



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the fourth periodic report of Austria\*

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Austria on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/AUT/4) at its 53rd and 54th meetings (E/C.12/2013/SR.53 and 54), held on 20 November 2013, and adopted, at its 68th meeting, held on 29 November 2013, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the fourth periodic report by Austria (E/C.12/AUT/4), which is generally in conformity with the Committee's reporting guidelines and reflects the State party's effort to provide an account of the steps taken to implement the provisions in the Covenant. The Committee also appreciates the written replies to the list of issues (E/C.12/AUT/Q/4/Add.1) and the open dialogue with the State party's delegation.

#### B. Positive aspects

3. The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto in 2008;

(b) The 1954 Convention relating to the Status of Stateless Persons in 2008;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2012; and

(d) The International Convention for the Protection of All Persons from Enforced Disappearance in 2012.

4. The Committee also welcomes a number of measures taken by the State party aimed at improving the enjoyment of economic, social and cultural rights, in particular:

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



- (a) The amendment of Federal Law Gazette Vol. 1 No. 4/2006 in 2006 to extend the eligibility to run in work council elections to all employees, irrespective of their nationality;
- (b) The adoption of the National Nutrition Action Plan in 2010 and the establishment of the National Nutrition Commission to promote proper nutrition and to counter obesity;
- (c) The amendment of the Equal Treatment Act of 2011, which introduces an obligation for all employers to indicate the minimum wage in job advertisements, and for employers that exceed a certain number of employees to submit a compulsory pay gap report;
- (d) The adoption of the Act Combating Wage and Social Dumping in 2011 to ensure that foreign and domestic employers comply with wage regulations; and
- (e) The establishment of the first emergency accommodation for women and girls at risk of forced marriage in 2013.

### **C. Principal subjects of concerns and recommendations**

5. The Committee regrets that progress has not been made to systematically incorporate the provisions of the Covenant into the State party's domestic legislation, and that the provisions of the Covenant are not effectively applied in the Länder (art. 2).

**The Committee reiterates its recommendation to ensure that the provisions of the Covenant are given full effect in the State party's domestic legal order, taking into account general comments No. 3 (1990) on the nature of States parties' obligations and No. 9 (1998) on the domestic application of the Covenant. In this regard, the Committee recommends that the State party undertake a review of its domestic legislation vis-à-vis the provisions of the Covenant to identify and rectify any legal omission or discrepancy. The Committee requests the State party to provide, in its next periodic report, detailed information on the measures taken in this regard.**

6. The Committee reiterates its concern at the lack of court decisions invoking the provisions of the Covenant. While noting that judges and public prosecutors may participate in annual seminars on some specific human rights issues, the Committee regrets that training on the nature and scope of economic, social and cultural rights and their justiciability is not offered (art. 2).

**The Committee calls on the State party to take all appropriate measures among the professionals of the justice system to ensure the effective application of the provisions of the Covenant in national courts, including by promoting training on economic, social and cultural rights as contained in the Covenant and their justiciability. The Committee requests the State party to provide, in its next periodic report, information on specific measures taken in this regard, as well as on court cases invoking the provisions of the Covenant.**

7. While welcoming the expansion of the mandate of the Austrian Ombudsman Board in July 2012, the Committee remains concerned at the lack of a comprehensive mandate to promote and protect all human rights, including economic, social and cultural rights, and to deal with violations of economic, social and cultural rights that occur in the private sector, as well as the lack of an independent procedure for appointing the Board's members (art. 2).

**The Committee recommends that the State party take practical measures to ensure that there is an effective and independent national human rights institution in the**

**State party with a broad mandate to promote and protect all human rights, including economic, social and cultural rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). It further draws the attention of the State party to the Committee's general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.**

8. While noting the existence of several action plans on specific issues, the Committee regrets the lack of progress in adopting a comprehensive national human rights action plan from which specific policies and action plans could be developed, as recommended by the Committee in its previous concluding observations (E/C.12/AUT/CO/3, para. 19) (art. 2).

**The Committee reiterates its recommendation that the State party consider adopting a comprehensive national human rights action plan, which would increase awareness and ownership of human rights among the general public and bring coherence to the State party's human rights policies, particularly in the context of a federal system.**

9. The Committee is concerned at the lack of coherent and consistent non-discrimination legislation throughout the State party and the high number of institutions involved in the implementation of anti-discrimination and equality legislation, which leads to confusion, legal uncertainty and potential injustice for individuals seeking an effective remedy. Moreover, the Committee regrets the lack of a statistical data collection system which would enable the State party to assess the socioeconomic situation of various linguistic, national, ethnic and religious groups in the State party and to take effective corrective measures (art. 2).

**The Committee urges the State party to harmonize its anti-discrimination legislation so as to afford the same level of protection across the different grounds of discrimination and to streamline the administrative bodies responsible for the protection of all individuals against discrimination. It also recommends that the State party establish a statistical data collection system to assess the enjoyment of economic, social and cultural rights situation by minority groups, with due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.**

10. The Committee regrets that the State party's contribution of its official development assistance decreased from 0.47 per cent of gross national income in 2006 to 0.28 per cent in 2012 (art. 2).

**The Committee recommends that the State party increase the level of its contribution of official development assistance to achieve the international target of 0.7 per cent of its gross national income as expeditiously as possible.**

11. The Committee is deeply concerned that the State party's official development assistance provides support to projects that have reportedly resulted in violations of economic, social and cultural rights in recipient countries. It is further concerned that the State party's agriculture and trade policies, which promote the export of subsidized agricultural products to developing countries, undermine the enjoyment of the right to an adequate standard of living and the right to food in the receiving countries (arts. 2 and 11).

**The Committee calls upon the State party to adopt a human rights-based approach to its policies on official development assistance and on agriculture and trade, by:**

(a) **Undertaking a systematic and independent human rights impact assessment prior to making funding decisions;**

(b) **Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures; and**

(c) **Ensuring that there is an accessible complaint mechanism if violations of economic, social and cultural rights occur in the receiving countries.**

12. The Committee is concerned at the lack of oversight over Austrian companies operating abroad with regard to the negative impact of their activities on the enjoyment of economic, social and cultural rights in host countries (art. 2).

**The Committee urges the State party to ensure that all economic, social and cultural rights are fully respected and rights holders adequately protected in the context of corporate activities, including by establishing appropriate laws and regulations, together with monitoring, investigation and accountability procedures to set and enforce standards for the performance of corporations, as underlined in the Committee's statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/2012/22, annex VI, section A).**

13. The Committee reiterates its deep concern at the situation of asylum seekers, who receive inadequate social benefits, live in poor housing conditions and only have access to employment in certain activities during the first three months of their asylum proceedings. Moreover, while the Committee notes that asylum seekers below 25 years of age are eligible to obtain work permits for vocational training in areas where there is a shortage of trainees, it is concerned that there is limited choice for asylum seekers to select their profession. The Committee is also concerned that when places are available, preference is given to Austrians or third-country nationals who are already integrated into the Austrian labour market (arts. 2, 6, and 11).

**The Committee recommends that the State party take concrete measures to guarantee asylum seekers' right to an adequate standard of living by allowing them full access to the formal labour market, to promote their independence and self-sufficiency, and to facilitate their access to the means-tested minimum income scheme if they are unable to find work. It also urges the State party to remedy the current housing conditions for asylum seekers, including by ensuring that adequate standards of hygiene and habitability are met, as set out in general comment No. 4 (1991) on the right to adequate housing.**

14. While welcoming the adoption of the National Action Plan for Equality of Women and Men in the Labour Market in 2010, the Committee reiterates its previous concern that women continue to be disproportionately represented in poorly paid part-time jobs and often receive lower remuneration than men for work of equal value. Moreover, while the Committee welcomes the adoption of a quota for the employment of women in State-controlled companies in March 2011 and the increase in the number of women in some State bodies, it expresses concern at the low representation of women in State bodies as a whole, as well as in supervisory and management boards of private companies (arts. 3, 6 and 7).

**The Committee recommends that the State party intensify its efforts to increase women's access to full-time employment, guarantee equal pay for work of equal value and increase the representation of women in decision-making positions in public and private sectors. It requests the State party to provide, in its next periodic report, information on concrete results achieved in this regard, including through the implementation of the National Action Plan for Equality of Women and Men in the Labour Market.**

15. While the Committee welcomes the introduction of paternity leave of one month's duration in January 2011 as part of the State party's efforts to combat gender stereotypes and promote gender equality, the Committee is concerned that paternity leave is currently limited to civil servants. Moreover, despite the efforts made by the State party to increase the number of childcare facilities, the Committee is concerned that such facilities remain insufficient and with inadequate opening hours to enable parents, in particular women, to fully exercise their right to work (arts. 3, 6 and 7).

**The Committee encourages the State party to continue its efforts to enable working parents to reconcile their professional and family responsibilities, in particular by extending paternity leave to the private sector, promoting incentives for fathers to take parental leave, and ensuring the availability of high quality, affordable childcare facilities for young children from birth to compulsory school age.**

16. The Committee is concerned that the youth unemployment rate remains 60 per cent higher than the unemployment rate of adults, despite the introduction of apprenticeship and vocational training opportunities. It is also concerned about the high number of individuals who face long-term unemployment, and that the conditions under which unemployment benefits can be suspended may not respect the right of everyone to gain his or her living by work which he or she freely chooses or accepts (arts. 6, 7 and 9).

**The Committee recommends that the State party adopt long-term policies and strategies with an effective monitoring and evaluation mechanism to address the root causes of youth unemployment, paying particular attention to disadvantaged and marginalized groups, while continuing its efforts to increase the quality, diversity and number of apprenticeship and vocational training opportunities. It also urges the State party to ensure that the suspension of unemployment benefits does not violate the right of everyone to gain his or her living by work which he or she freely chooses or accepts, as set out in article 6 of the Covenant, and that there is a regular and open dialogue between the Public Employment Service and unemployed persons to take individual needs and concerns into account.**

17. While noting the adoption of the means-tested minimum income scheme in 2010 to combat poverty, the Committee is concerned at the lack of its consistent application across the nine Länder, as well as its inadequacy in ensuring an adequate standard of living for the beneficiaries. Moreover, it expresses concern that, in 2011, 12.6 per cent of the population was considered at risk of poverty, and that 4 per cent of the population was severely deprived financially, amounting to approximately 1.4 million persons who are considered to be at risk of poverty and social exclusion. It is further concerned by the increasing number of people who are in need of food assistance (arts. 9 and 11).

**The Committee urges the State party to take effective measures to ensure that the means-tested minimum income scheme corresponds to the actual cost of living and is guaranteed to all those in need in a consistent and efficient manner throughout the State party, taking into account its general comment No. 19 (2007) on the right to social security. It also recommends that the State party adopt a comprehensive, long-term strategy to combat poverty, based on a thorough examination of its root causes. The Committee further recommends that the State party guarantee the right to adequate food for people living in poverty, as set out in its general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted by the Food and Agriculture Organization.**

18. The Committee is concerned at the continuing occurrence of violence against women, including domestic violence, the lack of a comprehensive strategy to combat all

forms of violence against women, and the absence of statistical information on violence against women (art. 10).

**The Committee recommends that the State party adopt a comprehensive national plan of action on violence against women and establish a data collection system on all forms of violence against women, with information on the victim and perpetrator disaggregated by sex, age and type of violence, as well as the relationship of the perpetrator to the victim, geographical location and other factors considered relevant, such as disability. It also urges the State party to continue public awareness-raising campaigns on all forms of violence against women, including against migrant and ethnic minority women, as well as organizing training for the members of the judiciary and law enforcement personnel.**

19. The Committee expresses deep concern that, in spite of the adoption of the Disability Equality Package in 2006, persons with disabilities still face significant obstacles in their enjoyment of economic, social and cultural rights, including access to employment, education, housing and social security benefits. In particular, the Committee expresses concern that persons with disabilities who perform occupational therapy activities receive little or no compensation for their work and are unable to contribute to an independent old-age pension scheme (arts. 2, 6, 7, 9 and 11–14).

**The Committee recommends that the State party take concrete measures with specific targets to ensure that persons with disabilities can fully enjoy their economic, social and cultural rights as equal members of society, taking into account general comment No. 5 (1994) on persons with disabilities. In particular, the Committee calls upon the State party to ensure that persons who work in the context of occupational therapy have access to a diverse range of activities with sufficient pay, and are able to benefit fully from social security schemes so as to enjoy an adequate standard of living.**

20. While noting that the State party has commenced collecting some data on the number of homeless persons in the State party, the Committee regrets the lack of information on the extent and causes of homelessness. Moreover, while the Committee notes the commitment expressed by the State party delegation to increasing the availability of social housing, the Committee is concerned at the number of disadvantaged and marginalized individuals who cannot afford to pay for housing, and that the majority of eviction cases are due to non-payment of rent (arts. 2 and 11).

**The Committee recommends that the State party develop a systematic data collection mechanism on the extent and causes of homelessness, and adopt a national strategy or programme to address the problem. It also calls on the State party to ensure that sufficient resources are allocated to increase the availability of social housing units and to provide appropriate forms of financial support, such as adequate rental subsidies for disadvantaged and marginalized groups, taking into account its general comment No. 4 (1991) on the right to adequate housing. The Committee also requests the State party to provide, in its next periodic report, information on measures taken in this regard, as well as on the extent of homelessness in the State party, disaggregated by sex, age, ethnicity and rural-urban population.**

21. The Committee expresses concern at the shortage of physicians and nurses to provide adequate health-care services to meet the growing demand for treatment, including in areas of psychosocial and adolescent health. Moreover, while noting the introduction of “video interpretation” in hospitals to assist non-citizens in communicating with health-care personnel, the Committee remains concerned that migrants and asylum seekers continue to face obstacles in accessing health-care services, primarily due to lack of access to information, language barriers and certain treatments that have to be financed in advance (arts. 2 and 12).

**The Committee recommends that the State party take effective measures to ensure that there are sufficient health-care professionals to meet the growing demands in medical treatment, particularly in areas such as psychosocial and adolescent health, taking into account its general comment No. 14 (2000) on the right to the highest attainable standard of health. It also recommends that the State party take further measures to increase access to adequate and affordable health-care services by non-citizens, including by ensuring the availability of translation services and information on health-care services, as well as by addressing their underlying risks to health.**

22. The Committee expresses concern at the high dropout rates of migrant children (29.8 per cent), children of migrant background (15.6 per cent), particularly among girls, and Roma children. It also remains concerned at the overrepresentation of Roma and non-citizen children in special schools and their underrepresentation at the higher levels of education, which significantly affects their prospects for future employment (arts. 6, 13 and 14).

**The Committee recommends that the State party intensify its efforts to prevent children from dropping out of schools and to ensure that training and opportunities to go back to schools are provided across all the Länder. It also encourages the State party to develop specific strategies to promote access to and enrolment in schools and universities for Roma, based on a comprehensive assessment of any obstacles faced in this regard.**

23. While noting the policy measures taken by the State party to promote the presence of girls and women in vocational fields that have traditionally been dominated by men, the Committee is concerned at the low level of participation of women in higher education courses in science, technology, engineering and mathematics, as well as in associated professions (arts. 3, 6, 13 and 15).

**The Committee recommends that the State party intensify its efforts, including through temporary special measures, to increase the participation of women in higher educational courses in science, technology, engineering and mathematics, as well as its related professions. In this regard, the Committee also encourages the State party to actively seek, promote and exchange good practices at the international level, including at forums convened by the United Nations Educational, Scientific and Cultural Organization (UNESCO).**

24. The Committee is concerned that the strict criteria to be recognized as a national minority under the Ethnic Groups Act, in particular the requirement of an independent settlement area over a long period of time, hinders other ethnic minority groups in the State party, such as the Polish community and the Jenische, to be recognized and to receive State support to sustain their culture and identity (arts. 2 and 15).

**The Committee recommends that the State party adopt a flexible approach with regard to ethnic minorities, and to ensure that all ethnic minority groups in the State party, regardless of length of established presence or settlement in an independent area, are fully guaranteed their economic, social and cultural rights on an equal basis.**

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

26. **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.**

27. **The Committee requests the State party to disseminate these concluding observations widely at all levels of society, and particularly among public officials,**

**judicial authorities, lawmakers, lawyers and civil society organizations, 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 civil society organizations in the discussions to be held at the national level prior to the submission of its next periodic report.**

28. **The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**

29. **The Committee requests the State party to submit its fifth 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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