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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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8-26 November 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

MALTA

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Malta on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.58) at its 32nd to 33rd meetings, held on 9 November 2004 (E/C.12/2004/SR.32-33), and adopted, at its 56th meeting, held on 26 November 2004 (E/C.12/2004/SR.56), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, which was prepared in conformity with the Committee's guidelines. It also appreciates the comprehensive written replies to the list of issues and welcomes the frank and constructive dialogue with the high-level delegation of the State party.

B. Positive aspects

3. The Committee notes with appreciation the overall high level of protection afforded to economic, social and cultural rights in the State party and its continuing efforts to improve the protection of these rights.

4. The Committee welcomes the elaboration of a number of national action plans, such as the National Action Plan for Employment and the National Action Plan for Social Inclusion, aiming at improving the protection of economic, social and cultural rights.
5. The Committee welcomes the Act to Promote Equality between Men and Women of 2003 and the setting up of the National Commission for the Promotion of Equality between Men and Women.
6. The Committee welcomes the establishment of the National Commission on Persons with Disability in 1987 and the enactment in 2000 of the Equal Opportunities Act.
7. The Committee welcomes the establishment in 1995 of the Office of the Ombudsman.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

9. The Committee notes the general difficulty in assessing progress in the implementation of Covenant rights owing to a lack in the information provided by the State party of comparative and disaggregated data.
10. The Committee regrets that the Covenant has not been incorporated into domestic law and therefore cannot be directly invoked before the domestic courts.
11. The Committee is concerned that persistent cultural stereotypes of the role of women negatively affect the equal enjoyment of rights by both men and women. The Committee notes with concern in this regard that women remain largely underrepresented in public service and that there are no female judges in the State party.
12. The Committee notes with concern the trend of rising youth unemployment rates and the rise in long-term unemployment.
13. While noting the measures taken by the State party to promote the rights of persons with disabilities, the Committee is concerned about the lack of incentives for employers to hire such persons.
14. The Committee is concerned that the participation of women in the labour market remains very low. It also notes with concern the significant gap between the wages of men and women and the very low representation of women in senior management positions.
15. The Committee is concerned that it is still difficult for women to balance employment and family responsibilities in the State party. Moreover, the Committee notes with concern that certain measures introduced, including more flexible parental leave schemes, are mainly aimed at women working in the public service and do not apply to women working in the private sector.

16. The Committee notes with concern the high number of industrial accidents in the State party.
17. The Committee is concerned that the Industrial Relations Act unduly restricts the right to strike by providing for a compulsory arbitration procedure in industrial labour disputes.
18. The Committee notes with concern that the State party has not ratified a number of international labour conventions in the area of labour rights and social security, including Conventions Nos. 102, 117, 118 and 122.
19. While noting that various forms of assistance are provided to victims of domestic violence, the Committee is concerned that domestic violence is currently not defined in law as a specific crime, which makes it more difficult for victims of violence to claim their rights.
20. The Committee notes with concern the distinction made between “legitimate” and “illegitimate” children in the Civil Code of the State party and the fact that children born out of wedlock do not have the same rights as children born in wedlock.
21. The Committee expresses its concern at the relatively low age of criminal responsibility in the State party.
22. While corporal punishment is prohibited in schools and other institutions, the Committee notes that corporal punishment within the family, in the form of “reasonable chastisement”, is not prohibited by law.
23. The Committee observes with concern that abortion is illegal in all cases under the law of the State party.
24. The Committee is concerned at the lack of sexual and reproductive health-care services in the State party.

E. Suggestions and recommendations

25. The Committee recommends that the State party provide in its next periodic report comparative and disaggregated data, which would allow the Committee to assess progress in the implementation of the Covenant and, in particular, the situation of disadvantaged and marginalized groups in society.
26. The Committee recommends that the State party reconsider the matter of incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant.
27. The Committee encourages the State party to withdraw its declaration made upon ratification under article 13 of the Covenant.

28. The Committee encourages the State party to establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134, annex), mandated with the protection and promotion of all human rights, including economic, social and cultural rights.
29. The Committee recommends that the State party further strengthen efforts to raise public awareness about gender equality, including by providing the National Commission for the Promotion of Equality for Men and Women with adequate support, and report on results obtained in its next periodic report.
30. The Committee recommends that the State party strengthen measures to tackle the problem of long-term unemployment and unemployment among young people.
31. The Committee recommends that the State party continue and strengthen its efforts to promote the integration of persons with disabilities into the labour market and to provide data, on a comparative basis, on the impact of those measures.
32. The Committee recommends that the State party continue and strengthen its efforts to increase the participation of women in the labour market and to ensure equal treatment between women and men, including equal remuneration for work of equal value.
33. The Committee urges the State party to take further measures to enable working parents to reconcile professional and family responsibilities, including by ensuring access to affordable childcare and flexible parental leave schemes for workers in both the public and private sectors.
34. The Committee recommends that the State party strengthen measures taken to prevent accidents in the workplace and to ensure that the labour inspectorate has adequate resources and powers to enforce and effectively monitor compliance with safety regulations. It also encourages the State party to ratify the Prevention of Major Industrial Accidents Convention, 1963 (No. 174) of the International Labour Organization (ILO).
35. The Committee encourages the State party to review the legislation on industrial labour disputes with a view to removing the compulsory arbitration procedure, in conformity with the observations made by the ILO Committee of Experts in 2002 concerning the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).
36. The Committee encourages the State party to ratify ILO Conventions Nos. 102, 117, 118 and 122.
37. The Committee encourages the State party to expedite the adoption of the Domestic Violence Bill currently under consideration.
38. The Committee urges the State party to expedite the planned revision of the Civil Code so as to abolish the terminology “legitimate” and “illegitimate” children and ensure equality in the enjoyment of rights of children born both in and out of wedlock.
39. The Committee encourages the State party to review its legislation with a view to raising the age of criminal responsibility.

40. The Committee encourages the State party to consider an explicit prohibition of corporal punishment within the family.

41. The Committee urges the State party to review its legislation on abortion and consider exceptions to the general prohibition of abortion for cases of therapeutic abortion and when the pregnancy is the result of rape or incest.

42. The Committee recommends that the State party strengthen education programmes on sexual and reproductive health and support sexual and reproductive health services.

43. The Committee encourages the State party to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

44. The Committee requests the State party to disseminate its concluding observations widely among all levels of society, including among State officials and the judiciary, and to inform the Committee of all steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society in the preparation of its second periodic report.

45. The Committee requests the State party to submit its second periodic report by 30 June 2009.
