



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the combined second and third periodic reports of Albania\*

1. The Committee on Economic, Social and Cultural Rights considered the combined second and third periodic reports of Albania on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ALB/2-3) at its 33rd and 34th meetings (E/C.12/2013/SR.33-34), held on 6 November 2013, and adopted, at its 68th meeting, held on 29 November 2013, the following concluding observations.

#### A. Introduction

2. The Committee takes note of the submission by Albania of its combined second and third periodic reports. The Committee also takes note with satisfaction of the detailed written replies which it received to its list of issues (E/C.12/ALB/Q/2-3/Add.1), and welcomes the constructive dialogue held with the State party's delegation.

#### B. Positive aspects

3. The Committee notes that under articles 5 and 122 of the Constitution, the international conventions on human rights ratified or acceded to by Albania, including the Covenant, have become part of the domestic legislation and have been directly applicable and their provisions can be invoked before and applied by the domestic courts.

4. The Committee welcomes the State party's ratification of or accession to the following instruments:

- (a) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2007;
  - (b) Convention on the Rights of Persons with Disabilities, in 2013;
  - (c) The three Optional Protocols to the Convention on the Rights of the Child;
- and

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\* Adopted by the Committee at its fifty-first session (4-29 November 2013).



(d) International Labour Organization (ILO) Convention No. 122 (1964) on Employment Policy, in 2009.

5. The Committee welcomes the State party's efforts to directly or indirectly implement economic, social and cultural rights within the domestic legal order, which have included the:

(a) Adoption of the Law on Gender Equality, in 2008; the Law on Protection of Children's Rights, in 2010; the Law for the Protection from Discrimination, in 2010; and the Law on Mental Health, in 2012;

(b) Amendments to the Criminal Code, in 2013, which extended protection against discrimination on the basis of sexual orientation, criminalized "internal trafficking" (Law No. 144/2013) and introduced a special chapter on the "Responsibility of Corruptive Crimes"; and

(c) Amendments to the Constitution on lifting of parliamentary immunity from criminal prosecution for legislators, judges and other high-level government officials in corruption cases, in 2012.

6. The Committee also welcomes the strategies and national action plans dealing with prevention of, and the fight against corruption and against trafficking in persons, and gender equality, as well as the work of the Commissioner for Protection from Discrimination.

## C. Principal subjects of concern and recommendations

7. The Committee regrets the absence of information about the cases of direct applicability of the Covenant before the courts in the State party and the availability of remedies. The Committee is concerned that the State party's Constitution affords protection to the rights contained in the Covenant in two distinct chapters, while the implementation of one of them (the fifth chapter) cannot be claimed directly in courts.

**The Committee requests that the State party collect and make available information on the justiciability of all the rights enshrined in the Covenant, including the cases of direct application of the Covenant before domestic courts as well as information on the available remedies for individuals claiming a violation of their economic, social and cultural rights, as contained in the Covenant. In this respect, the Committee draws attention to its general comment No. 9 (1998) on the domestic application of the Covenant. The State party should ensure that the division of the Covenant's provisions into different chapters of the Constitution does not impact their direct applicability and enforceability in domestic courts.**

8. The Committee is concerned about the discrepancies in statistics and lack of disaggregated data that would allow for an accurate assessment of the fulfilment of economic, social and cultural rights in the State party.

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

(a) **Undertake regular and systematic assessments, against a clear set of indicators, as regards the level of enjoyment of all the economic, social and cultural rights by various segments of the population, including the most disadvantaged and marginalized groups;**

(b) **Set up a system of statistical data collection on unemployment, poverty, sex-rates at birth, violence against children, dropout rates and re-enrolment in**

education and other factors impacting the implementation of economic, social and cultural rights set forth in the Covenant, duly disaggregated by year, gender, age, urban/rural population, ethnic origin, disadvantaged and marginalized groups and other relevant criteria, and include the statistical data in its next periodic report;

(c) Include data collection and use of the human rights indicators, in particular for economic, social and cultural rights, as part of its National Strategy for Development and Integration (NSDI); and

(d) Consider in this respect the conceptual and methodological framework for human rights indicators that was developed by the Office of the United Nations High Commissioner for Human Rights.

9. The Committee remains concerned about the continued lack of independence of the judiciary as well as training of the judiciary in the State party.

**The Committee recommends that the State party take necessary legal, policy and other measures to ensure the independence and training of the judiciary as a means of safeguarding the enjoyment of human rights, including economic, social and cultural rights.**

10. The Committee is concerned about the limited effectiveness of the measures taken to combat corruption.

**The Committee recommends that the State party adopt additional measures to enhance the effectiveness of the legal, structural and policy measures taken to combat corruption in decision-making in the government and the public administration in general, including the establishment of structures for tenders within public administration, mechanisms for transparent decision-making at all levels of the government and oversight mechanisms, as well as investigating and sanctioning illegal conduct.**

11. The Committee is particularly concerned at the lack of information on the use of maximum available resources by the State party in progressively achieving the full realization of the rights recognized in the Covenant (art. 2, para. 1).

**The Committee recommends that the State party regularly evaluate the impact of the measures taken and the budget allocations made for the various areas of implementation of the Covenant in order to assess whether the maximum of available resources has been used in progressively achieving the full realization of the rights recognized in the Covenant, taking into account the Committee's general comment No. 3 (1990) on the nature of States parties' obligations and its 2007 statement on the obligation to take steps to the "maximum of available resources" under an optional protocol to the Covenant.**

12. The Committee notes with concern the prevailing discrimination of marginalized children and families and the absence of systematic assessments of the progress achieved in combating discrimination faced by minority groups in the enjoyment of economic, social and cultural rights. The Committee is also concerned about the lack of progress in addressing discrimination of Roma in access to employment and housing, as conceded by the State party, and the fact that the nationally agreed priorities regarding the situation of Roma are not often implemented at the local level (arts. 2, 6 and 11).

**The Committee recommends that the State party adjust the Social Inclusion Strategy, including the provision of a specific budget, together with indicators and targets, to provide social services, health care and education to the most marginalized children**

and families and that it evaluate the impacts, achievements and challenges of the many integration measures taken to combat discrimination faced by minority groups in the enjoyment of economic, social and cultural rights. The State party should also take further measures to overcome prevailing discrimination of Roma in access to employment and housing and ensure that the nationally agreed priorities on Roma are duly communicated to the local authorities to be effectively sustained.

13. The Committee is concerned that the lack of birth registration and personal identity documents among Egyptian and Roma children, in particular those who have migrated, limits their access to the enjoyment of economic, social and cultural rights (arts. 2, 9 and 12-14).

**The Committee recommends that the State party guarantee access of Egyptians and Roma to procedures for birth registration and personal identity documents through steps such as exempting families who are marginalized and living in poverty from payment of fees for birth registration and identity documents. In this regard, the Committee also draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

14. The Committee is concerned that asylum seekers, refugees and persons receiving subsidiary forms of protection do not have access to comprehensive integration programmes, social assistance and services and housing options (arts. 2, 9 and 11).

**The Committee recommends that the State party enact necessary by-laws and take other steps to ensure the full implementation of the 2003 Law on Integration and Family Reunion of Persons Granted Asylum in Albania and amend legislation on social welfare to ensure that asylum seekers, refugees and persons receiving subsidiary forms of protection have access to comprehensive integration programmes and social assistance and services. The Committee also recommends that the Law on Social Housing apply to refugees and those receiving subsidiary protection.**

15. The Committee notes with concern the lack of clear division of roles and cooperation between the People's Advocate (Ombudsman) and the Commissioner for Protection from Discrimination in facilitating the enjoyment of economic, social and cultural rights; the limited implementation and follow-up to the Ombudsman's recommendations; and the lack of allocation of adequate human and financial resources to the Ombudsman's Office.

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

**(a) Establish the division of roles and principles of cooperation between the People's Advocate (Ombudsman) and the Commissioner for Protection from Discrimination in order to facilitate the full enjoyment of economic, social and cultural rights;**

**(b) Support the Commissioner's contribution to the implementation and follow-up of the Ombudsman's recommendations;**

**(c) Implement recommendations of the Ombudsman with regard to observance and protection of economic, social and cultural rights; and**

**(d) Provide adequate human and financial resources to the Ombudsman, in accordance with the principles relating to the status of national institutions (Paris Principles).**

16. The Committee is concerned at the prevalence of gender segregation in the economy as well as the disproportionately high unemployment of women, resulting from the

stereotypical perception of traditional roles of women. The Committee is also concerned about the underrepresentation of women in national and local government bodies (art. 3).

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

**(a) Undertake comprehensive reform to repeal legal provisions which may perpetuate gender discrimination and empower women through gender-sensitive labour policies aiming at hiring of women to non-traditional professions, enhancing their access to vocational and technical education and ensuring equal conditions of work;**

**(b) Undertake a study to determine and evaluate the factors that make it difficult for women to enter and remain in the formal labour market, including sociocultural factors that affect their educational and professional choices;**

**(c) Take measures to eliminate the social perceptions of traditional gender roles and prejudices, including concerning employment, while raising awareness of both men and women especially about harmonizing work and family duties; and**

**(d) Enforce gender equality legislation, in particular the observance of the State party's quota of 30 per cent for representation of women in senior-level positions at public administration, academic and research institutions.**

17. The Committee reiterates its concern about the relatively high unemployment in the State party which impacts disproportionately the members of disadvantaged and marginalized groups including minorities as well as people living in rural areas. The Committee is also concerned about the small proportion of employed persons with disabilities which points to the lack of impact of the "Law on the Encouragement of Employment". The Committee further notes with concern the absence of information from the State party about active employment policies and data on unemployment among those groups, including in urban and rural areas (art. 6).

**The Committee urges the State party to reduce unemployment through effective measures of active employment such as requalification, local employment initiatives, incentives and tax benefits to employers, including also programmes aimed at reducing unemployment of disadvantaged and marginalized groups, in particular in rural areas. The Committee also urges the State party to establish objectives on an annual basis for the employment of persons with disabilities, ensuring that at least 30 per cent of employees with disabilities are women. The Committee reiterates its recommendation to the State party to consider ratification of ILO Convention No. 2 (1919) on Unemployment.**

18. The Committee is concerned about the absence of a system for ensuring the enforcement of the principle of "equal pay for work of equal value" (art. 7).

**The Committee urges the State party to enforce the observance of provisions of the Labour Code in regard to equal pay for work of equal value, including through labour inspections and imposition of sanctions, and to address the sources of the limited effectiveness of remuneration legislation in particular through public campaigns and training within the State party's associations of employers and employees.**

19. The Committee is concerned at the extremely low figures on public and private employees receiving the minimum wage which points out the weak enforcement of the relevant legislation (art. 7).

**The Committee requests that the State party take measures to enforce legislation on the minimum wage, while ensuring that the minimum wage is regularly adjusted to the cost of living and that it enables employers and their families to enjoy a decent living, in accordance with article 7 (a) (ii) of the Covenant.**

20. The Committee is concerned about the continued application, under the current Labour Code, of the prohibition of the right to strike to public employees even if they do not provide essential services and continued restrictions on the right to collective bargaining in the form of the requirement for 30 days of mandatory mediation prior to initiating a strike (art. 8).

**The Committee urges the State party to ensure that the draft Labour Code complies with the Covenant in order to guarantee for all persons the right to freely form and join trade unions, the right to engage without restriction in collective bargaining through trade unions for the promotion and protection of their economic and social interests, as well as the right to strike. The Committee recommends that the State party remove through the draft Labour Code the existing limitations on the right to strike and the right to collective bargaining, in particular by considering mediation as an alternative and not a condition for a strike, and ensure that the prohibition against striking for civil servants does not exceed the ILO definition of essential services.**

21. The Committee regrets the lack of data regarding social assistance in the State party, the lack of information on whether the social security system is adjusted to assist persons with disabilities and older persons, and disadvantaged individuals and families, so that they can live in dignity, and the lack of clarity on whether the amount of social assistance benefits is sufficient to cover the real costs of living. The Committee also regrets the absence of information regarding the safeguards of equal access to social insurance and social assistance (art. 9).

**The Committee calls upon the State party to adjust the social security system, taking into account the Committee's general comment No. 19 (2008) on the right to social security, in order assist persons with disabilities and older persons, and disadvantaged individuals and families, so that they can live in dignity and to provide for an effective system to ensure that the amount of social assistance benefits is sufficient to cover the real costs of living. The Committee also encourages the State party to consider the introduction of a minimum income benefit that would bring together all the existing social assistance benefits and ensure a life in dignity for all those living in the State party. The Committee further reiterates its previous recommendation to the State party to consider ratification of ILO Convention No. 117 (1962) concerning Basic Aims and Standards of Social Policy and Convention No. 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.**

22. The Committee remains concerned about the high number of cases of internal as well as cross-border trafficking in persons and about the "practice" of penalizing victims of trafficking in persons due to the Criminal Code provision which punishes individuals who engage in prostitution. The Committee is also concerned at the lack of medical, legal and social assistance, including shelter, to the victims of trafficking (art. 10).

**The Committee recommends that the State party reinforce the legislation to combat internal as well as cross-border trafficking in persons, by revising the Criminal Code in order to adequately sanction the perpetrators of trafficking as well as of exploitation of the victims of such acts. The Committee also recommends that the State party strengthen the data reporting system and take measures to ensure early identification of victims and adequate training of law enforcement officers and the judiciary with a view to effective investigation and prosecution of the perpetrators.**

**The State party should further ensure provision of adequate medical, legal and social assistance, including shelter, to the victims of trafficking, as well as their access to judicial remedies.**

23. The Committee is concerned at the low level of investigations and convictions of domestic and gender-based violence as well as the absence of a coherent strategy to support victims of domestic and gender-based violence (art. 10).

**The Committee recommends that the State party effectively investigate, prosecute and punish all acts of domestic and gender-based violence; devise a coherent strategy to support victims of domestic and gender-based violence, including through adequate crisis centres available to the victims to obtain safe lodging and necessary assistance; provide training to law enforcement officials and judges on the serious and criminal nature of domestic and gender-based violence and undertake information campaigns in order to increase public awareness about the pervasive nature of such acts.**

24. The Committee is concerned about the high proportion of children below the legal age for employment established by the State party – of 15 years – who work in hazardous conditions in areas such as mining, construction or agriculture. The Committee is especially concerned about the reports of children, many of which are Roma, who work in the streets and are particularly marginalized and exposed to exploitation (art. 10).

**The State party is urged to strengthen the monitoring mechanisms for child labour, in particular by adapting the State Labour Inspectorate to detect cases of the worst forms of child labour, including by street children. The State party should also enhance prevention and reintegration programmes that focus on family empowerment and elimination of the economic exploitation of children and develop positive parenting programmes for marginalized communities that raise awareness on protecting children from different forms of abuse and exploitation. In this respect, the State party should take further measures to ensure that legislation protecting children against economic and other exploitation is rigorously enforced and that violations thereof are sanctioned, and to adjust the mechanisms to guarantee their right to education.**

25. The Committee expresses its concern about prevailing stigmatization and discrimination of children with disabilities and their limited access to services, often due to lack of collaboration among professionals and government bodies as well as lack of physical accessibility. The Committee also notes with concern the absence of preventive, early identification and reporting mechanisms of abuses of children with disabilities (arts. 2 and 10).

**The Committee recommends that the State party expand its child protection system to include procedures to identify, refer and manage cases of children with disabilities, recognizing their higher risk of being abused, stigmatized or discriminated against. The State party should take additional measures to enhance access of children with disabilities to services, requiring improved collaboration among professionals and government bodies and adequate transport facilities.**

26. The Committee is concerned that the Law on Status of Orphans guarantees only limited assistance and support to children during the transition from State institutions to an independent adulthood and that the age limit for leaving State institutions, which has been increased to 18 years according to the State party, is not systematically observed (art. 10).

**The Committee urges the State party to amend the Law on Status of Orphans to guarantee adequate assistance and support to children during the transition from**

**State institutions to an independent adulthood and ensure that children are supported and leave State institutions upon completion of maturity – at 18 years.**

27. While noting improvements in the legislative framework, the Committee expresses its serious concern at the recent survey pointing to the prevalence of psychological violence against children, sexual abuse as well as of physical violence in the family. The Committee is also concerned at the lack of access to Child Protection Units, in particular in rural areas, to refer abuses and seek support, and the lack of budget for the existing Child Protection Units to operate efficiently (art. 10).

**The Committee urges the State party to take legislative, policy and institutional measures to prevent and counter psychological violence against children, sexual abuse as well as physical violence in the family. In this respect, the Committee also urges the State party to secure adequate access to Child Protection Units, in particular in rural areas, to refer abuses and seek support, and to provide an adequate budget to the existing Child Protection Units for their efficient operation.**

28. The Committee is seriously concerned at the high incidence of child trafficking, including to neighbouring countries, and the subsequent exposure of children to abuse, exploitation and lack of access to education and housing (art. 10).

**The Committee urges the State party to develop specific preventive programmes focusing on the families which are at risk of engaging their children in trafficking and to provide adequate assistance to child victims, including re-enrolment in school and adequate shelter. The Committee also urges the State party to take effective measures to prosecute those who engage or collaborate in the trafficking of children or subsequent abuse and exploitation, and to organize far-reaching public awareness campaigns.**

29. The Committee is concerned about the recent incidents of forced evictions and demolition of Egyptians and Roma's irregular settlements, leaving families with children without any alternative housing, compensation, protection, education or health services (arts. 11-14).

**The Committee urges the State party to take urgent measures to consult affected Egyptian and Roma communities throughout all stages of eviction, to ensure due process guarantees and compensation and to provide in particular for adequate alternative accommodation, taking into account the Committee's general comment No. 4 (1991) on the right to adequate housing and general comment No. 7 on the right to adequate housing: forced evictions. The Committee also recommends that the State party prohibit forced evictions in domestic legislation.**

30. Noting the significant decrease in poverty, the Committee is concerned about the lack of strategies to address extreme poverty faced in particular by members of marginalized groups including minorities and about the prevalence of regional disparities affecting the enjoyment of all economic, social and cultural rights without discrimination (arts. 2 and 11).

**The Committee urges the State party to develop additional strategies to address extreme poverty faced in particular by members of marginalized groups including minorities and to take all necessary remedial measures to address the regional disparities that affect the equal enjoyment of economic, social and cultural rights. The Committee also urges the State party to allocate sufficient funds for the implementation of these strategies, taking into account the Committee's statement on**



**poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee in 2001 (E/C.12/2001/10).**

31. The Committee notes with concern the absence of adequate measures to provide social housing to low-income families (art. 11).

**The Committee requests that the State party take policy and financial measures to expand the network and quality of social housing to low-income families which should become part of the existing national plan of action on housing. The Committee also reiterates its recommendation that the State party enact legislation that ensures the right to housing.**

32. The Committee is concerned about the inadequate budgetary allocation to health care and the limited access to health services in particular in rural areas, high infant mortality and the absence of information on sexual and reproductive health as part of the education curricula (art. 12).

**The Committee recommends that the State party undertake the necessary measures to improve its health care and services, by, inter alia, increasing the budgetary allocations to the health sector and extending health services to rural areas. The State party should continue addressing high infant mortality and provide for sexual and reproductive health in the education curricula, and report on progress in the enjoyment of the right to health in the next periodic report, taking into account the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health.**

33. The Committee is concerned about the distorted sex ratio at birth and its possible linkage to sex-selective abortions due to discrimination against women, including in inheritance, and son preference (arts. 3 and 12).

**The Committee recommends that the State party take steps to prevent sex-selective abortions, including by minimizing unsafe abortions and reducing the recourse to abortion through expanded and improved family planning services. The Committee also recommends that the State party collect reliable data on the sex ratio at birth, prevent all forms of discrimination against women, including in inheritance, and address customary practices as well as patriarchal and stereotyped attitudes. The Committee further recommends that the State party ensure enhanced education and awareness-raising about gender equality for the general public.**

34. The Committee remains concerned about the lack of measures to effectively address the higher dropout rates of girls from primary education as compared to boys, disproportionately affecting Roma children. The Committee is also concerned about the limited effectiveness of the measures to keep Roma in school (arts. 13-14).

**The Committee recommends that the State party undertake to eliminate the high dropout rates of girls from primary education, in particular of Roma children. The Committee also recommends that the State party continue taking effective measures to keep Roma attending school, and increasing school attendance at the secondary level, inter alia, through the granting of scholarships, provision of schoolbooks and the reimbursement of expenses for travel to attend school and recruiting additional school personnel from among members of the Roma community.**

35. The Committee regrets the reportedly limited access to education in minority languages in public schools and lack of steps taken to preserve, protect and promote minority languages and cultures (arts. 13-15).

**The Committee requests the State party to take measures to ensure access to education in minority languages in public schools as well as to preserve, protect and promote minority languages and cultures as part of cultural diversity and heritage. The Committee also encourages the State party to consider increasing the budget allocated to cultural development and participation in cultural life in line with article 15 of the Covenant.**

36. The Committee is concerned that minority communities, especially Bosnians and Egyptians have not benefited from the enjoyment and protection of minority rights (art. 2).

**The State party is encouraged to recognize communities with specific identities, especially Bosnians and Egyptians as national minorities, in accordance with applicable international standards, so that their members can benefit from the enjoyment and protection of minority rights.**

37. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

38. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials, judicial authorities and civil society organizations, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report. The Committee further encourages the State party to ensure that the website of the concerned executive authorities provide information on and links to the State party's report, the written replies to the list of issues, the Committee's concluding observations and the progress of implementation and that it is regularly updated.**

39. **The Committee requests the State party to submit its fourth periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2018.**

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