

		E/C.12/ITA/CO/5
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Committee on Economic, Social and Cultural Rights

Concluding observations on the fifth periodic report of Italy *

- . The Committee on Economic, Social and Cultural Rights considered the fifth report of Italy on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ITA/5) at its 57th to 58th meetings (E/C.12/2015/SR57 and 58) held on 25 September 2015, and adopted, at its seventy eighth meeting held on 9 October 2015, the following concluding observations.
 - A. Introduction
 - . The Committee welcomes the fourth periodic report submitted by the State party and the supplementary information provided in the replies to the list of issues (E/C.12/ITA/Q/5/Add.1) albeit regretting these were submitted with considerable delay. The Committee also welcomes the oral replies provided by the delegation.
 - B. Positive aspects
 - . The Committee welcomes the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2015.
 - 0. The Committee also appreciates the ratification of, or accession to, the following international human rights instruments:
 - (a) Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2009;
 and,
 - (b) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2013.
 - . The Committee notes with appreciation the following legislative and policy measures taken by the State party:
 - (a) Act No. 107/2015 on reform of the national system of education and training;
 - (b) The Jobs Act reform, no. 183/2014;
 - (c) Act No. 99/2013 on the Promotion of Occupation and Social Cohesion;
 - (d) Youth Guarantee programme in 2014;
 - (e) Establishment of National Office Against Racism in 2013; and,
 - (f) National Strategy for the Inclusion of Roma, Sinti and Travellers Communities in 2012.
 - C. Principal subjects of concern and recommendations
- Justiciability of the Covenant
- . The Committee is concerned that the Covenant provisions are not fully reflected in the State party's Constitution and thus not all Covenant rights are justiciable. The Committee is also concerned that the provisions of the Covenant have not been invoked before or applied by domestic courts.
 - 0. **The Committee recommends that the State party take steps to fully incorporate the Covenant in the State party's legal order and thus render the economic, social and cultural rights enshrined therein justiciable in domestic courts. It also encourages the State Party to step up its efforts in raising the awareness of the members of the judiciary, the lawyers and the rights holders, of the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, as well as the justiciability of those rights. The Committee further invites the State Party to consider recognising the competence of the Committee under article 11 of the Optional Protocol. The Committee draws the State**

party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

Austerity measures

0. While recognizing the financial crisis faced by the State party, the Committee expresses concern that the levels of effective protection for the rights enshrined in the Covenant have been reduced as a result of the austerity measures adopted by the State party, which adversely affect the enjoyment of the Covenant rights particularly by disadvantaged and marginalized individuals and groups.
0. **The Committee recommends that the State party review, based on human-rights-impact-assessment, all the measures that have been taken in response to the 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.**

Corruption

0. While acknowledging the adoption of the Anti-Corruption Act in 2012, the Committee is concerned that corruption remains pervasive within the State party, including in the judiciary. It is also concerned about the inadequate and under-resourced institutions established to curb corruption.
0. **The Committee urges the State party to increase its efforts in combating corruption, including in the judiciary. It calls upon the State party to, among other measures, guarantee the transparency and independence of its anti-corruption institutions, as well as investigate all allegations of corruption, and ensure effective implementation of the anti-corruption law. It also encourages the State party to allocate sufficient resources to the anti-corruption agency, implement a zero-tolerance policy against corruption, and ensure effective protection of victims of corruption, whistle-blowers, and their lawyers.**

Official development assistance

0. The Committee expresses concern over the decline in the State party's official development assistance from the already low figure of 0.2 percent of gross national product (GNP) in 2006 to a mere 0.15 percent in 2010.
0. **The Committee calls on the State party to progressively increase its official development assistance to the internationally agreed level of 0.7 percent of GNP and to pursue human rights-based approach in its development cooperation policy reflecting the rights enshrined in the Covenant.**

National human rights institution

0. While noting the information provided by the delegation about the pending draft laws aimed at establishing a national human rights institution, the Committee remains concerned about continuous delays in doing so despite its previous recommendation.
0. **The Committee urges the State party to redouble its efforts to establish an adequately resourced national human rights institution that is compliant with the principles relating to the status of national institutions (Paris Principles), mandated with protection and promotion of all human rights, including economic, social and cultural rights.**

Non-discrimination legal framework

0. While taking note of the anti-discrimination provision in the State party's Constitution, the Committee is concerned that not all grounds of discrimination prohibited under the Covenant are enumerated in that provision, and that existing legislation address only some grounds of discrimination. The

Committee is also concerned that same-sex unions are not recognized in the State party's legislation (art. 2, para 2).

0. **The Committee recommends that the State party take steps to adopt a comprehensive anti-discrimination law, guaranteeing protection for all against discrimination in the enjoyment of economic, social and cultural rights, and encompassing all forms of discrimination, including sexual orientation and gender identity. The State party is also recommended to recognize that individuals in same - sex unions are entitled to equal enjoyment of their economic, social and cultural rights. The Committee draws the State party's attention to its general comment no. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Migrants, asylum seekers and refugees

- . The Committee appreciates the efforts made by the State party including through the launch of 'Mare Nostrum' Operation in 2013 to receive and host the exceptional number of migrants, asylum seekers and refugees. The Committee, however, remains concerned about the reported practice of push-backs, and about the limited enjoyment of the Covenant rights by migrants, asylum seekers and refugees upon arrival to the State party. The Committee is particularly concerned about the insufficient number of reception centers in the State party and the substandard conditions therein (art. 2, para 2).

0. **The Committee urges the State party to stop the practice of push-backs. The Committee recommends that the State party intensify its efforts to ensure the full enjoyment of economic, social and cultural rights by migrants, asylum seekers and refugees. In implementing its Covenant obligations towards these persons the State party is recommended to seek and strengthen international cooperation and assistance, in particular with EU member States. The Committee further recommends that the State party take measures to increase the number of reception centers, improve the living conditions therein, and ensure that everyone in these centers has access to medical care, interpreters, adequate food, clothing and social support.**

Discrimination against persons with disabilities

0. The Committee is concerned about discrimination against persons with disabilities in several areas covered by the Covenant, particularly employment, standard of living, and education. The Committee is also concerned that the concept of reasonable accommodation is not incorporated in all respective legislation thus contributing further to de facto discrimination of persons with disabilities (arts. 2, 6, 11, 13 and 14).

0. **The Committee recommends that the State party ensure that persons with disabilities fully enjoy their rights under the Covenant without discrimination, in particular regarding their right to work, adequate standard of living, and education. The Committee further recommends that the State party incorporate the concept of reasonable accommodation in all legislation with equal impact on persons with disabilities, as well as take measures to ensure its implementation.**

Equality between men and women

0. The Committee notes with appreciation the adoption of various laws and policies aimed at increasing women's representation in political affairs, including Law No. 150 on Equal Access to Board of Directors and Board of Statutory Auditors of publicly listed companies, and Law No. 215 on provisions to promote gender balance and equality in local governments and regional councils. It however remains concerned about the persistence of gender role stereotypes and that women's representation in the National Parliament, the judiciary, as well as in senior positions within the public administration, remains unsatisfactory. It is also concerned that Roma women and women from the south are almost absent from the public scene (art. 3).

0. **Recalling its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party step up its efforts to combat gender stereotypes and embark on national awareness raising campaigns, including by the increased use of the media, aimed at modifying population's mind-set as regards gender roles. It also recommends the State party to take effective measures so as to enhance women's participation in all areas of public life, and consider the adoption of temporary special measures including quotas, , while paying particular attention to Roma women and women from the south.**

Unemployment

0. The Committee is concerned that, in spite of the various programmes designated to tackle unemployment and the situation of young people who are neither in education nor in training, the unemployment rate is high in the State party, affecting particularly the youth, persons with disabilities and migrant workers, and that measures taken in this regard have not yielded the desired results. The Committee is further concerned about regional disparities in the prevalence of unemployment, which is far more acute in the south and on the islands, and about the limited effectiveness of measures taken to that end (art. 6).

0. **The Committee recommends the State party to step up its efforts to effectively address unemployment, including by adjusting where necessary and implementing existing programmes and plans, including labour market reforms, with the aim of integrating the unemployed in the labour market. In doing so, the State party is encouraged to pay particular attention to groups that are more vulnerable to unemployment, namely the youth, persons with disabilities and migrant workers. The Committee also recommends that the State party take measures to substantially improve the effectiveness of its programmes so as to ensure that the right to work of those living in southern provinces and on the islands is respected, protected and fulfilled.**

Women's employment

0. The Committee is concerned about the sharp difference in employment rate between women and men, particularly affecting women in the south. The Committee is also concerned about women's concentration in the informal economy and in low paid sectors, perpetuating vertical and horizontal occupational sex segregation and the gender wage gap. The Committee is further concerned that the already low rate of women's employment before the financial crisis has been exacerbated by austerity measures (arts. 3, 6 and 7).

0. **The Committee recommends that the State party take effective measures to raise the employment rate of women, while paying particular attention to the situation of women in the south. It is encouraged to do so, including by embarking on education and training programmes aimed at reducing occupational segregation and encouraging women to take up occupations traditionally male-dominated, as well as by considering creating incentives for employers, such as the provision of crèches. Furthermore it recommends that the State party ensure that austerity measures do not generate a disproportionately negative effect on women's employment.**

Informal economy

- . The Committee reiterates its concern about the considerable proportion of workers in the informal economy in the State party and that such workers are not adequately covered by labour and social protection laws. It is also concerned about the punitive approach taken by the State party towards the informal economy (art. 7).
0. **The Committee recommends that the State party adopt a holistic approach in addressing the informal economy. It recommends that the State party take all necessary measures to progressively reduce the extent of the informal economy and increase employment opportunities in the formal labour market. In the interim period, the State party is**

encouraged to take steps to ensure that workers in the informal economy enjoy basic labour rights and social protection. In this connection the Committee draws the State party's attention to the ILO recommendation No. 204 (2015) on the transition from informal to the formal economy, and the Committee's Statement on social protection floors: an essential element of the right to social security and of the sustainable development goals (2015).

Just and favourable conditions of work

0. While noting that the State party has introduced an hourly minimum wage, the Committee is concerned about the absence of a monthly minimum wage for groups of workers not covered by collective agreements.. The Committee is further concerned about the absence of the principle of equal pay for work of equal value in the State party's legislation (art. 7).
0. **The Committee recommends that the State party establish a monthly minimum wage that is indexed to the cost of living and allows a decent living for all workers and their families. The Committee also reiterates its recommendation that the State party without further delay explicitly include in the labour code the principle of equal pay for work of equal value for men and women, and introduce the necessary mechanism for its effective implementation.**

Trade union rights

0. The Committee regrets the absence of a law on trade union rights in the State party and the lack of information on the right to strike (art. 8).
0. **The Committee recommends that the State party adopt a legal framework governing trade union rights and the right to strike in line with article 8 of the Covenant, and provide information in its next periodic report on the actual enjoyment of these rights.**

Social security

0. The Committee is concerned about the significant cuts to social expenditures and essential services during the financial crisis, which disproportionately affect disadvantaged and marginalised groups and individuals. It is also concerned about the persistence of regional disparities in social spending per capita and in social services provision. The Committee further expresses concern at the inadequacy of unemployment benefits (art. 9).
0. **The Committee recommends that the State party:**
 - (a) **Take immediate measures to mitigate the effects of social expenditures cuts, and fully restore the financial allocations to the main national funds for social interventions, notably the National Fund for Social Policy and Fund for Dependent Persons;**
 - (b) **Redouble its efforts to allocate resources so as to ensure that social spending per capita and social services provision are made on a non-discriminatory basis across the State party; and,**
 - (c) **Guarantee that social benefits, including unemployment benefits, are indexed to the cost of living and provide a decent living for beneficiaries and their families.**

Violence against women and girls

- . The Committee is concerned that domestic violence against women and girls remains pervasive in the State party despite numerous legislative and policy measures adopted to address it. The Committee is also concerned that measures taken do not address the situation of women and girls with disabilities who are particularly subject to domestic violence (art. 10).
0. **The Committee recommends that the State party redouble its efforts to combat violence against women and girls and to prosecute perpetrators. In the regard, it calls on the State party to ensure effective implementation of related legislation and adequately resourced plans of action, including the action plan against sexual and gender violence.**

Furthermore, the Committee recommends that public awareness campaigns against domestic violence are strengthened, and that support for victims of domestic violence is reinforced, including facilitating their access to adequate services for recovery, counselling and other forms of rehabilitation. The Committee draws the State party's attention, in particular, to the domestic violence experienced by women and girls with disabilities and recommends that the State party facilitate their access to complaint procedures and ensure that they receive adequate support and assistance.

Poverty

0. The Committee is concerned about the increasing rate of poverty in recent years especially in the light of the financial crisis. It is particularly concerned about the high rate of child poverty and the regional disparities in poverty prevalence as well as the increase in income inequality across the country (art. 11).
0. **The Committee urges the State party to step up its efforts in addressing poverty while paying particular attention to child poverty and poverty in southern provinces. Among others, it recommends that the State party strengthen social and financial support to families in situations of vulnerability, and develop human rights-based poverty-reduction programmes, taking into consideration the Committee's Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights of 2001.**

Right to housing

0. The Committee remains concerned about the shortage in affordable housing units as well as in social housing and about the de facto exclusion of Roma from accessing social housing. It is also concerned about the increased number of homeless persons in the State party, and the inadequate measures taken to address homelessness (art. 11).
0. **The Committee recommends that the State party:**
 - (a) **Adopt a comprehensive national housing legislation, including legislation on rent control that promote affordable rental housing, in order to meet needs of poor and of low-income families, and as a matter of urgency, increase the availability of affordable rental housing;**
 - (b) **Adopt a national strategy to inquire into the causes and the extent of homelessness which affects specially foreigners and adopt more effective measures to address homelessness; and,**
 - (c) **Increase the availability of social housing units targeting the most in need, and repeal any regional enactment or rescind any policy on eligibility to social housing that causes indirect discrimination against Roma and exclude them from access thereto.**

Forced evictions

- . The Committee is concerned about the absence of a legal framework governing evictions. It is also concerned at the increased incidence of forced evictions particularly against the Roma and against those who cannot afford the increased rental costs (art. 11).
0. **Recalling its general comment no. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, the Committee recommends that the State party:**
 - (a) **Develop a legal framework on evictions that is compliant with international standards;**
 - (b) **Avoid carrying out forced evictions, and ensure that any necessary evictions are always carried out as a last resort after all feasible alternatives have been explored and with the required procedural safeguards; and,**
 - (c) **Provide compensation and/or alternative accommodation to all those affected by forced evictions, including those carried out under the 'Nomad Emergency' that was declared unlawful in 2011 by the Council of State.**

Roma living conditions

0. The Committee is concerned about the substandard living conditions of Roma, many of whom live in informal settlements or in de facto segregated Roma camps (art. 11).

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

(a) **Effectively implement the National Strategy for the Inclusion of Roma, Sinti and Travellers Communities at national, provincial and local levels, and take effective and immediate measures to end segregation of the Roma living in Roma camps, in accordance with Tribunal's ruling of May 2015;**

(b) **Prioritize the regularization of informal settlements, including working out other solutions in meaningful consultation with the Roma communities concerned;**

(c) **Determine without delay the minimum essential levels as core elements of housing required to meet the needs of disadvantaged and marginalized individuals and groups, in line with the Constitutional Court's ruling of 2007 and 2008; and,**

(d) **Ensure that Roma communities living in informal settlements enjoy access to basic services, such as water, electricity, waste disposal services, and sanitation.**

Right to health

. The Committee is concerned about the regional disparities in access to basic health care services adversely impacting populations living in southern provinces, and the inadequate measures taken by the State party to address such disparities. The Committee is also concerned that as a result of the cuts in the context of the austerity measures, a considerable segment of the population can no longer access health services because of increased fees. The Committee is further concerned at the reported trend of re-institutionalizing dependent persons and persons with intellectual and psychosocial disabilities (art. 12).

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

(a) **Take effective measures to ensure equal access to basic health care services throughout the State party with a view to bridging the gap between the provinces in the north and the south of Italy in such access;**

(b) **Ensure that reforms adopted do not limit the access of persons, based on their socio-economic situation, while taking into account the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health;**

(c) **Assess the impact of any proposed cuts on the access of the most disadvantaged and marginalized individuals and groups to healthcare services; and,**

(d) **Provide alternative family- and community-based care systems for dependent persons and persons with intellectual and psychosocial disabilities and ensure that institutional care is used only as a measure of last resort.**

Legal termination of pregnancy

. The Committee is concerned that despite the Act No. 194/78 allowing legal abortion, there is only limited availability of, and accessibility to, abortion services that is exacerbated by the increased number of health personnel conscientiously objecting to carry out such operations, leading pregnant women to undergo unsafe abortions (art. 12).

0. **The Committee recommends that the State party guarantee the full application of Act 194/78 across the State party. To that end, the Committee recommends that the State party adopt a procedure common to all provinces in order to guarantee access to abortion services and appropriate referral services, and ensure that the exercise of conscientious objections by health personnel does not pose an obstacle for women who wish to terminate a pregnancy.**

Obesity

0. The Committee is concerned that one in ten adults is obese, with persons with lower levels of education being most at risk, , and about the significant increase in child obesity in the State party (art. 12).

0. **The Committee recommends that the State party redouble its efforts in combatting obesity particularly among children. Among others, it recommends that the State party introduce higher taxes on junk foods and sweet beverages as well as to consider adopting strict regulation over the marketing of such products, while ensuring improved access to healthy diets.**

School drop out

0. The Committee is concerned that, despite some progress made, the school drop-out rate in the last two years of high school in the State party is still higher than the European Union average, and more prevalent in southern provinces (art. 13).

0. **The Committee recommends that the State party redouble its efforts to reduce the school drop-out rate in the last two years of high school, in line with the Europe 2020 Strategy that addresses the socioeconomic factors which influence decisions to leave school prematurely by prioritizing the most disadvantaged and marginalized individuals and groups. The State party is also recommended to pay particular attention to early school leaving in southern provinces.**

Inclusive education

0. The Committee is concerned at statistics provided by the State party (during the dialogue) highlighting the high proportion of persons with disabilities among those who have not attended school, and their lower proportion among those who obtained a high school degree. The Committee is further concerned about the persistence of physical barriers at schools as well as the absence of training targeted at teachers and other education professionals on inclusive education (arts 13 and 14).

0. **The Committee recommends that the State party expedite the adoption of draft law No. 2444 on inclusive education. It also recommends the State party to take measures to ensure in practice the implementation of inclusive education for children with disabilities, such as: (a) training of all teachers (beyond special education teachers) and other education professionals, (b) individual education plans for all pupils with disabilities; (c) availability of assistive devices and support in classrooms, educational materials and curricula; (d) accessibility of physical school environments; (e) teaching of sign language; and (f) the allocation of sufficient financial resources.**

Cultural rights

0. The Committee regrets the lack of information on the actual enjoyment of cultural rights in the State party, in particular concerning article 15(1)(b) of the Covenant. While noting efforts to teach Italian language to migrant children so as to facilitate their integration in the State party, the Committee is concerned about limited efforts taken to allow them to preserve their mother tongue (art. 15).

0. **The Committee requests that the State party provides in its next periodic report information on the enjoyment of the right to take part in cultural life by all individuals, while taking into consideration the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life. It also recommends that the State party increase efforts to assist second generation migrant children and youth in preserving their mother tongue and in promoting their cultural traditions.**

D. Other recommendations

- . **The Committee recommends that the State party collect and encourage data collection and the production and use of statistics for human rights indicators, including for economic, social and cultural rights. 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).**

The Committee requests that the State party include in its next periodic report statistical data on the enjoyment of each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population, disability and other relevant status, on an annual comparative basis.

- 0. The Committee requests the State party to translate the present Concluding Observations into the official language, and to disseminate them widely at all levels of society, particularly among parliamentarians, public officials, judicial authorities, and to inform the Committee in its next periodic report on the 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 consultation at the national level, prior to the submission of its next periodic report.**
 - 0. The Committee requests the State party to submit its sixth periodic report, in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2020. It also invites the State party to submit 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).**
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