disaggregated data with a view to addressing the problems of child labour and street children. The Committee also recommends that the State party ensure the effective implementation of International Labour Organization (ILO) standards on minimum age of employment and the regulation of employment of children in hazardous conditions, in compliance with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

11. The Committee is concerned, particularly in the context of the economic and financial crisis, about the recent rise in unemployment and long-term unemployment rates, which negatively affect the population of the State party, especially young persons, immigrants, Roma persons and persons with disabilities, and increases their vulnerability in violation of their rights set out in the Covenant (arts. 2, para. 2 and 6).

The Committee recommends that the State party strengthen its programmes and adopt effective strategies to reduce unemployment rates and move progressively towards the full realization of the right to work, avoiding any retrogressive step with regard to the protection of workers' labour rights. The Committee recommends that high-quality vocational training, especially for the long-term unemployed, continue to

be prioritized taking into account the needs of disadvantaged and marginalized individuals and groups. The Committee further recommends the adoption of employment strategies and plans of action targeting regions where unemployment is most severe. It also requests the State party, in its next periodic report, to submit tables of annual statistics on the general employment situation, disaggregated by sex, age, nationality, disability, and by urban or rural region. In that regard, the Committee draws the State party's attention to its general comment No. 18 (2005) on the right to work. The Committee also draws the State party's attention to its open letter of 16 May 2012 to States parties on economic, social and cultural rights in the context of the economic and financial crisis.

12. The Committee is concerned that the minimum wage, the unemployment benefits and old age benefits set in the State party are not sufficient to meet the living costs and to ensure a decent standard of living to the recipients and their families (arts. 7 and 9).

The Committee recommends that the State party establish an effective system of indexation and regular adjustment of the minimum wage, unemployment benefits, pensions and other social assistance for older persons, to the cost of living, providing the recipients and their families with a decent standard of living.

13. The Committee is concerned about the restrictions applicable to the right to strike for certain categories of civil servants, including managerial personnel (art. 8).

The Committee recommends that the State party amend its legislation with a view to according all categories of civil servants, including managerial personnel, with their right to strike.

14. The Committee is concerned about the reduced impact of existing plans and strategies on children with disabilities who are in institutions, and about the lack of services to prepare the integration into society of persons who leave institutional care. The Committee is also concerned at the lack of clarity on the legal status and on available alternatives for children without a family who leave institutional care (art. 10).

The Committee recommends that the State party ensure the full implementation of the reform of the residential care system for children, focusing on the integration of children who leave institutional care, including those with disabilities. The Committee recommends that the State party clarify the legal status of children without family who leave institutional care, and provide them with adequate family substitute and family support services, as well as community-based services. In this regard, the Committee recommends that the State party take into account the Guidelines for the Alternative Care of Children, annexed to General Assembly resolution 64/142, and it requests the State party to include in its next periodic report disaggregated data, by sex, year, family status and disability, on progress made in the reintegration of children who leave institutional care.

15. The Committee is concerned about the persistence of high levels of domestic violence, in particular violence against women. The Committee also regrets that domestic violence still does not constitute an act specifically punishable under criminal law, and that only a limited proportion of such cases are reported to the competent authorities for their investigation and punishment (art. 10).

The Committee recommends that the State party explicitly criminalize all forms of domestic violence in its Penal Code. It recommends that the State party carry out focused awareness-raising campaigns to sensitize the population on the severe effects of domestic violence, and ensure the systematic training of local authorities, law enforcement and police officials, social workers and medical personnel on how to detect and adequately advise victims of domestic violence, particularly violence

against women. The Committee also recommends that the State party take the necessary measures to secure the report, criminal investigation, prosecution and sanction of all cases of domestic violence.

16. The Committee is concerned about the ongoing increase of trafficking of persons in the State party, despite the actions developed by the National Commission for Combating Trafficking in Human Beings and the implementation of the National Programme for Prevention and Counteraction of Trafficking in Human Beings and Protection of Victims (art. 10).

The Committee recommends that the State party continue its efforts to raise awareness and to combat trafficking in persons in cooperation with neighboring countries and through the development of effective programmes, combating all aspects of trafficking and sexual exploitation of women and children. It should ensure that all individuals responsible for trafficking in persons are prosecuted and punished in a way that is commensurate with the gravity of the crimes committed, and that victims of trafficking have access to rehabilitation services.

17. The Committee is concerned that couples in de facto unions and the status of children born as a result of those relationships are not regulated and protected by law. The Committee is also concerned that same-sex couples are not legally recognized and by the absence of a legal framework for the protection of the rights of such couples (arts. 2 and 10).

The Committee recommends that the State party undertake a comprehensive review of its legislation to ensure de jure equality between de facto and official unions, to legally recognize same-sex couples, to regulate the financial effects of such relationships, and to guarantee the full protection of the rights of children born out of wedlock.

18. The Committee is concerned about the fact that a significant proportion of the population still lives below the poverty line, especially within the most disadvantaged and marginalized groups of its population, including Roma. The Committee is further concerned about the regional disparities in that regard (art. 11).

The Committee strongly urges the State party to intensify its efforts to combat poverty, especially among the most disadvantaged and marginalized members of the population, including Roma, and to reduce disparities between regions. In that respect, the Committee draws the State party's attention to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

19. The Committee is concerned that some groups within the State party's population, especially its most disadvantaged and most marginalized members, including Roma, still do not have access to adequate housing. The Committee is also particularly concerned about the numerous forced evictions affecting Roma (art. 11).

The Committee recommends that the State party ensure that the 2010 Act encouraging low-cost housing construction is implemented and that it pursue its social housing construction programme, giving priority in the assignment of such dwellings to disadvantaged and marginalized groups, particularly Roma. The Committee draws the State party's attention to its general comment No. 4 (1991) on the right to adequate housing. It also recommends that the State party prevent forced evictions of Roma from taking place until they have been consulted and offered alternative accommodations or compensation. The Committee further draws the State party's attention to its general comment No. 7 (1997) on forced evictions.

20. The Committee is concerned at the high frequency of teenage pregnancies, often leading teenage girls to drop out of school. The Committee is also concerned at the information received on high rates of infant and maternal mortality, and at the lack of detailed information on the causes of this problem (arts. 10 and 12).

The Committee calls on the State party to intensify its efforts aimed at preventing teenage pregnancy and to provide the necessary support services for pregnant adolescents, including measures to enable them to continue their education. The Committee also urges the State party to ensure that sexual and reproductive health services are effectively accessible to adolescents, and that all pregnant women and girls have access to specialized medical care. Finally, the Committee recommends that the State party thoroughly assess the causes of all cases of maternal and infant mortality in order to develop specific and adapted strategies in that regard.

21. The Committee remains concerned, despite the information provided on the related reform to be enforced from January 2013, about the difficulties faced by persons living with HIV/AIDS and by Alzheimer patients in accessing treatment through the social security scheme. In both cases, the Committee also regrets the absence of information on the accessibility of the relevant treatments and care (art. 12).

The Committee recommends that the State party ensure that treatment and care is available to and accessible by persons living with HIV/AIDS, and by Alzheimer patients, and that the referred treatments are effectively covered by the social security scheme.

22. The Committee notes with concern that, despite the achievements of the State party in the field of education, high dropout rates persist, especially within disadvantaged and marginalized groups of the population. The Committee is also concerned at reports that Roma children and children with disabilities continue to be victims of segregation in the school system (art. 13).

The Committee recommends that the State party strengthen its efforts to address the economic, social and cultural factors identified as root causes of persisting high school dropout rates. The Committee also recommends that the State party conduct campaigns to raise awareness among Roma families on the importance of education, and continue to offer related incentives, and pursue its efforts to combat the segregation in schools of Roma children and children with disabilities. In this regard, the State party should ensure the effective enforcement of the Anti-Discrimination Act and the Public Education Act and it should raise awareness of these laws among teachers and the population at large. The Committee additionally draws the State party's attention to its general comment No. 13 (1999) on the right to education.

23. While taking note of the recognition of "ethnic diversity" in article 54 of the Constitution, the Committee is concerned about the lack of official recognition of national minorities within the territory of the State party (art. 15).

The Committee recommends that the State party consider reviewing its position with regard to the official recognition of national minorities under the Constitution, and recognize officially the need to protect the cultural diversity of all minority groups under its jurisdiction, in accordance with the provisions of article 15 of the Covenant. In that connection, the Committee draws the attention of the State party to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.

24. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant on Economic, Social and Cultural Rights. The Committee also encourages the State party to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

25. The Committee requests the State party to disseminate these concluding observations widely at all levels of society, and particularly among public officials, judicial authorities and civil society organizations, and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to continue to engage civil society organizations in the discussions to be held at the national level prior to the submission of its next periodic report.

26. The Committee invites the State party to submit its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties.

27. The Committee requests the State party to submit its next periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2017.
