United Nations E/C.12/CYP/CO/6

Distr.: General

28 October 2016

Original: English

Economic and Social Council

Committee on Economic, Social and Cultural Rights

Concluding observations on the sixth periodic report of Cyprus *

1.The Committee on Economic, Social and Cultural Rights considered the sixth periodic report of Cyprus on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/CYP/6) at its 53rd and 54th meetings (see E/C.12/2016/SR.53 and 54) held on 20 and 21 September 2016, and adopted the following concluding observations at its 78th meeting, held on 7 October 2016.

A.Introduction

2.The Committee welcomes the submission of the sixth periodic report of the State party and the supplementary information provided in the replies to the list of issues (E/C.12/CYP/Q/6/Add.1). The Committee appreciates the constructive dialogue held with the State party's high-level delegation.

B.Positive aspects

3.The Committee welcomes the adoption by the State party of:

(a)The National Action Plan for Youth Employment 2015-2017;

(b)The Law on the Minimum Guaranteed Income and Generally on Social Provision, in 2014;

(c)The Law on Equal Pay for Men and Women for Equal Work or Work of Equal Value (Amendment), in 2014;

(d)The National Action Plan on Gender Equality 2014-2017;

(e)The Safety and Health at Work (Amendment) Law, in 2011;

(f)The Maternity Protection (Amendment) Law, in 2011;

(g)The Equal Treatment of Men and Women in Employment and Vocational Training (Amendment) Law, in 2009;

(h)The Recruitment of Persons with Disabilities in the Wider Public Sector (Special Regulations) Law, in 2009.

4.The Committee also welcomes the ratification by the State party of:

(a)The Convention on the Rights of Persons with Disabilities, in 2011;

(b)The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2010;

(c)The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2009.

C.Principal subjects of concern and recommendations

Domestic application of the Covenant

5.The Committee notes that the Covenant has supremacy over all domestic laws under the Constitution and may be invoked in the courts and that there are Supreme Court judgments on cases relating to economic, social and cultural rights. The Committee is, however, concerned that the Constitution does not incorporate all the rights enshrined in the Covenant. It regrets the lack of information on decisions invoking the Covenant adopted by lower courts.

6. The Committee recommends that the State party take all appropriate measures to ensure that the rights enshrined in the Covenant are fully incorporated in its domestic legal order and, as with civil and political rights, have constitutional rank in order to ensure that they are protected by the domestic courts at all levels. It also recommends that the State party enhance training for judges, lawyers and public officials on the Covenant. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

The Office of the Commissioner for Administration and Human Rights

7.The Committee is concerned that the Office of the Commissioner for Administration and Human Rights is not fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It is particularly concerned about the lack of a transparent and participatory process for the selection and appointment of the Commissioner, the absence of explicit legal provisions on the promotional mandate of the Commissioner, the insufficient level of funding and the lack of financial and administrative autonomy.

8. The Committee recommends that the State party take all measures necessary to ensure that the Office of the Commissioner for Administration and Human Rights is fully compliant with the Paris Principles. In particular, it recommends that the State party:

(a) Base the appointment process on the principles of openness, participation and transparency;

(b) Ensure that the promotional mandate of the Commissioner is explicitly provided by law;

(c) Allocate sufficient resources to, and ensure the financial autonomy of, the Office of the Commissioner;

(d) Empower the Office of the Commissioner to recruit its own staff.

Legal aid

9.The Committee is concerned that, despite the measures taken by the State party, disadvantaged and marginalized individuals and groups still find it difficult to claim their economic, social and cultural rights owing to the limited access to free legal aid. It notes the lack of detailed information on legal aid programmes in the State party, including the number of beneficiaries of, and the budget allocated to, those programmes.

10. The Committee recommends that the State party step up its efforts to provide free legal aid to persons who need it, particularly women, persons with disabilities, migrant workers and asylum seekers, and to ensure that the coverage, eligibility and services provided are adequate.

Maximum available resources

11.While noting the recent economic crisis in the State party and the accomplishment of the macroeconomic adjustment programme, the Committee notes with concern the continuing significant decrease in public spending, particularly in the areas of social protection, housing, health and education, under fiscal consolidation measures. It is also concerned that those measures have had a disproportionately adverse impact on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups. It notes that there is no information provided by the State party on the comprehensive impact of austerity measures on the enjoyment of economic, social and cultural rights (art. 2 (1)).

12. The Committee recommends that the State party:

(a) Review, while applying human rights standards, all the measures that have been taken in response to the economic crisis with a view to ensuring everyone's enjoyment of economic, social and cultural rights. In this regard, it draws the State party's attention to its open letter dated 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. It also draws the State party's attention to its 2016 statement on public debt, austerity measures and the Covenant (E/C.12/2016/1);

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

(c) Restore the pre-crisis levels of public services and social benefits;

(d) Institute human rights impact assessments in its policymaking processes.

Non-discrimination

13.The Committee is concerned at the persistent discrimination against non-European Union migrants (third country migrants), Turkish Cypriots and members of ethnic minorities, especially Roma. While noting the legal and institutional measures taken by the State party to combat discrimination, the Committee is concerned at the remaining discriminatory provisions in existing legislation, such as section 5 of the Equal Treatment in Employment and Occupation Law of 2004, which does not cover discrimination based on nationality, the legal protection gap regarding multiple discrimination or the limited scope of anti-discrimination jurisprudence, reportedly owing to the lack of awareness of the anti-discrimination laws (arts. 2 (2) and 3).

14. The Committee recommends that the State party further strengthen its anti-discrimination legislative framework, including by reviewing the existing anti-discrimination laws. In this context, the Committee urges the State party to review the existing legislation with a view to removing all discriminatory provisions. The Committee recommends that the State party adopt a comprehensive anti-discrimination law that prohibits all direct, indirect and multiple forms of discrimination on any grounds and that provides for effective remedies for victims of discrimination, including within judicial and administrative proceedings. It also recommends that the State party intensify its efforts to raise awareness of the anti-discrimination legal framework among the public, particularly rights holders and judicial and law enforcement officials. In this regard, it draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Asylum seekers

15.While noting the efforts made by the State party to improve the situation of asylum seekers, the Committee is concerned at:

(a)The inadequate conditions of, and services provided at, the reception centres for asylum seekers, particularly for women and children, and the use of the emergency facility for an extended period;

(b)The insufficient amount of the social assistance benefits provided to asylum seekers, which is less than half of the guaranteed minimum income;

(c)The very limited range of employment opportunities for asylum seekers, which are mostly offered in remote areas without adequate transport or accommodation provided;

(d)The new detention policy concerning asylum seekers, which allows for the detention of asylum seekers who have a judicial recourse pending before the Supreme Court and does not provide for the release of asylum seekers who are under deportation orders and subsequently apply for asylum during detention (arts. 2 (2), 3, 6 and 11).

16. The Committee recommends that the State party continue its efforts to:

(a) Expand the reception capacity of the existing reception centre in Kofinou and consider creating additional capacity elsewhere, and ensure that the emergency facility is used only for its initial purpose;

(b) Improve the services provided to asylum seekers at the reception centre, including health-care services, social and psychological counselling and language and vocational training, and make transportation to asylum seekers' workplaces available;

(c) Ensure that all the specific needs of women, children and persons with disabilities are fully recognized in the policies and programmes concerning asylum seekers;

(d) Increase the amount of the social assistance benefits provided to asylum seekers to the level of the guaranteed minimum income to ensure an adequate standard of living;

(e) Expand the range of jobs and employment opportunities that asylum seekers can access;

(f) Review its asylum detention policy with a view to limiting the detention of asylum seekers only to situations in which it is absolutely necessary and shortening the time that rejected asylum seekers spend in detention to an indispensable minimum, and apply, as a rule, measures and alternatives to detention.

Equality between men and women

17.The Committee is concerned at the large gender disparity in labour market participation and the large gender pay gap owing to the vertical and horizontal occupational sex segregation. It is also concerned that, despite the increase in the number of women in Parliament, they are still underrepresented at decision-making levels both in the public and private sectors. It regrets the insufficient information on women's representation at decision-making levels in the public sector, including the executive and the judiciary, and in the private sector (arts. 3, 6 and 7).

18. The Committee recommends that the State party take all measures necessary to:

(a) Increase the level of participation of women in the labour market;

(b) Increase women's representation in decision-making positions in the public sector and encourage greater representation of women in senior positions in the private sector;

(c) Take effective measures to close the pay gap between men and women, including through strengthening the enforcement of the Law on Equal Pay for Men and Women for Equal Work or Work of Equal Value (Amendment) of 2014;

(d) Ensure the full implementation of the measures outlined in the National Action Plan on Gender Equality 2014-2017.

Right to work

19.The Committee is concerned at the continuing high level of unemployment, which persists despite the significant improvement of the employment situation over the past two years. It is particularly concerned at the high rate of youth unemployment and the large number of long-term unemployed persons. It regrets the lack of information on the implementation of the Recruitment of Persons with Disabilities in the Wider Public Sector (Special Provisions) Law of 2009 (art. 6).

20. The Committee recommends that the State party step up its efforts to reduce unemployment, including by continuing to prioritize adequate vocational training, especially for the long-term unemployed in order to strengthen their position in the labour market. It also recommends that the State party continue to strengthen its actions to combat youth unemployment, particularly through the effective implementation of the National Action Plan for Youth Employment 2015-2017. It requests the State party to provide information, in its next periodic report, on the employment of persons with disabilities, including the outcome of the implementation of the Recruitment of Persons with Disabilities in the Wider Public Sector (Special Provisions) Law.

Undeclared workers

21.While noting that the level of undeclared workers amounts to approximately 17 per cent of the total workforce according to the State party's estimation based on complaints it has received, the Committee is concerned that the State party does not have comprehensive information on the situation of workers who are not adequately covered by labour legislation and social protection (arts. 6 and 7).

22. The Committee recommends that the State party take all measures necessary to protect all workers, including by carrying out a nationwide survey on the size and nature of undeclared work, developing effective legislative and policy measures to ensure that all workers enjoy just and favourable conditions of work and adequate social protection, and strengthening complaint mechanisms and labour inspections to protect those rights.

Minimum wage

23.The Committee is concerned at the very low level of coverage (13 per cent) of the workforce by minimum wages and at the insufficient level of the minimum wages, which have been frozen since 2012 (art. 7).

24. The Committee recommends that the State party take the measures necessary to expand coverage to all workers entitled to the minimum wage. It also recommends that the State party increase the minimum wages and regularly adjust them to the cost of living so as to ensure an adequate standard of living for workers and their families. The Committee draws the State party's attention to its general comment No. 23 (2016) on the right to just and favourable conditions of work.

Right to just and favourable conditions of work

25.While noting that issues relating to wages and working conditions are mainly resolved by means of collective agreements arrived at through tripartite social dialogue, the number of such agreements is declining and the Committee is concerned at the limited legal regulation of labour relations. It is also concerned at the decreasing unionization rate and the lack of detailed information on how the rights of non-unionized workers are protected (arts. 7 and 8).

26. The Committee recommends that the State party incorporate the labour rights enshrined in the Covenant in its law, ensure that collective agreements are in conformity with those rights, and take all measures necessary to ensure that the labour rights of both unionized and non-unionized employees, including the rights to just and favourable conditions of work, are fully protected.

Migrant workers

27.The Committee reiterates its concern that non-European Union migrants continue to experience labour exploitation and social isolation, especially those working in the farming and agricultural sector. It is concerned at the precarious situation of domestic workers, the majority of whom are non-European Union migrant women, and at the absence of labour inspections to monitor their working conditions. The Committee regrets the State party's intention not to regularize the situation of undocumented migrant workers and the lack of information on their situation in the State party (arts. 2 (2), 6 and 7).

28. The Committee recommends that the State party:

(a) Ensure that the terms of employment and working conditions of migrant workers are adequately and regularly regulated and inspected;

(b) Ensure that the Equal Treatment of Men and Women in Employment and Vocational Training (Amendment) Law of 2002 and the Safety and Health at Work (Amendment) Law of 2011 are applied to domestic work;

(c) Expedite the adoption of the national action plan on the integration of migrants legally residing in Cyprus, originally envisaged for 2014-2016, and fully implement it once it has been adopted;

(d) Reconsider its position on the regularization of undocumented migrants and provide, in its next periodic report, information on the situation of undocumented migrants and on the measures taken to protect their economic, social and cultural rights.

Guaranteed minimum income

29.The Committee notes with great interest that the State party decided to take an innovative step by integrating public assistance programmes into the framework of the guaranteed minimum income. The Committee is, however, concerned at:

(a)The insufficient level of the benefit, which does not guarantee an adequate standard of living to beneficiaries and their families;

(b)The exclusion of beneficiaries of the existing public assistance programmes, who may not qualify for the guaranteed minimum income, although they are still in need of social assistance;

(c)The misuse of the concept of minimum income by employers to drive down the wages of workers in precarious working conditions, such as non-European Union nationals and low-paid employees;

(d)The complex and bureaucratic application procedure (art. 9).

30. The Committee recommends that the State party take all measures necessary to:

(a) Increase and periodically review the amount of the guaranteed minimum income in order to ensure an adequate standard of living for beneficiaries and their families;

(b) Ensure that those who do not qualify for the guaranteed minimum income but remain in need of social assistance are not left without adequate protection;

(c) Monitor employers in order to ensure that the existence of the guaranteed minimum income does not negatively affect the wages of workers in precarious working conditions;

(d) Decrease targeting errors in implementing the minimum guaranteed income and streamline the application procedure.

Domestic violence

31.While noting the efforts made by the State party to combat domestic violence, the Committee remains concerned at the low number of convictions and the lenient punishment imposed on perpetrators. It is also concerned at the insufficient support provided for the victims of domestic violence, including shelters, legal aid and treatment for the physical and psychological effects of such violence (art. 10).

32. The Committee urges the State party to intensify its efforts to ensure that all reported cases of domestic violence are promptly and thoroughly investigated and that the perpetrators are punished with penalties commensurate with the gravity of the offences. It recommends that the State party provide adequate support to the victims of domestic violence by increasing the number of shelters and allocating sufficient funding for legal aid, as well as physical and psychological treatment. It also recommends that the State party improve the data-collection system on domestic violence.

Trafficking in human beings

33.The Committee is concerned at the low number of convictions for trafficking in human beings, despite the high number of identified trafficking victims. It is also concerned at the prevalence of trafficking in migrant workers for the purposes of sexual and labour exploitation, the insufficient enforcement of the regulatory framework and the lack of monitoring of private recruitment agencies (art. 10).

34. The Committee calls upon the State party to step up its efforts to effectively investigate acts of trafficking and to prosecute and punish perpetrators with penalties commensurate with the gravity of the offences. It recommends that the State party take effective measures to strictly enforce existing legislation pertaining to private employment agencies and monitor their activities with a view to preventing trafficking in migrant workers, particularly women.

Poverty

35.The Committee is concerned that the number of persons living in poverty has significantly increased, particularly during the economic crisis, and that more than a quarter of the population (27.4 per cent) is at risk of poverty (art. 11) and does not enjoy an adequate standard of living.

36. The Committee recommends that the State party intensify its efforts to combat poverty, including through the comprehensive analysis of the needs of the most disadvantaged and marginalized individuals and groups and the adoption of concrete and targeted measures to address those needs. In this regard, the Committee draws the State party's attention to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

Right to housing

37.The Committee is concerned at the constantly decreasing budget allocated to housing during the reporting period, which has negatively affected disadvantaged and marginalized individuals and groups, particularly displaced persons, Roma and low-income families. It also notes with concern the marked increase in the number of evictions during the reporting period, the majority of which are the result of rent arrears. The Committee regrets the lack of information provided on the legal safeguards against forced eviction and remedies for the victims of forced eviction, as well as disaggregated statistical data on the number of such forced evictions (art. 11).

38. The Committee recommends that the State party take all measures necessary to ensure the right to adequate housing for all and to increase the budget allocation to housing with a view to providing affordable social housing units, improving the existing housing conditions for disadvantaged and marginalized individuals and groups, and addressing the issue of rent arrears. It also recommends that the State party ensure that a legal framework is in place establishing the procedures to be followed in the case of evictions that is in line with the international standards and guidelines contained in the Committee's general comment No. 7 (1997) on forced evictions.

Right to health

39.The Committee is concerned at the low level of public spending on health-care services, which has decreased during the economic crisis, and the high share of household spending on health care. It is also concerned at the limited range of health-care services

provided by the public health system and long waiting lists. It is further concerned that asylum seekers and undocumented migrants are reportedly limited in their access to health-care services, despite the measures taken by the State party (art. 12).

40. The Committee recommends that the State party take all measures necessary to improve the public health system, including through the substantial increase of funding allocated to the system, with a view to ensuring that a wider range of good quality health-care services are provided in a timely manner. In this regard, it calls upon the State party to introduce the universal national health system as planned for 2017 and to ensure its effective functioning thereafter. It recommends that the State party take the steps necessary to remove the obstacles facing asylum seekers and undocumented migrants in accessing health-care services.

Right to education

41.The Committee is concerned that the definition of inclusive education provided for in domestic laws is not fully compliant with international norms. It is also concerned that children with disabilities still face difficulties in participating in inclusive education owing to the insufficient level of reasonable accommodation provided to them. While welcoming the establishment of a mechanism of early identification of disabilities, the Committee remains concerned that the mechanism is not effective in identifying and supporting children with disabilities at the earliest possible stage of development (arts. 13 and 14).

42. The Committee recommends that the State party review the legal definition of inclusive education with a view to bringing it into line with international norms. It also recommends that the State party step up its efforts to ensure that all children with disabilities are provided with reasonable accommodation to fully participate in inclusive education at all levels of education. It further recommends that the State party improve the mechanism of early identification of disabilities to ensure that children with disabilities get the support necessary from the earliest possible stage of their development.

Cultural rights

43.The Committee welcomes the establishment of the Technical Committee on Cultural Heritage, which is in charge of preservation and restoration of cultural heritage sites both in the southern and northern parts of Cyprus. While noting that the State party does not exercise control over all of its territory and is thus unable to protect and promote the Covenant rights, including cultural rights, throughout the island, the Committee is deeply concerned at the massive destruction of cultural heritage sites and artefacts, mostly in the northern part of Cyprus. It is also concerned at the limited access of people in Cyprus to their cultural heritage sites (art. 15).

44. The Committee recommends that the State party take all measures necessary and appropriate to restore the damaged cultural heritage sites and artefacts and to preserve the remaining ones, including through strengthening the Technical Committee on Cultural Heritage with sufficient resources. It also recommends that the State party take effective measures to ensure that people in Cyprus can freely visit cultural heritage sites in both the southern and the northern parts of the island.

D.Other recommendations

45. The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

46. The Committee also 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 and the International Convention for the Protection of All Persons from Enforced Disappearance.

47. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principle of participation, accountability and non-discrimination would ensure that no one is left behind.

48. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

49. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national, municipal and territorial levels, particularly among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

50. The Committee requests the State party to submit its seventh periodic report, to be prepared in accordance with the

reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2021. In addition, it invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).