



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the combined fourth to sixth periodic reports of Belarus*

1. The Committee on Economic, Social and Cultural Rights considered the combined fourth to sixth periodic reports of Belarus on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BLR/4-6) at its 43rd and 44th meetings, held on 13 November 2013 (E/C.12/2013/SR.43-44), and adopted, at its 68th meeting, held on 29 November 2013, the following concluding observations.

A. Introduction

2. The Committee appreciates the submission of the combined fourth to sixth periodic reports of Belarus (E/C.12/BLR/4-6), which are in conformity with the Committee's reporting guidelines, but regrets the delay in the submission of the reports. The Committee also welcomes the submission of the common core document (HRI/CORE/BLR/2011). The Committee expresses its appreciation for the detailed written replies to the list of issues (E/C.12/BLR/Q/4-6/Add.1) as well as the constructive dialogue with the State party's high-level interministerial delegation.

B. Positive aspects

3. The Committee welcomes the State party's ratification of, or accession to, various human rights instruments since the last dialogue with the State party in 1996:

(a) Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 23 January 2002 and on the involvement of children in armed conflict, on 25 January 2006;

(b) WHO Framework Convention on Tobacco Control, on 8 September 2005;

(c) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 3 February 2004;

* Adopted by the Committee at its fifty-first session (4-29 November 2013).



(d) United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, on 25 June 2003;

(e) 1951 Convention relating to the Status of Refugees and its 1967 Protocol, on 23 August 2001;

(f) International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 31 October 2000;

(g) ILO Convention No. 155 (1981) concerning Occupational Safety and Health and the Working Environment, on 30 May 2000.

4. The Committee takes note with appreciation of the State party's measures to promote economic, social and cultural rights, including the:

(a) Steps that led to the significant decline in infant, child and maternal mortality;

(b) Entry into force in 2009 of the Law (No. 354-Z) on Granting Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons;

(c) Adoption in 2010 of the Law on the Legal Status of Foreign Nationals and Stateless Persons;

(d) Adoption in 2011 of the Education Code (No. 243-3).

C. Principal subjects of concern and recommendations

5. The Committee regrets the lack of references to Covenant provisions by domestic courts, despite the fact that international treaties form part of the domestic legal order of the State party (art. 1).

The Committee recommends that the State party undertake to raise awareness of economic, social and cultural rights, as contained in the Covenant, and their justiciability, in particular among the judiciary, lawyers, law enforcement officials and other actors responsible for the implementation of the Covenant, and among rights holders. The Committee requests the State party to submit in its next periodic report information on cases before the courts in which the provisions of the Covenant have been invoked. 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 is concerned that the independence of the judiciary from the executive branch is not fully ensured in practice, despite the proclamation of principles safeguarding judicial independence in the Constitution and other laws such as the Code on the Judicial System and the Status of Judges of 2007. In particular, the Committee is concerned that the President, as the Head of the Executive, not only appoints, but may also dismiss and otherwise determine the status of judges (art. 2).

The Committee urges the State party to take all the necessary legislative and other measures in order to guarantee the full independence and impartiality of the judiciary in line with the United Nations Basic Principles on the Independence of the Judiciary (endorsed by General Assembly resolutions 40/32 and 40/146), including by establishing an independent body responsible for the appointment, promotion, suspension and removal of judges.

7. The Committee regrets that the State party has not yet established an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134). While the Committee notes the establishment of governmental bodies to enhance the promotion and protection of human rights, including the National Commission on the Rights of the Child and the National Council on Gender Policy, it recalls that governmental bodies cannot replace an independent human rights institution (art. 2).

The Committee encourages the State party to expedite the process of setting up a national human rights institution with a comprehensive human rights mandate, including on economic, social and cultural rights, in line with the Paris Principles, and provide it with adequate financial and human resources.

8. The Committee notes with concern that national legislation does not provide full protection against discrimination on all the grounds prohibited by the Covenant and that the prohibition of discrimination in employment is limited to direct discrimination only (art. 2, para. 2).

The Committee:

(a) **Calls on the State party to ensure that its laws effectively prohibit and provide appropriate sanctions for discrimination in all fields of economic, social and cultural rights, in line with the Covenant provisions;**

(b) **Encourages the State to adopt a comprehensive anti-discrimination law that addresses discrimination, including in the private sphere, prohibits direct and indirect discrimination on all the grounds set forth in the Covenant and provides for effective remedies in cases of discrimination in judicial and administrative proceedings. In this context, the Committee refers the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights;**

(c) **Requests the State party to provide information on cases of discrimination decided by domestic courts in its next periodic report;**

(d) **Requests the State party to undertake a study on the nature and extent of indirect and systemic discrimination in the country and measures taken to combat such discrimination and include information in this regard in its next periodic report.**

9. The Committee notes with concern that the employment rate among persons with disabilities is very low, despite the measures taken by the State party to stimulate and increase employment of persons with disabilities. The Committee is also concerned that there is no legal obligation to provide reasonable accommodation in the workplace unless one's disability was caused by occupational injury or illness (art. 2, paras. 2 and 6).

The Committee recommends that the State party take effective steps to significantly reduce unemployment and enhance access to employment for persons with disabilities, including by amending domestic labour legislation to include the obligation for employers to provide reasonable accommodation in the workplace when required. The Committee also calls on the State party to ensure that measures taken in this regard effectively aim at the realization of the right to gain a living by work freely chosen or accepted.

10. The Committee is concerned that the State party has still not adopted a comprehensive national integration plan for refugees (art. 2, para. 2).

The Committee recommends that the State party step up its efforts to adopt a comprehensive national integration plan for refugees with time-bound measures and

disaggregated indicators to monitor its implementation as a durable solution to enable refugees to fully enjoy the rights enshrined in the Covenant.

11. The Committee expresses its concern at the entrenched gender role stereotypes in the family and society and their negative impact on the enjoyment by women of their economic, social and cultural rights, despite the steps taken by the State party to promote gender equality, including the establishment of the National Council on Gender Policy and the adoption of the National Plan of Action for Gender Equality for 2011-2015. The Committee is further concerned at the low representation of women in high-ranking positions in State administration and the judiciary and at gender inequalities in the fields of education and employment (art. 3)

The Committee recommends that the State party:

(a) **Effectively implement and enforce the existing relevant legal and policy frameworks on gender equality and step up its efforts to change society's perception of gender roles, including through awareness-raising campaigns and educating men and women about equal career opportunities as a result of education and training in fields other than those traditionally dominated by either sex;**

(b) **Ensure equal representation of women in decision-making positions in State administration and the judiciary within specific time frames, including through temporary special measures. In this regard, the Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

12. The Committee is concerned about the persistent wage gap between women and men, the average gender wage gap being as high as 25 per cent (arts. 3 and 7).

The Committee recommends that the State party take steps to eliminate the persistent gender pay gap, in accordance with articles 3 and 7 of the Covenant, by combating vertical and horizontal segregation in employment that results in women occupying lower paid jobs and facing obstacles in the enjoyment of career opportunities on an equal footing with men.

13. The Committee is concerned that young persons continue to be disproportionately affected by unemployment, despite the very low rate of unemployment in the State party (art. 6).

The Committee recommends that the State party take specifically targeted measures aimed at reducing youth unemployment, including by addressing mismatches between education and labour markets through enhanced quality of technical and vocational training and education. In this regard, the Committee refers the State party to its general comment No. 18 (2005) on the right to work.

14. The Committee is concerned that short-term/fixed-term employment contracts are used in all sectors of the economy and that, as a consequence, discretion is given to employers to either conclude a contract of indefinite duration after five years of service, or to sign a new contract with the worker or even to dismiss him/her once the fixed-term contract has ended. The Committee is further concerned that such employment contracts create job insecurity among workers, exposing them to uncertainty about their work-related incomes and to the threat of arbitrary non-renewal of their contracts with a serious negative impact on the enjoyment of all their labour rights (arts. 6-8).

The Committee requests the State party to ensure that it generates decent work opportunities with adequate protection of workers with a view to respecting their labour rights set out in articles 6-8 of the Covenant. In this respect, the Committee recommends that the State party review the current regime of fixed-term/short-term

contracts in order to limit the scale of their use and provide adequate safeguards against arbitrary non-renewal of fixed-term contracts.

15. The Committee is concerned at reports that persons deprived of their liberty, as well as persons affected by alcoholism or drug dependent persons who are interned in so-called "Medical-Labour Centres", are subjected to compulsory labour (art. 6).

The Committee urges the State party to abolish compulsory labour for these categories of persons and ensure that their rights to freely chosen or accepted work and to just and favourable conditions of work are fully respected in practice, including by repealing or amending all regulations that run counter to the State party's obligations under articles 6-7 of the Covenant. In this respect, the Committee draws the attention of the State party to its general comment No. 18 (2005) on the right to work.

16. The Committee notes with concern that Presidential Decree No.9 adopted in December 2012 effectively takes away the right of workers in the wood-processing industry to freely leave their jobs under the penalty of either having to pay back their benefits or to continue working until the required amount has been withdrawn from their salaries (arts. 6-7).

The Committee recommends that the State party ensure that the right of workers in the wood-processing industry to terminate the employment contract at their initiative is guaranteed, in accordance with articles 6-7 of the Covenant and the Labour Code of the State party. In this respect, a legal period of notice should be set up so that the employer has an enforceable claim for compensation or damages solely in case of failure by the worker to respect the period of notice.

17. The Committee notes with great concern that little progress has been achieved in ensuring that the legal framework governing trade unions and the right to strike are in line with the State party's obligations under the Covenant and that the free exercise of trade union rights is not fully guaranteed in practice (art. 8).

The Committee strongly recommends that, in line with its obligations under article 8 of the Covenant, the State party take all the necessary measures to ensure that:

- (a) **Workers have the right to form and join trade unions of their choice;**
- (b) **Workers enjoy their trade union rights without undue restrictions or interference, including by local authorities;**
- (c) **Disputes arising during collective bargaining are settled within the collective bargaining mechanism;**
- (d) **The definition of "essential services" for which strikes are prohibited is limited, so that only the most essential services are subject to this prohibition.**

18. The Committee is concerned that the social security system in the State party still does not guarantee universal coverage (art. 9).

The Committee recommends that the State party step up its efforts to increase and strengthen the material and personal coverage of the social security system by:

- (a) **Establishing an unemployment benefit as soon as possible;**
- (b) **Ensuring that non-contributory pensions enable pensioners and their families to enjoy an adequate standard of living through regular indexation to the cost of living;**

(c) **Monitoring targeted social assistance programmes continuously so as to ensure that they effectively provide poor and disadvantaged individuals and families with a social safety net.**

19. The Committee is concerned about the persistence of domestic violence and the absence of specific criminalization of domestic violence and marital rape (art. 10).

The Committee recommends that the State party strengthen its efforts to prevent and combat all forms of domestic violence and take steps to specifically qualify domestic violence and marital rape as a crime. In this regard, the Committee encourages the State party to:

(a) **Adopt legislation on prevention of domestic violence and protection of victims;**

(b) **Continue conducting awareness-raising campaigns on the negative effects of domestic violence;**

(c) **Encourage the reporting of crimes; and**

(d) **Prosecute and punish perpetrators with appropriate sanctions.**

20. The Committee is concerned that a large number of children from socially vulnerable families are deprived of their family environment after parents have had their parental rights removed due to the inability to comply with their child-rearing responsibilities. It is further concerned that these parents are subjected to compulsory labour and that 70 per cent of their wages is retained to compensate for the child-rearing expenses incurred by the State (arts. 6 and 10).

The Committee urges the State party to abolish compulsory labour as a punitive measure for parents who have had their parental rights removed and to amend the existing regulations to bring them into conformity with the Covenant. The Committee requests that the State party:

(a) **Take effective family-support measures to reduce and prevent termination of parental responsibility and ensure that children from socially vulnerable families can be raised with their parents, inter alia, by providing all the necessary support services to parents in order to enable them to carry out their child-rearing responsibilities and by monitoring such services to ensure that they effectively address the needs of the children;**

(b) **Ensure that termination of parental responsibility is a measure of last resort and that the best interests of the child, as well as their views, are adequately taken into consideration in this process;**

(c) **Ensure that children deprived of their family environment as a result of an impartial and independent decision are placed in family-type alternative care settings and, to this end, develop a network of foster-care families with a view to reducing to the minimum the need for institutional care for children;**

(d) **Ensure that children can return to their families whenever possible.**

21. The Committee is concerned at the insufficient impact of preventive measures to combat trafficking in persons despite the State party's efforts, including the adoption of the Trafficking in Persons Act in 2012 and the establishment of the International Training Centre on Migration and Combating Trafficking in Human Beings (art. 10).

The Committee recommends that the State party strengthen its preventive measures to combat trafficking in persons and ensure that related efforts determine and

effectively address the root causes of the phenomenon, in particular its close link to sexual exploitation.

22. The Committee is concerned that the rate of poverty in rural areas is almost double the rate in urban areas and that certain segments of the population still live below the national poverty line, including single-parent families and families with two or more children, in spite of the fact that the State party succeeded in significantly reducing the level of poverty from 41.9 per cent in 2000 to 6.3 per cent in 2012 (arts. 10-11).

The Committee recommends that the State party pursue its efforts to combat poverty and reduce the disparities between rural and urban areas. It also recommends that the State party introduce measures to guarantee targeted support to all those living below the poverty line, including single-parent families and families with two or more children. In this 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).

23. The Committee notes with concern the lack of adequate access to subsidized/social housing by disadvantaged groups, in particular young families, families with many children, older persons, persons with disabilities and refugees, and the long waiting list for social housing which deprives many people of their right to adequate housing (art. 11, para. 1).

The Committee recommends that the State party adopt all adequate measures to address the problem of the long waiting lists in respect of social housing and ensure access to adequate housing for disadvantaged groups, including by ensuring that sufficient resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies, taking into account its general comment No. 4 (1991) on the right to adequate housing.

24. The Committee expresses concern at the spread of HIV/AIDS beyond the original risk groups and the rising prevalence of HIV/AIDS in rural areas and the persistent social stigmatization of, and discrimination against, persons living with HIV/AIDS, in particular in access to health care and employment, despite the efforts made by the State party to combat HIV/AIDS and the establishment of facilities across the country providing testing services free of charge. The Committee is also concerned that the definition of HIV as a socially dangerous disease and the provisions in the law for compulsory testing of persons believed to be HIV-infected may further exacerbate stigma and discrimination against persons living with HIV/AIDS (art. 2, paras. 2 and 12).

The Committee recommends that the State party:

- (a) Take targeted measures to prevent the spread of HIV/AIDS, including among new risk groups and in rural areas;**
- (b) Ensure effective prohibition of discrimination against persons living with HIV/AIDS;**
- (c) Take all necessary measures to ensure the access of persons living with HIV/AIDS to health care and employment on an equal basis with others;**
- (d) Increase its awareness-raising activities aimed at promoting understanding of the modes of transmission of HIV and tolerance towards persons living with HIV/AIDS among medical staff, employers and the population at large and measure their impact;**
- (e) Repeal or amend laws and policies that perpetuate the stigmatization and rejection of persons living with HIV/AIDS and adversely impact on any progress made in combating HIV.**

25. The Committee is concerned at the excessive alcohol consumption and tobacco use and the increase in the number of newly revealed cases of drug addiction and hospitalizations due to drug use (art. 12).

The Committee recommends that the State party effectively implement and enforce the existing legal and policy frameworks with regard to combating tobacco smoking, alcohol abuse and drug use and enhance its preventive measures, including but not limited to the promotion of healthy lifestyles and awareness-raising programmes about the serious health risks associated with such substance abuse. It also recommends that the State party apply a human rights-based approach to the treatment of persons abusing alcohol and drug users, and provide appropriate health care, psychological support services and rehabilitation to such persons, including effective drug dependence treatment such as opioid substitution therapy.

26. The Committee expresses its concern at the high rate of multidrug-resistant tuberculosis (MDR-TB), poor infection control measures, surveillance and timely diagnosis (art. 12).

The Committee recommends that the State party improve its policies and strategies for prevention and control of MDR-TB taking into account World Health Organization (WHO) recommendations, and ensure timely diagnosis, treatment and patient support for all patients.

27. The Committee expresses its concern at the low level of education of Roma, as reflected by the poor enrolment of Roma in particular at the secondary and higher education levels (arts. 13-14).

The Committee encourages the State party to address the insufficient level of education of Roma and take urgent measures to retain Roma students at school and increase attendance rates, in particular at the primary and secondary levels, inter alia, through:

- (a) Awareness-raising campaigns among Roma families on the importance of education;**
- (b) Providing sufficient financial support to facilitate access of Roma to education;**
- (c) Granting of scholarships and the reimbursement of expenses for schoolbooks and travel to attend school.**

28. The Committee regrets that it was not able to assess the extent of school dropout, in particular among Roma and other disadvantaged groups, due to the lack of statistics on dropout rates at different levels of education (arts. 13-14).

The Committee requests the State party to collect statistical data on dropout rates at different levels of education, including among Roma and other disadvantaged groups, and provide such information, disaggregated by age, sex, nationality and urban/rural areas, in its next periodic report.

29. The Committee is concerned about the limited use of the Belarusian language in education, particularly in higher education, and in cultural life (arts. 13-15).

The Committee requests the State party to take all the necessary steps to ensure that those wishing to study in Belarusian-language classes, including at the higher education level, are provided with such opportunities. It also requests the State party to take effective measures to promote the wider use of the Belarusian language in all areas of life, including cultural life, and report on the progress made in its next periodic report.

30. The Committee expresses its concern at reported incidents of practical restrictions to full participation in cultural life for certain individuals and groups who wish to promote the Belarusian language and to organize cultural activities, including theatre and music performances and unofficial commemoration of historical events (art. 15).

The Committee recommends that the State party take steps to ensure the full and unrestricted exercise of the right of everyone to promote, preserve and fully participate in cultural life, taking into account the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life.

31. The Committee requests the State party to include in its next periodic report annual comparative data on the percentage of the gross domestic product (GDP) and the State budget allocated to the implementation of various aspects of economic, social and cultural rights.

32. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It also encourages the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance, as well as accepting the individual complaint mechanisms under various core human rights treaties which the State party has not accepted, with a view to further strengthening the protection of human rights by providing right holders with additional opportunities to claim their rights at the international level when domestic remedies have been exhausted.

33. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

34. The Committee requests the State party to submit its seventh periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 November 2018.