



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the second periodic report of Slovenia\*

1. The Committee on Economic, Social and Cultural Rights considered the second report of Slovenia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/SVN/2) at its 54th to 55th meetings (see E/C.12/2014/SR.54-55), held on 18 and 19 November 2014, and adopted, at its 70th meeting, held on 28 November 2014, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the second periodic report submitted by the State party, the supplementary information provided in the replies to the list of issues (E/C.12/SVN/Q/2/Add.1), the State party's core document (HRI/CORE/SVN/2014) and the oral replies provided by the delegation. The Committee also welcomes the constructive dialogue held with the State party's large, high-level delegation.

#### B. Positive aspects

3. The Committee welcomes the State party's ratification of:

- (a) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in April 2008;
  - (b) The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in January 2007.
4. The Committee welcomes the following legislative and policy measures taken by the State party:

- (a) The Minimum Wage Act in 2010;
- (b) The Pension and Disability Insurance Act in 2010;
- (c) Introducing provisions on equal pay for equal work or work of equal value into the Employment Relationships Act;

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



(d) The National Programme of Measures for Roma People for the period 2010–2015 and the Strategy for Education of Roma;

(e) The 2013–2020 National Programme for Social Protection; and

(f) The projects “Successful integration of Roma children into education”, 2008–2011 and 2011–2014, and “Increasing the social and cultural capital in areas populated by members of the Roma community”, 2010.

## C. Principal subjects of concern and recommendations

### **Domestic application of the Covenant**

5. The Committee is concerned that, despite the fact that the Covenant has been fully incorporated into the State party’s domestic law, it has been invoked in only a limited number of cases before national courts (art. 2, para. 1).

**The Committee recommends that the State party raise awareness among members of the judiciary, lawyers and the general public about the Covenant and the justiciability of economic, social and cultural rights. The Committee draws the State party’s attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

### **Data collection**

6. While taking note of the information provided during the dialogue about the legal prohibition on collecting disaggregated data on certain grounds, the Committee is concerned about the absence of sufficient disaggregated data on the effective realization of Covenant rights for disadvantaged and marginalized individuals and groups, in particular for Roma.

**The Committee recommends that the State party take measures to establish a system for the collection and monitoring of annual data on Covenant rights, disaggregated by the currently prohibited grounds of discrimination, including race and language, and include such comprehensive annual data, on all the recommendations below, in its next periodic report.**

### **Corruption**

7. The Committee is concerned about corruption in the State party, the inadequate steps taken to address the matter, and its adverse impact on the enjoyment of all human rights, including economic, social and cultural rights (art. 2, para. 1).

**The State party should, as a matter of priority, address the root causes of corruption and adopt all necessary policy and legislative measures to combat corruption and related impunity effectively and to ensure that public affairs are conducted, in law and in practice, in a transparent manner. The State party should also provide the Commission for the Prevention of Corruption with adequate resources to ensure it operates effectively, and guarantee protection of the human rights of those engaged in anti-corruption activities, in particular victims, whistle-blowers, witnesses and their lawyers.**

### **Maximum available resources**

8. The Committee is concerned that austerity measures taken by the State party, such as the Fiscal Balance Act (2012), have impacted negatively on the fulfilment and enjoyment of economic, social and cultural rights. The Committee is also concerned at the

process of adopting the austerity measures aimed solely at cutting expenses without carrying out the necessary reflection on the adverse impact such cuts may have on the enjoyment of the Covenant's rights (art. 2, para. 1).

**Taking into account the letter sent by the Committee's Chairperson to all States parties in 2012 on austerity measures, the Committee recommends that the State party ensure that all the austerity measures adopted reflect the minimum core content of all the Covenant rights, and that they are temporary, necessary and proportionate, and not discriminatory. While taking note of the information provided by the State party's delegation that such measures are temporary in nature, the Committee urges the State party to repeal the measures as soon as possible, and no later than when economic growth has reached 2.5 per cent in the State party, as indicated during the dialogue.**

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

9. The Committee is concerned that the Human Rights Ombudsman does not fully comply with the Principles relating to the Status of National Institutions (Paris Principles). The Committee expresses its concern about the limited outreach of the Ombudsman, particularly to the groups most vulnerable to the violation of their rights, such as Roma and migrant workers, that the Ombudsman is only mandated to monitor actions by State agents, and that its recommendations are not legally binding (art. 2, para. 1).

**In light of its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights, the Committee recommends that the State party take urgent measures to bring the Ombudsman's office into compliance with the Paris Principles. The Committee also requests the State party to strengthen the capacities of the Ombudsman with a view to expanding its outreach, and to broadening its mandate and powers so as to enable it to have an oversight function for the actions of private actors and to impose legally binding measures.**

#### **Non-discrimination**

10. The Committee is concerned about the weak institutional framework for implementing anti-discrimination policies and legislation. In particular it notes with concern that existing mechanisms addressing discrimination in the State party, including the Office of the Advocate of the Principle of Equality, lack sufficient resources and enjoy limited mandates, and that their recommendations are not binding. The Committee is also concerned about the small number of reported cases of discrimination and about the lack of effective remedy for victims of discrimination (art. 2, para. 2).

**Taking into account its general comments No. 20 (2009) on non-discrimination in economic, social and cultural rights, and No. 3 (1990) on the nature of States parties' obligations, the Committee recommends that the State party:**

- (a) Develop and adopt a comprehensive anti-discrimination strategy in collaboration with civil society;**
- (b) Ensure that anti-discrimination mechanisms are provided with a broad mandate and the necessary resources to function effectively;**
- (c) Increase public awareness on the prohibition of discrimination and avenues of redress;**
- (d) Provide remedies to victims of discrimination which are accessible, affordable, timely and effective.**

### **Social exclusion of, and discrimination against, Roma**

11. The Committee is concerned about the limited progress in alleviating the precarious situation of Roma communities despite some measures taken to that end. The Committee is particularly concerned that Roma communities still encounter multiple forms of discrimination in many areas covered under the Covenant, including access to employment, housing and health services (art. 2, para. 2).

**The Committee urges that the State party adopt a holistic approach in addressing all forms of discrimination against Roma communities, implement existing and adopt other effective measures to overcome the prevailing discrimination against Roma in access to employment, housing and health services.**

### **Discrimination on the grounds of sexual orientation and gender identity**

12. The Committee is concerned about the existence of several legal provisions that are discriminatory against same-sex partners and their families, including in the Health Care and Health Insurance Act, the Housing Act, the Code of Obligations, the Penal Code, and the Marriage and Family Relations Act. The Committee is particularly concerned about the retention of article 22 of the Registration of Same-Sex Partnerships Act, despite the decision by the Constitutional Court (2013) ruling that it violated the right to non-discrimination on the ground of sexual orientation (art. 2, para. 2).

**The Committee recommends that the State party bring all its legislation into line with article 2, paragraph 2, of the Covenant and with article 14 of its Constitution, which explicitly prohibits discrimination on the basis of sexual orientation. The Committee further encourages the State party to expedite the adoption of the draft law on same-sex civil partnerships, as announced by the State party's delegation. The Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural life.**

### **The “Erased”**

13. The Committee is concerned that, by July 2013, with the expiration of the amended Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia, over 13,000 of the “erased” have not yet been able to restore their permanent residence status in the State party. The Committee is concerned that, after the expiration of the amended Act, many such persons remained with no legal avenues for restoring their permanent residence status. The Committee is further concerned that the (2013) Act Regulating Compensation for Damage to Persons Erased from the Permanent Population Register (Compensation Act) excludes those who have not obtained legal status in the State party, and provides for inadequate financial compensation (art. 2, para. 2).

**The Committee recommends that the State party step up its efforts to restore the rights of the “erased”, including by regulating their legal status and enabling them to be reunited with their families. The State party is also encouraged to revise the Compensation Act with a view to ensuring that all “erased” persons can claim compensation under the Act without discrimination, and to raise the amount of compensation.**

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

14. The Committee is concerned that austerity measures, in particular the reduction in family allowance, have had a disproportionate effect on women, and that women, particularly those with higher education, are at a greater risk of poverty and more likely to be unemployed. The Committee is further concerned about the weak institutional framework for the promotion of equality, and regrets the limited information provided on

the implementation of the Equal Opportunities Between Men and Women Act (arts. 3 and 6).

**Taking into account the Committee's general comment No. 16 (2005) on the equal rights of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:**

- (a) Integrate a gender perspective into all its austerity measures with a view to ensuring respect for women's rights under the Covenant under all circumstances;
- (b) Take effective measures to prevent women's unemployment, especially among those with higher education, including by introducing temporary special measures with a specific target and timeline;
- (c) Strengthen the resources allocated to the Equal Opportunities and European Co-ordination Service, and expedite the adoption of the national gender equality strategy;
- (d) Effectively implement the Equal Opportunities between Men and Women Act and provide information on such measures in its next periodic report.

#### **Labour Inspectorate**

15. The Committee is concerned about the weak functioning and limited human resources of the labour inspectorate in the State party. The Committee is also concerned that labour law violations are on the rise and that access to justice in labour disputes is limited (art. 7).

**The Committee recommends that the State party strengthen the capacity of the labour inspectorate with a view to ensuring that labour law violations are accounted for and that perpetrators are brought to justice. The Committee further recommends that the State party withdraw any restrictions that hinder employees' access to justice in labour disputes.**

#### **Unemployment**

16. The Committee reiterates its previous concern about the high levels of unemployment in the State party particularly affecting youth, persons with disabilities and persons belonging to ethnic minorities, as well as concerning the continuous job insecurity faced by short-term contract workers (arts. 6 and 7).

**The Committee, in the light of its general comment No. 18 (2005) on the right to work, recommends that the State party:**

- (a) Pay particular attention to groups especially vulnerable to unemployment, and to that end, consider adopting both temporary special measures and long-term comprehensive strategies to prevent their unemployment;
- (b) With respect to employment for persons with disabilities, consider raising the employment quota in public administration and information services; and ensure that all such quotas are met by employers;
- (c) Take effective measures aimed at reducing employers' recourse to short-term contracts, with a view to increasing job stability, particularly among the youth.

#### **Migrant workers**

17. The Committee is concerned about the working conditions of migrant workers, which are characterized by low income and unlawful deductions, wage arrears, extra working hours without compensation, short-term contracts and subcontracting, lack of

social benefits for workers in the informal economy, and limited access to justice (arts. 7 and 9).

**The Committee urges the State party to take effective measures to ensure that all migrant workers enjoy the protection of labour laws and can access justice to remedy violations of their rights. The Committee further recommends that the State party bring those employers violating migrants' labour rights to justice, prosecute them and impose commensurate sanctions, if convicted.**

#### **Social security**

18. The Committee is concerned that some social security benefits are calculated on the basis of a minimum income in the State party that is far below the actual minimum cost of living. The Committee is further concerned that measures taken to address the economic crisis in the State party have resulted in reducing coverage and the amount of health care, pension and unemployment benefits. Such measures also introduced stricter eligibility conditions for social assistance benefit, disproportionately affecting marginalized groups and individuals, including unemployed persons, persons with disability, and older persons (arts. 2 and 9).

**Recalling its general comment No. 19 (2008) on the right to social security, the Committee recommends that the State party:**

- (a) **Revise the eligibility conditions and rates for social security benefits, including social assistance, while taking into account the actual cost of living in the State party, and paying particular attention to unemployed persons, persons with disability, and older persons;**
- (b) **Ratify International Labour Organization Convention No. 118 (1962) concerning Equality of Treatment (Social Security).**

#### **Domestic violence**

19. The Committee is concerned about the high prevalence of domestic violence in the State party, despite the implementation of the National Programme of Family Violence Prevention (2009–2014) and the adoption of some other measures. The Committee also expresses its concern at the limited effectiveness of protection mechanisms for victims of domestic violence, including the lack of enforcement of restraining orders issued against alleged perpetrators, and at the lenient sanctions imposed by courts against such perpetrators (art. 10).

**The Committee urges the State party to take all effective measures, including by introducing the necessary amendments to the Family Violence Prevention Act, to prevent incidents of domestic violence. The State party should ensure that protection mechanisms available to victims of violence are effectively implemented, including enforcement of restraining orders, adequate access to shelters for immediate physical protection, provision of legal aid and medical services, and remedies and compensation. The Committee also urges the State party to step up its public awareness measures, and to provide training to law enforcement officials and judges on the serious and criminal nature of domestic violence, also with a view to imposing commensurate sanctions against perpetrators.**

#### **Standard of living**

20. The Committee is concerned about the increasing risk of poverty in the State party, faced by especially disadvantaged and marginalized groups such as older persons, including pensioners, women, persons with disabilities, Roma, single-parent families and families

with only one employed parent. The Committee is also concerned at regional disparities in poverty levels, with the eastern and south-eastern regions being most affected by poverty (art. 11).

**While drawing attention to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001), the Committee recommends that the State party address the increasing risk of poverty faced in particular by members of disadvantaged and marginalized groups, and effectively implement a social protection strategy with the aim of better addressing the regional disparities in poverty levels that affect the equal enjoyment of the Covenant's rights.**

#### **Adequate housing for Roma**

21. The Committee is concerned that only about one third of Roma settlements are legalized, meaning that the majority of Roma who live in informal settlements are vulnerable to forced eviction, including in Trata pri betonarni, Mestni Log, Loke and Dobruska settlements. The Committee is further concerned that Roma living in informal settlements cannot obtain access to basic services such as water, electricity and sanitation. In addition the Committee expresses its concern that most Roma live in segregated areas characterized by substandard housing, and encounter discrimination when trying to buy or rent housing in other areas (arts. 2, para. 2, 11 and 12).

**The Committee recommends that the State party, while taking into account its general comment No. 4 (1991) on the right to adequate housing:**

- (a) Prioritize the legalization of Roma settlements, or work out other solutions in genuine consultation with the Roma communities concerned;
- (b) Pursue its commitment, as indicated during the dialogue, not to carry out forced evictions of Roma, and enact legislation governing forced evictions which complies with international standards and is in line with the Committee's general comment No. 7(1997) on forced evictions;
- (c) Ensure that Roma communities in informal settlements enjoy access to basic services, such as water, electricity and sanitation, in accordance, *inter alia*, with the recommendations set forth by the Governmental Commission on Roma in 2011, which requested municipalities to provide water to Roma;
- (d) Take effective measures to end segregation of Roma communities, and prevent acts of discrimination against Roma attempting to buy or rent housing outside their segregated areas;
- (e) Facilitate access to social housing for Roma.

#### **Access to social housing and housing for persons with disabilities**

22. The Committee is concerned that, under the Housing Act, citizens of non-European countries are not eligible to access social housing in the State party, and that in practice refugees do not enjoy access to social housing. The Committee also expresses its concern that, owing to insufficient accessible housing available for persons with disabilities, they are often placed in institutions (arts. 2, para. 2, and 11).

**The Committee urges the State party to repeal any discriminatory provisions from the Housing Act, and expedite the process of adopting a housing policy that addresses, *inter alia*, access to social housing by all residents without discrimination and the special housing needs of persons with disabilities. The State party should also adopt and implement regulations under the Equalisation of Opportunities for Persons with Disabilities Act, which also aim to facilitate housing to persons with disabilities.**

### **Health insurance system**

23. The Committee is concerned that the Fiscal Balance Act has had a negative impact on the State party's health insurance system. It has resulted inter alia in limiting health-care coverage; in additional health payments; in restricting employment in the health sector despite increasing needs; and in reduced compensation during temporary absence from work. The Committee is also concerned that individuals who do not possess citizenship or residence status in the State party are excluded from the basic health insurance (arts. 9 and 12).

**The Committee urges the State party to reform its health insurance system with a view to increasing the proportion of essential rights and services covered by the basic health insurance, and ensuring that all residents in the State party have access to basic health insurance without discrimination.**

### **Access to health services**

24. The Committee is concerned that regional disparities in access to health-care services persist, particularly the inadequate numbers of primary health-care experts in some of the remote rural areas, and that measures taken to that end were not comprehensive (arts. 2, para. 2, and 12).

**While the Committee takes note of the information provided by the State party's delegation that some measures are anticipated to reduce regional disparities in access to health services, including the development of a new health strategy, it urges the State party to step up its efforts to provide equal access to quality health-care services to all persons in the State party and report on those efforts in its next periodic report.**

### **Mental health**

25. The Committee expresses its concern about the shortage of child and adolescent psychiatrists. The Committee is further concerned that, despite the adoption of the Mental Health Act in 2008, a related national strategy is still absent (art. 12).

**In the light of its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee recommends that the State party:**

- (a) Ensure that all children and adolescents have effective access to psychiatrists across the State party;**
- (b) Expedite the adoption of the National Mental Health Programme, and provide it with the necessary resources to ensure its effective implementation.**

### **Access to education**

26. The Committee notes with concern the regional disparities in access to education, including tertiary education, with the eastern region of the State party being most affected by limited access to education (arts. 2, para. 2, and 13).

**The Committee recommends that the State party ensure equal access to quality education to all students in the State party without discrimination. To that end, it should enhance access to education, including tertiary education in the eastern region, by, inter alia, adopting temporary special measures.**

### **Access to education by Roma**

27. The Committee expresses its concern that, despite some measures taken to integrate Roma children into mainstream education and the adoption of the Strategy of Education of Roma (2011):

- (a) Roma children are rarely enrolled in preschool educational institutions;
- (b) The majority of Roma children in primary and secondary school are enrolled in classes for children with special needs;
- (c) Roma children achieve low school performance even at primary level;
- (d) Roma School drop-out rate at all school levels remains high (art. 13).

**The Committee urges the State party to strengthen the implementation of, and resources allocated to, existing measures, and adopt other effective and adequately resourced measures aimed at integrating Roma children into preschool institutions; ending school segregation; and reducing school dropout, including through enhancing access to, and the quality of, education for Roma.**

#### **Rights of national or ethnic minorities**

28. The Committee regrets the lack of information on the situation of national and ethnic minorities in the State party and on their actual enjoyment of rights under article 15 of the Covenant (art. 15).

**The Committee recommends that the State party take effective measures to ensure enjoyment of the right to take part in cultural life, including by minorities, and to report on such measures in its next periodic report. In that regard, 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.**

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

29. The Committee recommends that the State party expand its dialogue and cooperation with civil society organizations working in the area of promotion and protection of economic, social and cultural rights. The Committee also encourages the State party to consult with civil society organizations on the implementation of the Committee's recommendations and the preparation of the next periodic report.

30. The Committee, while acknowledging the contribution of the State party to official development assistance, encourages the State party to gradually increase its official development assistance with a view to achieving the international commitment of 0.7 per cent of its gross national product (GNP) and to pursue a human rights-based approach in its development cooperation policy, fully incorporating the rights contained in the Covenant.

31. The Committee encourages the State party to expedite its efforts in ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights as indicated during the dialogue, and to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.

32. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, particularly among parliamentarians, 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.

33. The Committee requests the State party to submit its third periodic report, in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2019.