



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Concluding observations on the initial report of Montenegro\*

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Montenegro on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MNE/1) at its 48th, 49th and 50th meetings (E/C.12/2014/SR.48–50), held on 13 and 14 November 2014, and adopted, at its 70th meeting, held on 28 November 2014, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the initial report of Montenegro (E/C.12/MNE/1), as well as its common core document submitted in September 2012 (HRI/CORE/MNE/2012). The Committee also appreciates the written replies to its list of issues (E/C.12/MNE/Q/1/Add.1) as well as the frank and constructive dialogue with the State party's multisectoral delegation.

#### B. Positive aspects

3. The Committee welcomes the State party's ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 24 September 2013.

4. The Committee also welcomes the ratification by the State party of the following international human rights instruments:

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

(b) Convention on the Reduction of Statelessness, on 5 December 2013;

(c) International Convention for the Protection of All Persons from Enforced Disappearance, on 20 September 2011;

(d) Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 2 November 2009;

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



(e) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2006.

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

(a) The adoption of the Law on Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro, on 18 June 2014;

(b) The adoption of the Gender Equality Act, in 2007;

(c) The adoption of the Action Plan and Strategy for Improving the Quality of Life of LGBT Persons (2013–2018);

(d) The adoption of the National Strategy for the Fight against Trafficking in Human Beings (2012–2018).

## C. Principal subjects of concern and recommendations

### Data collection

6. The Committee expresses concern that the State party has not provided sufficient disaggregated and detailed data in its report or its replies to the list of issues to allow the Committee to assess the impact of the measures taken by the State party to give full effect to the provisions of the Covenant or to measure the enjoyment of economic, social and cultural rights in the State party (art. 2).

**The Committee recommends that the State party:**

(a) **Set up a system to collect statistical data on the implementation of economic, social and cultural rights set forth in the Covenant, disaggregated by year, sex, age, urban/rural population, ethnic origin on the basis of anonymity and voluntary self-identification, disadvantaged and marginalized groups, and other relevant criteria, and include such statistical data in its next periodic report;**

(b) **Undertake regular and systematic assessments, against a clear set of indicators, of the level of enjoyment of all economic, social and cultural rights by various segments of the population, taking into account the conceptual and methodological framework for human rights indicators developed by the Office of the High Commissioner for Human Rights (HRI/MC/2008/3);**

(c) **Apply human rights indicators, particularly those related to economic, social and cultural rights, as part of its national development strategies.**

### Independence of the judiciary

7. While noting efforts to reform the judiciary and the detailed information provided by the delegation, the Committee remains concerned at continued reports of lack of independence of the judiciary (art. 1).

**The Committee urges the State party to take all the necessary legislative and other necessary measures to guarantee the full independence and impartiality of the judiciary, in line with the Basic Principles on the Independence of the Judiciary (endorsed by General Assembly resolutions 40/32 and 40/146). In particular, it calls on the State party to establish clear criteria and an independent procedure for the appointment, promotion, suspension and removal of judges. The Committee also recommends that the State party continue its efforts to ensure that judges, lawyers**

**and prosecutors are trained on the justiciability of economic, social and cultural rights.**

#### **National human rights institution**

8. While noting the adoption of amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro, the Committee notes that the Protector of Human Rights and Freedoms has yet to be accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, and expresses concern at reports that its effectiveness is hampered by a lack of staff and of financial resources, and by frequent staff turnover (art. 1).

**The Committee recommends that the State party enhance the capacity of the Protector of Human Rights and Freedoms so as to enable its effective functioning as a national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex), including by providing it with adequate human and financial resources.**

#### **Corruption**

9. The Committee expresses concern at the extent of corruption, particularly in the areas of construction and spatial planning, education, health care and public procurement, and its impact on the enjoyment of economic, social and cultural rights. It is also concerned at the lack of effective investigation, prosecution and conviction in high-level corruption cases, as well as at reports of intimidation and violence against journalists who investigate and report on organized crime (art. 2, para. 1).

**The State party should, as a matter of priority, address the root causes of corruption, and adopt all necessary legislative and policy measures to effectively combat corruption and the related impunity, including investigation and prosecution of high-level corruption cases. The Committee recommends that the State party regularly evaluate the impact of measures taken to combat corruption, and provide detailed information in its next periodic report. The State party should also ensure that individuals who investigate and report on organized crime are protected effectively from any form of intimidation or violence.**

#### **Non-discrimination**

10. The Committee regrets the lack of comprehensive statistical data available to identify discrimination in the enjoyment of the Covenant rights on the basis of the different grounds outlined in article 2, paragraph 2, of the Covenant. In addition, while noting the adoption of amendments to the Law on Amendments to the Law on the Prohibition of Discrimination, in March 2014, the Committee is concerned that members of national and ethnic minorities, refugees, displaced persons, Roma, persons with disabilities, and members of other marginalized groups continue to face discrimination with regard to the enjoyment of their economic, social and cultural rights (art. 2, para. 2).

**The Committee recommends that the State party intensify its efforts to promote equality and combat discrimination against members of national and ethnic minorities, refugees and displaced persons, including persons of Roma, Ashkali and Egyptian origin, persons with disabilities, and other marginalized persons and groups, particularly in relation to their access to employment, social security, housing, health care and education. It also recommends that the State party ensure the systematic application of anti-discrimination legislation, taking due account of all prohibited grounds for discrimination as contained in article 2, paragraph 2, of the Covenant and**

**elaborated in the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

#### **Equality between men and women**

11. While noting the adoption of the Plan of Action for Gender Equality 2013–2017, the Committee is concerned at the lack of adequate financial and human resources to implement gender equality policies effectively, the underrepresentation of women in senior and decision-making positions, and the persistence of stereotypes concerning gender roles (art. 3).

**The Committee recommends that the State party:**

**(a) Ensure the allocation of adequate financial and human resources to implement gender equality policies and strategies effectively;**

**(b) Establish an effective monitoring and evaluation mechanism to ensure that its gender equality policies and strategies are assessed against a clear set of indicators and have the desired impact;**

**(c) Analyse the underlying causes of the underrepresentation of women in senior and decision-making positions and take appropriate measures to eliminate the social perceptions of traditional gender roles and stereotypes, including those concerning employment, while raising awareness of both men and women about harmonizing work and family responsibilities.**

#### **Unemployment**

12. While noting the measures taken by the State party to combat unemployment, such as vocational employment programmes for university graduates, the Committee remains concerned at the high unemployment rate, particularly among young people and in the northern region, and at the high rate of long-term unemployment.

**The Committee recommends that the State party intensify its efforts to reduce the unemployment rate through an effective employment policy that includes requalification, local employment initiatives, the granting of loans to promote entrepreneurship, and placement initiatives. The Committee also recommends that the State party take special measures, such as tax benefits for employers, to promote the employment of persons from marginalized groups, particularly in rural areas. The Committee urges the State party to establish objectives on an annual basis for the employment of persons with disabilities and to collect reliable data on the extent of their unemployment.**

#### **Minimum wage**

13. The Committee is concerned at the low level of the minimum wage, which is manifestly inadequate to provide a decent living for the persons concerned and their families (art. 7).

**The Committee recommends that the State party increase the amount of the national minimum wage, and that it be periodically reviewed and set at a level sufficient to provide all workers and their families with a decent standard of living.**

#### **Just and favourable conditions of work**

14. The Committee is concerned at reports of violations of the right of workers to remuneration and regular payment of their social and health contributions in the private sector, as well as at the practice of non-conversion of fixed-term contracts to indefinite

contracts in spite of the requirements of the Labour Act in this regard. It also expresses concern at the inadequate capacity of the Directorate for Inspection Affairs, including the Labour Inspectorate, to regularize the informal economy, to sanction employers who violate the Labour Act, and to prevent occupational accidents and diseases (arts. 6 and 7).

**The Committee urges the State party to take effective measures to ensure that private companies respect their obligations to guarantee the right of workers to remuneration and regular payment of their social and health contributions, as well as their right to an indefinite contract as stipulated in the Labour Act. The State party should also increase the resources and the capacity of the Directorate for Inspection Affairs, including the Labour Inspectorate, to regularize the informal economy and to effectively ensure just and favourable conditions at work through the implementation of both preventive and punitive measures.**

#### **Trade union rights**

15. The Committee expresses concern at reports of discriminatory acts against trade union representatives. It is also concerned at restrictions on the right to strike for public sector employees who do not provide “essential services”, or services which, if interrupted, would endanger the life, personal safety or health of the whole of or a part of the population (art. 8).

**The Committee calls upon the State party to ensure that workers in both the private and public sectors enjoy their right to freely form and join trade unions. While noting the 2013 draft law on strikes, the Committee recommends that the State party ensure that public sector employees who do not provide essential services are entitled to their right to strike in accordance with article 8 of the Covenant and ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise (1948).**

#### **Social security**

16. While welcoming the adoption in May 2013 of the Law on Social and Child Protection, the Committee is concerned at the lack of capacity of State institutions to implement the law effectively. It also notes with concern that social assistance benefits, including for unemployed persons, older persons and persons with disabilities, are insufficient to ensure an adequate standard of living for the persons concerned and their families (art. 9).

**The Committee calls upon the State party to:**

(a) **Ensure the effective implementation of the Law on Social and Child Protection in practice, including by increasing the capacity of and coordination among State institutions;**

(b) **Increase social assistance benefits, taking into account the Committee’s general comment No. 19 (2007) on the right to social security, in order to ensure that all individuals and families throughout the State party, including unemployed persons, older persons and persons with disabilities, enjoy an adequate standard of living;**

(c) **Provide, in its next periodic report, information on the extent of social security coverage, disaggregated inter alia by sex, urban/rural population, residency status and national or ethnic origin.**

### **Domestic violence**

17. While welcoming the adoption of the Law on Protection from Domestic Violence and the amendments to the Criminal Code to improve protection measures for victims of domestic violence, the Committee remains concerned at the lack of their effective implementation in practice and at inadequate access to justice for victims. It also regrets the lack of a data collection mechanism to analyse trends and monitor progress (art. 10).

#### **The Committee urges the State party to:**

(a) **Take effective measures to combat domestic violence and ensure that relevant legislation prohibiting domestic violence and granting protection measures to victims is implemented effectively in practice;**

(b) **Promptly investigate, prosecute and punish all acts of domestic violence and ensure the provision of effective remedies to victims;**

(c) **Establish a comprehensive data collection mechanism on violence against women, including domestic violence, disaggregated by sex, age, and relationship between the victim and perpetrator, and carry out an in-depth analysis of the data and utilize them to devise targeted policies and strategies to combat all forms of violence against women.**

### **Trafficking in persons**

18. While noting the measures taken to combat trafficking in persons, including the creation in September 2013 of the new post of national coordinator on trafficking in persons, the Committee remains concerned at the low number of prosecutions and the lenient sentences imposed on traffickers, the limited capacity of law enforcement authorities to identify victims of trafficking, and the lack of protection and compensation provided to victims (art. 10).

#### **The Committee recommends that the State party:**

(a) **Take further measures to ensure the protection of victims and effective investigation and prosecution of perpetrators of trafficking, including adequate training of law enforcement officials and members of the judiciary;**

(b) **Strengthen the collection of data on the victims, perpetrators, investigations and sanctions in relation to trafficking in persons, including on the sanctions imposed on law enforcement officials involved in trafficking;**

(c) **Provide adequate medical, legal and social assistance to victims of trafficking, and ensure their access to judicial remedies, including compensation.**

### **Early and forced marriages**

19. The Committee is concerned that the practices of early and forced marriage are still prevalent within certain communities (art. 10).

**The Committee recommends that the State party strengthen its measures to combat the practices of early and forced marriage, in particular among the Roma, Ashkali and Egyptian communities, including by raising awareness about the prohibition of early and forced marriages and about the negative consequences of these practices. The State party should also collect data on such practices, disaggregated, inter alia, by age, sex, and ethnicity or nationality.**

### **Economic exploitation of children**

20. The Committee is concerned at the incidence of child labour, including forced begging and informal and dangerous work on the streets, and that such children are exposed to exploitation and trafficking in persons (art. 10).

**The Committee urges the State party to intensify efforts to combat child labour, including through systematic and effective labour inspections and by investigating, prosecuting and sanctioning those responsible and providing victims with rehabilitation and assistance. It should also undertake awareness-raising campaigns for children and parents on the dangers of child labour and the importance of education, and systematically collect data to assess the impact of measures taken to combat the economic exploitation of children.**

### **Poverty**

21. The Committee is concerned at the increasing percentage of the population that lives under the national absolute poverty line, as well as at the prevalence of regional disparities in the enjoyment of economic, social and cultural rights (arts. 2 and 11).

**The Committee calls upon the State party to:**

**(a) Strengthen efforts to combat poverty and social exclusion, particularly in the northern region, and allocate sufficient resources for their implementation, taking into account the Committee's 2001 statement on poverty and the International Covenant on Economic, Social and Cultural Rights;**

**(b) Develop an evaluation mechanism to assess the impact of measures taken and to identify any shortcomings;**

**(c) Include, in its next periodic report, disaggregated and comparative data and indicators on the number of persons living in poverty and extreme poverty, and on concrete progress made in reducing poverty.**

### **Housing**

22. The Committee is concerned at the lack of information available on the number of persons who are homeless or inadequately housed, as well as at the lack of shelters for homeless persons. Additionally, while noting the adoption of the Law on Social Housing and a project to identify durable solutions for residents in the Konik camp, the Committee is seriously concerned that Roma communities continue to live in the camp and other informal settlements in environmentally polluted areas with deplorable conditions, without access to basic utilities and services such as electricity, running water and sewage (art. 11).

**The Committee recommends that the State party:**

**(a) Collect data on the number of persons who are homeless or inadequately housed and periodically evaluate the effectiveness of housing policies;**

**(b) Take policy and financial measures to expand the availability and quality of social housing for homeless persons and low-income families;**

**(c) Accelerate the implementation of the project to identify durable solutions for residents in the Konik camp and ensure that all displaced persons have access to adequate and affordable housing with, inter alia, legal security of tenure, safe drinking water, adequate sanitation, and electricity, including by improving the conditions of existing settlements or by constructing new social housing units.**

### **Right to health**

23. The Committee expresses concern at reports of the low quality of public health-care services, of informal payments being provided by patients to health-care practitioners, of insufficient oversight of public procurement in the health-care sector, and of obstacles being faced by persons of Roma, Ashkali and Egyptian origin who do not have regulated legal status to effectively access health-care services. It is also concerned that persons in need of mental health care but not requiring hospitalization are nevertheless placed in psychiatric hospitals due to an absence of alternatives (art. 12).

#### **The Committee recommends that the State party:**

**(a) Increase its budgetary allocations to the health sector to improve the quality of public health-care services, and take effective measures to counter corruption in the health-care sector;**

**(b) Ensure that all individuals have access to health-care services, including by ensuring that those who do not have regulated legal status are in possession of the necessary documents;**

**(c) Increase the availability of adequate alternatives to psychiatric hospitals and ensure that persons who do not require further treatment are placed in more appropriate settings.**

### **Sexual and reproductive health**

24. The Committee is concerned at the disproportionate ratio of male to female births, which may indicate a practice of sex-selective abortions due to discrimination against women. While welcoming the information provided by the State party that sexual and reproductive health and rights are now taught as a mandatory subject in primary, secondary and vocational schools, it is concerned at the lack of information available on measures taken to increase access to contraceptives and to reproductive health services and information, particularly in relation to marginalized communities (arts. 3 and 12).

#### **The Committee recommends that the State party:**

**(a) Conduct a comprehensive study on the prevalence of sex-selective abortions and take appropriate measures to address practices and social norms fuelling a preference for sons, with a view to eliminating such a practice;**

**(b) Make contraceptives widely available, accessible and affordable to all women and men of reproductive age, including adolescents;**

**(c) Ensure that individuals from marginalized groups, including refugees, displaced persons and persons with disabilities, also have access to education and information on sexual and reproductive health and rights that is comprehensive and age-appropriate.**

### **Right to education**

25. The Committee regrets the lack of disaggregated data on school enrolment and drop-out rates at various levels of education. It expresses concern at reports of a low rate of enrolment, low levels of school attendance, a high drop-out rate and low educational attainment among children of Roma, Ashkali and Egyptian origin, and a lack of enrolment of children with disabilities in mainstream schools (arts. 13 and 14).

#### **The Committee recommends that the State party:**

**(a) Collect disaggregated data on school enrolment and drop-out rates at various levels of education, including in relation to children with disabilities, asylum-**

seekers, refugees, and displaced persons, that is also disaggregated by sex and national or ethnic origin, to identify obstacles to accessing and continuing education and to devise appropriate strategies;

(b) Intensify its efforts to ensure that all children of Roma, Ashkali and Egyptian origin have access to education, including by ensuring that they have access to birth registration or identity documents, by providing free primary education, textbooks and transportation, by raising awareness among parents of the value of continued education for their children's long-term socioeconomic prospects, and by increasing the number of Roma teaching assistants and the use of the Roma language in schools;

(c) Ensure that all children with disabilities have access to quality and appropriate education.

#### **Cultural rights**

26. The Committee regrets the low proportion of the State budget that is allocated for scientific development and the promotion and protection of cultural rights. It is also concerned at the lack of an independent oversight mechanism for the Fund for Minorities to oversee the implementation of activities and the allocation of funds (art. 15).

**The Committee recommends that the State party consider increasing the budget allocated for scientific development and the promotion and protection of cultural rights. It also encourages the State party to establish an effective oversight mechanism for the Fund for Minorities to oversee the implementation of activities and the allocation of funds.**

#### **D. Other recommendations**

27. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

28. The Committee recommends that all future national plans, programmes and strategies addressing 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 be adjusted according to the needs.

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

30. The Committee requests the State party to submit its second 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.