



Economic and Social Council

Distr.: General
19 June 2015

Original: English

Advance unedited version

Committee on Economic, Social and Cultural Rights

Concluding observations on the third periodic report of Ireland*

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Ireland on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/IRL/3) at its 32nd and 33rd meetings (E/C.12/2015/SR.32-33) held on 8 and 9 June 2015, and adopted, at its fiftieth meeting held on 19 June 2015, the following concluding observations.

A. Introduction

2. The Committee notes the delay in submission by Ireland of the third periodic report and the timely submission of the written replies to the list of issues (E/C.12/IRL/Q/3/Add.1). The Committee appreciates the constructive dialogue with the State party's high-level delegation and the supplementary information provided by the State party following the dialogue.

B. Positive aspects

3. The Committee welcomes the signature by the State party of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (March 2012).

4. The Committee also welcomes:

(a) The accession to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (September 2014) with recognition of the inquiry procedure thereunder;

(c) The ratification of the ILO Domestic Workers Convention 2011 No. 189 (August 2014) and the ILO Maritime Labour Convention 2006 (July 2014); and

(b) The ratification of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (June 2010).

5. The Committee further welcomes:

* Adopted by the Committee at its fifty-fifth session (1-19 June 2015).

- (a) The referendum that has approved equal marriage in 2015;
- (b) The establishment of the Low Payment Commission in 2015;
- (c) The adoption of the Employment Permits (Amendment) Act 2014;
- (d) The Adoption of the Irish Human Rights and Equality Act and the establishment of the Irish Human Rights and Equality Commission in 2014;
- (e) The adoption of the National Action Plan for Social Inclusion 2007-2016 (2007); and
- (f) The adoption of a national policy on mental health, "A Vision for Change" (2006).

C. **Principal subjects of concern and recommendations**

Data collection

6. The Committee regrets that the data provided by the State party are outdated and not disaggregated and that the replies to the list of issues do not include sufficient data, which makes it difficult for the Committee to assess the actual and progressive realization of economic, social and cultural rights in the State party, including the impact of the measures taken during and after the economic crisis.

The Committee recommends that the State party include in its next periodic report detailed and updated information on the actual and progressive realization of economic, social and cultural rights, including statistical data disaggregated by year, sex, disability, ethnicity and other relevant criteria. In this respect, the Committee refers the State party to the conceptual and methodological framework for human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3).

Domestic application of the Covenant

7. The Committee regrets that, despite its previous recommendation (E/C.12/1/Add.77, para 23), no steps have been taken to incorporate the Covenant in domestic law and that the State party does not intend to do so. It is also concerned at the lack of training for judges, lawyers and public officials on economic, social and cultural rights.

The Committee reiterates its recommendation that the State party take all appropriate measures to ensure the direct applicability of the Covenant provisions, including through incorporation of the Covenant, in its domestic legal order, and enhance training for judges, lawyers and public officials. The Committee draws the State party's attention to its General Comment No. 9 (1998) on the domestic application of the Covenant.

Legal aid

8. The Committee is concerned at the lack of free legal aid services, which prevents especially disadvantaged and marginalized individuals and groups from claiming their rights and obtaining appropriate remedies, particularly in the areas of employment, housing and forced evictions, and social welfare benefits.

The Committee recommends that the State party ensure the provision of free legal aid services in a wider range of areas, including through expanding the remit of the Civil Legal Aid Scheme.

Irish Human Rights and Equality Commission (IHREC)

9. The Committee is concerned that the limited scope of human rights provided in Section 29 of the IHREC Act, coupled with the lack of recognition of economic, social and cultural rights in domestic law, is a major factor in preventing the IHREC from covering and applying the full range of Covenant rights in exercising its mandate.

The Committee recommends that the State party review the Act with a view to ensuring that the IHREC covers and applies all rights enshrined in the Covenant in exercising its functions.

Consultation with civil society

10. The Committee is concerned at the lack of meaningful consultation with civil society and relevant stakeholders in formulating and implementing policies and legislation, particularly relating to persons with disabilities, people living in poverty, Travellers and Roma, which often results in such policies and legislation being less effective.

The Committee recommends that the State party make necessary efforts to consult on a regular basis with civil society and relevant stakeholders in the policy-making process, including through establishing an effective consultation mechanism.

Maximum available resources

11. While noting the unprecedented economic and financial crisis that the State party went through and its exit from the bailout programme during the reporting period, the Committee notes with concern that, in spite of the social transfers made by the State party to mitigate the impact of austerity measures,:

(a) The State party's response to the crisis has been disproportionately focused on instituting cuts to public expenditure in the areas of housing, social security, health care and education, without altering its tax regime;

(b) Many austerity measures have been adopted during and after the crisis without proper assessments of their impact on economic, social and cultural rights;

(c) The austerity measures, which continue to be applied, have had significant adverse impact on the entire population, particularly on disadvantaged and marginalized individuals and groups, in enjoying their economic, social and cultural rights; and

(d) No review has been carried out of such measures in a comprehensive and human rights based manner, since the State party's exit from the bailout programme.

The Committee recommends that the State party:

(a) **Review, based on human rights standards, all the measures that have been taken in response to the economic and financial crisis and are still in place with a view to ensuring the enjoyment of economic, social and cultural rights. In this regard, it draws the State party's attention to its open letter of 16 May 2012 to States parties on economic, social and cultural rights in the context of the economic and financial crisis, in particular to the requirements that austerity policies must meet. The policies must be temporary, covering only the period of the crisis, and they must be necessary and proportionate. They must not result in discrimination and increased inequalities. They must comprise all possible measures, including tax measures, to ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately affected. They must also identify the minimum core content of the Covenant rights or a social protection floor and ensure the protection of this core content at all times;**

(b) Ensure that austerity measures are gradually phased out and the effective protection of the rights under the Covenant is enhanced in line with the progress achieved in the post-crisis economy recovery;

(c) Consider reviewing its tax regime, with a view to increasing its revenues to restore the pre-crisis levels of public services and social benefits, in a transparent and participatory manner; and

(d) Consider instituting human rights impact assessments in its policy-making process, particularly relating to the Covenant rights.

Non-discrimination

12. While noting the existence of a number of laws, including the Equality Status Act 2000, to provide equality provisions in the State party, the Committee is concerned that those laws do not provide a full range of grounds of discrimination prohibited by the Covenant (art. 2.2).

The Committee recommends that the State party adopt comprehensive anti-discrimination legislation that includes all the grounds for discrimination set out in article 2, paragraph 2, of the Covenant. The Committee refers in this regard to its General Comment no. 20 (2009) on non-discrimination and economic, social and cultural rights.

Persons with disabilities

13. The Committee is concerned at the persistent institutionalization of persons with disabilities, at poor living conditions of residential centres for persons with disabilities and at the lack of regular inspections of such centres. It is also concerned that the accessibility of persons with disabilities has been significantly restricted due to the cuts in social benefits (arts. 2.2, 9 and 11).

The Committee recommends that the State party take all the necessary steps to make available alternatives to institutionalization, including community-based care programmes, and to improve their living conditions in residential centres, including through regular inspections. It also recommends that the State party enhance the accessibility of persons with disabilities, including through cancelling the cuts on the social benefit programmes.

Asylum-seekers

14. The Committee regrets that the International Protection Bill has not yet been adopted. It is concerned at the poor living conditions and the lengthy stay of asylum-seekers in Direct Provision centres, originally designed as a short-term arrangement and run by private actors, which have a negative impact on their right to family life, their mental health and their children's best interests. It is also concerned at the restrictions asylum-seekers face in accessing employment, social security benefits, healthcare services and education (art. 2.2).

The Committee recommends that the State party:

(a) Expedite the adoption of the International Protection Bill with a view to introducing a single procedure to assess and determine without undue delay all forms of protection status for asylum-seekers as well as to strengthening the protection and promotion of their economic, social and cultural rights;

(b) Improve the living conditions in Direct Provision centres, including through the regular inspections of such centres and making the private actors

accountable for their actions and omissions, and address mental health issues of asylum-seekers;

(c) Take necessary steps to improve the reception of asylum-seekers with a view to ensuring their economic, social and cultural rights and facilitating their integration into the society.

Equality between men and women

15. The Committee regrets that article 41.2 of the Constitution on the role and status of women in Irish society remains unchanged. It is also concerned at the pervasive gender inequality in the State party, in particular the under-representation of women in decision-making positions across all sectors in the society and the widening gender pay gap, as well as the strong gender role stereotypes in the family and society (art. 3).

The Committee recommends that the State party amend article 41.2 of the Constitution with a view to rendering provisions in the Constitution gender-equal. It also recommends that the State party take effective measures to increase women's representation in decision-making positions in all areas, to close the gender pay gap and to eliminate the strong gender role stereotypes.

Unemployment

16. The Committee is concerned at the disproportionately high rates of unemployment among Travellers, Roma, young people and persons with disabilities. It regrets the lack of disaggregated data to enable a regular assessment of the unemployment situation of these groups (art. 6).

The Committee recommends that the State party step up its efforts to improve the employment situation, with targeted measures for Travellers, Roma, young persons and persons with disabilities, including through introducing a quota system as well as targeted professional training and employment support services. It also recommends that the State party improve the data collection on unemployment.

Right to just and favourable conditions of work

17. While noting the publication of the National Minimum Wage (Low Pay Commission) Bill 2015, the Committee is concerned at:

(a) The insufficient level of the minimum wage to ensure a decent living for workers and their families;

(b) The exemptions from the obligation to pay the statutory minimum wage even in cases of opposition from the majority of the workers, their representatives or the trade unions concerned;

(c) The inadequate working conditions of workers on zero-hour (or low-hour) contracts and their limited access to labour protection and social benefits as well as the lack of data on zero-hour contracts; and

(d) The lack of guarantee of the compensatory rest for working on a Sunday in the Organisation of Working Time Act 1997 (arts. 7 and 8).

The Committee recommends that the State party expedite the adoption of the National Minimum Wage (Low Pay Commission) Bill 2015 and the Industrial Relations (Amendment) Bill 2015, review all relevant legislation to ensure just and favourable conditions of work for all workers, including the minimum wage, working hours and rest days, and improve data collection, particularly on zero-hour contracts. It further recommends that the State party take the necessary steps to ensure that the

minimum wage applies to all employees and ensures a decent living for workers and their families.

Institutionalized forced labour – the Magdalene Laundries

18. The Committee regrets the massive and systemic forced labour that occurred, with the patronage of the state, between 1922 and 1996 in Magdalene Laundries. While noting the State party's apology to Magdalene survivors and the establishment of an ex-gratia restorative justice scheme in 2013, it remains concerned that there has been no prompt, thorough and independent investigation into the allegations regarding the Magdalene Laundries and that the survivors have not been given adequate remedies (art. 7).

The Committee recommends that the State party conduct a prompt, thorough and independent investigation into these allegations, bring those responsible to justice and provide all victims with effective remedies.

Right to collective bargaining

19. The Committee reiterates its concern about the obstacles imposed by the State party with respect to the right to collective bargaining of trade unions, through the requirement on collective bargaining licences. It is also concerned that the Industrial Relations (Amendment) Bill 2015 does not propose any change in terms of collective bargaining licences.

The Committee recommends that the State party, in its new legislation, enhance collective bargaining rights of trade unions and do away with the requirement to obtain collective bargaining licences.

Social security

20. The Committee is concerned at the large numbers of social welfare appeals due to the lack of clear understanding, and consistent application, of the eligibility criteria. It is further concerned that a considerable number of initial decisions on these appeals have been revoked (art. 9).

Bearing in mind that social welfare benefits provide a social safety net to the most disadvantaged and marginalized, the Committee recommends that the State party clarify the eligibility criteria regarding social welfare benefits as well as their application so as to avoid a large number of appeals. It further recommends that initial decisions on social welfare appeals are made in a consistent and transparent manner and that appropriate training be provided to the public officers who make such decisions.

Habitual Residence Condition (HR Condition)

21. The Committee is concerned at the discriminatory effect of the HR Condition on women who are victims of domestic violence, the homeless, migrants, Travellers and Roma in accessing social security benefits. It is also concerned at the lack of understanding of, and clear guidelines for, the relevant officials on the criteria applicable to decide on the HR condition (art. 9).

The Committee recommends that the State party review the HR Condition so as to eliminate its discriminatory impact on access to social security benefits, particularly among disadvantaged and marginalized individuals and groups, and ensure the consistent application of the criteria by providing clear guidelines and training to the relevant officials.

Domestic violence

22. The Committee is concerned that domestic violence is pervasive in the State party. It is further concerned at the legislative gaps in investigating and sanctioning the perpetrators as well as providing protection and assistance to victims of domestic violence and the lack of a systematic data collection as well as the insufficient support services for these victims due to funding cuts (art. 10).

The Committee recommends that the State party take all necessary measures to combat domestic violence, in particular through introducing a Domestic Violence Bill, improving data collection on domestic violence and strengthening support services, including shelters and legal aid, for victims of domestic violence.

Maternity benefits and childcare services

23. The Committee is concerned that not all women workers are covered by the maternity benefits scheme and that paternity leave is not statutory. It is also concerned at the very high cost of childcare services provided by private actors and the lack of affordable public childcare services in the State party (art. 10).

The Committee recommends that the State party review the maternity benefits scheme with a view to ensuring that all women workers benefit from the scheme and expedite the enactment of the Family Leave Bill to ensure statutory entitlement to all family-care related leaves, including paternity leave. It also recommends that the State party take all necessary measures to meet the childcare needs of families, including through expanding affordable public childcare services.

Poverty

24. The Committee is concerned at the increase in the number of people living in consistent poverty or at-risk-of-poverty, particularly among children, single-parent families, older persons, persons with disabilities, migrants, Travellers and Roma. It is also concerned at the lack of integration of economic, social and cultural rights into the poverty reduction policies as well as at the absence of concrete policies addressing the specific needs of the affected groups (art. 11).

The Committee recommends that the State party step up its efforts to reduce poverty, with a special attention to disadvantaged and marginalized individuals and groups, including through the adoption of poverty reduction programmes and strategies with concrete targets and a time-frame for implementation. It further recommends that the State party integrate a human rights based approach in all poverty reduction programmes and strategies, guaranteeing entitlements to individuals and ensuring accountability.

Food insecurity and malnutrition

25. The Committee is concerned at the increase in food insecurity and malnutrition among disadvantaged families, including single-parent families and families with children and at the high cost of healthy food in the State party, which puts these families at risk of obesity (art. 11).

The Committee recommends that the State party take concrete measures to address the critical food and nutritional needs of disadvantaged families and expedite the adoption of a national action plan on food security and nutrition in line with the 2004 Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security.

Adequate housing

26. The Committee is concerned at the overall difficult housing situation in the State party, which includes:

- (a) The continuing gaps between availability and demand for social housing, which result in a long waiting list for social housing;
- (b) The increased costs of rental housing and reduced family incomes;
- (c) The ineffective social support programmes, such as the Rent Supplements and the Housing Assistance Payment, which do not reflect rent increases;
- (d) The increasing number of long-term mortgage arrears;
- (e) The growing number of families and children that are, or at the risk of being, homeless, as a result of the lack of social housing and the inadequate levels of rent supplement; and
- (f) The lack of effective complaint mechanisms for local authority tenants on tenancy-related issues.

The Committee is also concerned at the lack of culturally appropriate accommodation provided to Travellers and Roma and of adequate legal protection of Traveller families at risk of eviction (art. 11).

The Committee draws the State party's attention to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on the right to adequate housing: forced evictions and recommends that the State party:

- (a) Review policies with a view to making them more effective in responding to the real needs of the population, especially disadvantaged and marginalized individuals and groups;**
- (b) Step up its efforts to increase the number of social housing units so as to satisfy the high demand and to reduce the long waiting list;**
- (c) Consider introducing legislation on private rent and increasing the Rent Supplement levels;**
- (d) Consider introducing banking regulations in order to strengthen protection for mortgage borrowers in arrears, including through the provision of an independent appeal system to assist such borrowers in negotiating, with legal and financial advice, an equitable arrangement with their lenders to address their arrears situations;**
- (e) Take all necessary measures to meet the critical needs of those who are, or at the risk of being, homeless; and**
- (f) Establish effective complaint mechanisms for local authority tenants on housing issues.**

The Committee also reiterates its previous recommendations (E/C.12/1/Add.77, paras. 32-33) that the State party take steps to provide Travellers and Roma with culturally appropriate accommodation in consultation with them and ensure that the funding allocated to Traveller housing at local level is fully and appropriately spent to this end.

Healthcare services

27. The Committee is concerned at the overall deteriorating healthcare services, affected by significant budget cuts in public health in recent years, and at the negative impact on the

access of disadvantaged and marginalized individuals and groups to adequate healthcare, in particular:

- (a) The widening disparity between people with and those without private health insurance in accessing medical services,
- (b) The delay in providing universal health services and community-based health services;
- (c) The lack of oversight of healthcare services; and
- (d) The poor health state of Travellers and Roma, particularly their life expectancy and infant mortality which are respectively 15 years less and more than three times higher than the general population (art. 12).

The Committee recommends that the State party take all necessary measures to improve, in both qualitative and quantitative terms, its public healthcare services, including through increasing public spending on healthcare, introducing a common waiting list for treatment in publicly funded hospitals for privately and publicly insured patients, and expediting the introduction of a universal health services system and community-based health services. It also recommends that the State party strengthen the Health Information and Quality Authority to ensure quality health services and take effective measures without delay to reduce the disparity between Travellers and Roma and the general public in health and access to health services

Mental health

28. The Committee is concerned at the significant lack of funding and at the inadequate legal framework for mental health as well as at the delay in implementing a national mental health policy, 'A Vision for Change'. It is also concerned at the admission of children with mental health difficulties to psychiatric facilities for adults (art. 12).

The Committee recommends that the State party revise the Mental Health Act 2001, in light of the recommendations of the Expert Group Review of the Mental Health Act 2001 and expedite the implementation of 'A Vision for Change' through the allocation of sufficient resources. It also recommends that the State party take immediate measures to separate child patients from adults in psychiatric facilities.

Sexual and reproductive health

29. The Committee is concerned at the State party's highly restrictive legislation on abortion and strict interpretation thereof. It is particularly concerned at the criminalization of abortion, including in the cases of rape and incest and of risk to the health of a pregnant woman; the lack of legal and procedural clarity on what constitutes a real substantive risk to the life, as opposed to the health, of the pregnant woman; and the discriminatory impact on women who cannot afford to get abortion abroad or access to the necessary information. It is further concerned at the limited access to information on sexual and reproductive health (art. 12).

The Committee recommends that the State party take all necessary steps, including a referendum on abortion, to revise its legislation on abortion, including the Constitution and the Protection of Life During Pregnancy Act 2013, in line with international human rights standards; adopt guidelines to clarify what constitutes a real substantive risk to the life of a pregnant woman; publicize information on crisis pregnancy options through effective channels of communication; and ensure the accessibility and availability of information on sexual and reproductive health.

Right to education

30. The Committee is concerned at the discrimination faced by children with disabilities, migrant children, children belonging to a religious minority, Traveller and Roma children, including:

(a) Legal provisions, such as Section 7 of the Equal Status Acts 2000, which allow schools to give preference to admission of students based on religion;

(b) Discriminatory criteria against children with special educational needs contained in many admissions policies and the lack of a regulatory framework; and

(c) Adverse effects of the austerity measures on the education sector, including the reduced number of teachers, rationalization of teacher/student support services, abolition of grants to schools, increase in transport charges and reduced allowance for clothing and footwear, which further restrict disadvantaged children from attending schools (arts. 13 and 14).

The Committee recommends that the State party:

(a) **Take all necessary measures to bring all relevant laws, including the Equal Status Acts 2001 and the Education (Admission to Schools) Bill 2015 in line with the international human rights standards and to increase the number of non-denominational schools at the primary and post-primary education levels;**

(b) **Review admissions policies of all schools with a view to removing all discriminatory criteria for enrolment and establish a regulatory mechanism to monitor school policies, including admissions policies; and**

(c) **Revoke the austerity measures which affect disproportionately disadvantaged children.**

31. The Committee is concerned at the prevalence of Traveller children and children with disabilities in the Delivering Equality of Opportunity in Schools (DEIS) and their disproportionately low level of entry to high education. It is also concerned at the high rate of Traveller children who leave school before the age of 15.

The Committee recommends that the State party step up its efforts to enhance the inclusive education for all, including the implementation of the 2004 Education for Persons with Special Education Needs Act, to ensure the equal opportunities of all children to quality education.

Travellers

32. The Committee is concerned at the State party's longstanding non-recognition of Travellers as an ethnic minority. It is also concerned that Travellers are not included as an ethnic minority in anti-discrimination legislation (arts. 15 and 2.2).

The Committee recommends that the State party expedite its efforts to give legal recognition to Travellers as an ethnic minority and include them as an ethnic minority in anti-discrimination legislation.

Access to the Internet

33. The Committee is concerned that the people living in rural areas have limited access to broadband Internet (art. 15).

The Committee recommends that the State party intensify its efforts to expand broadband Internet access to rural areas.

D. Other recommendations

34. The Committee encourages the State party to ensure that, before entering into any agreement with, or implementing any fiscal consolidation policy prescribed by international organizations, including international financial institutions such as the International Monetary Fund, such agreement or policy is in compliance with its obligations under the Covenant. It further encourages the State party, as a member of international organizations, including international financial institutions such as the International Monetary Fund, to ensure that the policies of these organizations are in conformity with the obligations of State parties under the Covenant.

35. The Committee encourages the State party to achieve its commitment to official development assistance of 0.7 per cent of its gross national product and to pursue a human rights based approach in its development cooperation policy.

36. The Committee encourages the State party to withdraw its reservation to Article 13, paragraph 2(a) of the Covenant and to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities.

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

38. The Committee requests the State party to submit its fourth periodic report by 30 June 2020 and invites the State party, if necessary, to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).