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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

SPAIN

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Spain on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.11) at its 12th, 13th and 14th meetings, held on 3 and 4 May 2004 (see E/C.12/2004/SR.12-14), and adopted, at its 29th meeting, held on 14 May 2004, the following concluding observations.

A. Introduction

2. The Committee welcomes the fourth periodic report of the State party, which was prepared in conformity with the Committee's guidelines. It also appreciates the comprehensive written replies to the list of issues and the additional written material made available to it during the dialogue.

3. The Committee welcomes the open and constructive dialogue with the high-level delegation of the State party, which included experts in the various areas covered by the Covenant.

B. Positive aspects

4. The Committee welcomes the adoption and implementation of a number of measures aimed at strengthening the protection of economic, social and cultural rights in the State party, including the Plan for the Equality of Opportunities between Women and Men 2003-2006, the creation of the General Secretariat of Equality Policies, the establishment of the Ministry for Housing, the establishment within the Ministry of Labour and Social Affairs of a new office to address the issues of migrant workers and the adoption of the Second National Plan of Action for Social Inclusion 2003-2005, which includes, inter alia, initiatives to improve the situation of Roma (*Gitano*) populations.

5. The Committee notes with appreciation the measures taken to combat domestic violence. In particular, it welcomes the enactment of Act No. 27/2003 of 31 July 2003, regulating protection orders and providing for various forms of assistance to victims of domestic violence, and the setting up of a committee to monitor the implementation of the Act.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in Spain.

D. Principal subjects of concern

7. While noting that undocumented immigrants residing in the State party enjoy a number of fundamental rights and freedoms, including the right to basic social services, health care and education, on the condition that they register with their local municipality, the Committee remains concerned about the precarious situation of the large number of those undocumented immigrants who only enjoy a limited protection of their economic, social and cultural rights.

8. The Committee is concerned that the rise in the number of immigrants arriving in the State party over the last years has been accompanied by negative and hostile attitudes towards foreigners and the occurrence of xenophobic incidents.

9. The Committee is concerned that, in spite of the existence of a range of programmes at the national and regional levels aimed at improving the situation of the Roma (*Gitano*) population, including the Second National Plan of Action for Social Inclusion 2003-2005 and the Roma Development Programme, the Roma remain in a vulnerable and marginalized situation in the State party, especially with regard to employment, housing, health and education.

10. While the Committee takes note of the State party's commitment to raising the level of official development assistance (ODA) from the current 0.25 per cent of gross domestic product (GDP) to 0.5 per cent by 2008, it expresses concern that the level of development assistance still falls short of the United Nations target of 0.7 per cent of GDP.

11. While appreciating the measures taken by the State party to promote gender equality, notably under the Plan for the Equality of Opportunities between Women and Men 2003-2006, the Committee remains concerned about the persistent gender inequalities in the State party, particularly with regard to women's participation in decision-making and in the labour market.

12. The Committee is concerned that the level of unemployment remains high (11.3 per cent), particularly among young people and women (15.7 per cent as compared to 8.1 per cent among men). The high rate of long-term unemployment, particularly affecting persons above the age of 40, unemployment among the Roma, well above the national average, and significant regional disparities in unemployment, ranging from 5.23 per cent in Navarra to 20.19 per cent in Andalucía (data for 2002), are also causes of concern.
13. The Committee is concerned about the precarious situation of the large number of persons employed under short-term temporary contracts (around 30 per cent of the total number of wage earners).
14. The Committee is concerned about the high number of occupational accidents in the State party, and that the number of accidents has increased by more than 50 per cent between 1996 and 2002. It notes that the incidence of occupational accidents is highest among workers on temporary contracts.
15. The Committee expresses concern about the vulnerable situation of domestic workers, a majority of whom are immigrants.
16. The Committee expresses concern about the lack of sufficient information on the problem of trafficking of persons to the State party for sexual exploitation and on the measures taken in this respect by it.
17. While recognizing the measures taken to combat domestic violence in the State party, the Committee expresses its concern about the rising number of fatal cases of domestic violence and of the persistent high number of complaints lodged by women for ill-treatment at the hands of their spouses or partners.
18. The Committee notes with concern reported incidences where unaccompanied minors arriving in the State party have not been afforded adequate assistance and protection.
19. While noting that the National Plan of Action for Social Inclusion aims at combating poverty and at integrating the most disadvantaged and marginalized groups into society as a whole, the Committee regrets the lack of data on the number and condition of persons living in poverty in the State party.
20. The Committee is concerned about the growing problem of homelessness in the State party, as described in the report of the State party (para. 386), and of people affected by forced evictions.
21. The Committee is concerned about the deteriorating conditions of housing in the State party, as described in the report of the State party (para. 388), and about the lack of social housing.
22. The Committee is concerned about the high abortion rate among adolescent women between 15 and 19 (13.89 per cent in 2001).
23. The Committee is concerned about the high rate of drug and alcohol abuse and tobacco smoking, particularly among young persons, in the State party.

E. Suggestions and recommendations

24. The Committee urges the State party to take measures to ensure the effective protection of fundamental economic, social and cultural rights of all persons residing within its territory, in accordance with article 2.2 of the Covenant. It further encourages the State party to promote the legalization of undocumented immigrants so as to enable them to enjoy fully their economic, social and cultural rights.

25. The Committee recommends that the State party continue to closely monitor the incidence of and combat racism and xenophobia, and continue to promote intercultural understanding and tolerance among all groups in society.

26. The Committee encourages the State party to continue and strengthen its efforts to address the situation of the Roma population, increasing at the same time the involvement of Roma associations in the planning and implementation of such programmes. The Committee requests the State party, in its next periodic report, to provide information on the difficulties encountered in implementing these programmes and on the progress achieved therein. The Committee also requests additional information on the coordination among, and sharing of competences and management responsibilities between the different levels of administration (State, Autonomous Communities and local administration) in this respect.

27. The Committee encourages the State party to gradually increase the level of its official development assistance to reach the United Nations target of 0.7 per cent of GDP and to ensure that its international cooperation contributes to the realization of the rights recognized in the Covenant.

28. The Committee recommends that the State party take measures to ensure the effective implementation of the Plan for the Equality of Opportunities between Women and Men 2003-2006 and report on the progress made in this regard in its next periodic report.

29. The Committee recommends that the State party continue strengthening programmes to reduce unemployment targeting the most affected regions and groups. It also recommends that the State party take further measures to make it easier for women to reconcile work and family life. The Committee encourages, in this regard, the State party to improve childcare facilities for children under the age of 3.

30. The Committee urges the State party to reinforce measures to reduce the proportion of workers on temporary contracts, including strengthening incentives for employers to offer their employees open-ended contracts.

31. The Committee urges the State party to take effective measures to prevent accidents in the workplace, including by strengthening the labour inspectorate in order to ensure that employers who fail to observe safety regulations are sanctioned.

32. The Committee urges the State party to take effective measures to improve the protection of domestic workers, so as to bring the rights and benefits afforded to domestic workers in line with those afforded to other workers.

33. The Committee requests that the State party provide, in its fifth periodic report, detailed information on the problem of trafficking and commercial sexual exploitation of persons in the State party and on measures taken to tackle these problems.
34. The Committee recommends that the State party intensify its efforts to combat domestic violence and requests information on achievements and difficulties encountered in the implementation of Act No. 27/2003 regulating protecting orders for victims of domestic violence.
35. The Committee requests the State party to provide information on the results of the experimental programmes designed to prevent, detect and allow action to be taken in situations of child abuse which are being implemented jointly by the Ministry of Labour and Social Affairs and the Autonomous Communities.
36. While noting the explanation of the State party's delegation that the problem of unaccompanied minors has been solved by a memorandum between the State party and Morocco, the Committee requests the State party to provide more information on this matter in its next periodic report.
37. The Committee calls upon the State party to strengthen its efforts to combat poverty and social exclusion and to develop a mechanism for measuring the poverty level and to monitor it closely. In this respect, the Committee refers the State party to its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 (E/C.12/2001/10). The Committee requests that the State party provide, in its next periodic report, disaggregated and comparative data on the number of people living in poverty and on progress made in reducing the incidence of poverty.
38. The Committee calls upon the State party to strengthen its efforts under the National Plan of Action for Social Inclusion to provide assistance to homeless persons and to undertake a study on the problem of homelessness so as to acquire a more accurate picture of the problem and its root causes. It also requests the State party to provide disaggregated and comparative data on the number of people affected by forced evictions, and to ensure that any forced evictions carried out comply with the guidelines set out in the Committee's general comment No. 7.
39. The Committee recommends that the State party take remedial action to improve the conditions of housing and provide more housing units, housing facilities, credits and subsidies to low-income families and disadvantaged and marginalized groups, in line with the Committee's general comment No. 4.
40. The Committee recommends that the State party monitor closely the incidence of abortions among adolescent women and adopt necessary measures, legislative or otherwise, to address this problem, including by intensifying specific programmes on sexual and reproductive health among adolescent women, and provide information on this subject of concern in its next periodic report.
41. The Committee recommends that the State party ensure the effective implementation of programmes to prevent drug consumption, tobacco smoking and alcoholism, and to report back to the Committee on this issue in its next periodic report.

42. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society, and in particular, among State officials and the judiciary, 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 fifth periodic report.

43. Finally, the Committee requests the State party to submit its fifth periodic report by 30 June 2009.
