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I - THE COMMITTEE OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

In the period September 2017 - March 2018 the Committee adopted the concluding observations and recommendations in respect of Korea, Moldova, Russia and Columbia.¹ The Committee pointed again to the lack of direct implementation of the ICESCR on the national level and paid attention to the problems of informal labour, discrimination, minimum wage, and social security coverage.

Several of the most interesting points of the concluding observations will be discussed further. The first reflects the interconnection of the ICESCR and other international instruments on social rights protection as well as the comparison of the approach to these rights formulated by relevant international bodies.

In the concluding observations adopted recently by the CESCR two positions may be traced:

- When the conclusions are in line with the approach of other international bodies; As an example, we can consider the conclusions in respect of occupational health legislation in Moldova. The Committee was concerned at the provisions of law which limits labour inspections to no more than one per year and provides for employers to be notified five days prior to inspections and recommended the state to revise the law. The same conclusions may be found in recent CEACR Observation.²
- Reviewing the Colombian report the CESCR attached attention to the exercise of the rights to form and join trade unions, bargain collectively and strike are limited by excessive legal requirements, and to the persistence of numerous acts of violence targeting members of trade unions. It recommended the state to bring its legislation into line with article 8 of the Covenant and the ILO fundamental conventions No. 87, No. 98) and take effective measures to protect members of trade unions. This conclusion is in line with the ILO conclusions, expressed in the observation by the CEACR and in a number of conclusions of the Committee on Freedom of Association³

The Committee's view on the Russian provisions on minimum wage is another example of the common approach to the problem. The CESCR noted that even in the light of the draft law, which is intended to raise the minimum wage rate to subsistence level, the new

1 All the reports are available http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CESCR (accessed 10.03.2018)

2 Labour Inspection Convention, 1947 (No. 81) - Moldova, Republic of (Ratification: 1996) Observation (CEACR) - adopted 2017, published 107th ILC session (2018).

3 Observation (CEACR) - adopted 2016, published 106th ILC session (2017) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) - Colombia (Ratification: 1976), 10 cases were considered in respect of Columbia by CAS in 2016-2017.

sum of the minimum wage will not allow workers and their families to have a decent living. It essentially repeated its conclusion from the previous observation in 2011 and the conclusion of the European Committee of Social Rights which found in 2014 that the situation in the Russian Federation is not in conformity with Article 4§5 of the European Charter.

The recommendation in respect of the right to strike is also relevant. The Committee was concerned about the wide legal restrictions on the right to strike by workers of municipal services, civil servants who do not exercise authority in the name of the State and railway workers and urged Russia to amend the relevant legislation, abolishing undue restrictions. This conclusion is in line with the conclusions of other international bodies: ILO and the European Committee of Social Rights (ECSR).⁴

The presence of common approach by international bodies to the problems in a particular country attaches more attention to it on the international level and to a certain extent makes the changes more probable – as an example, we can recall the abolishment of the obligation to notify the employer about the duration of the strike in Russia in 2011.

When the conclusions of the CDESCR do not mention the problems raised by other international bodies;

In the observation of the CDESCR in respect of Moldova there is no mentioning of difficulties in the implementation of the right to strike while the CEACR in 2016 found that the situation in Moldova is not in conformity with the European Social Charter, taken account of the restrictions to the right to strike of the employees of the customs authorities.⁵

The estimation of the right to social security in Russia by the CDESCR is particularly curious. The Committee was concerned only with the coverage of social security schemes which excludes, among others, workers in the informal economy and sex workers. It did not evaluate the substantial part of the social security system, i.e. its ability to guarantee decent standards of living for covered groups of the population. The ECSR the same year concluded that the minimum level of sickness benefits, of industrial accidents and occupational diseases benefits as well as unemployment benefits, is inadequate.⁶

This example demonstrates that the Committee's approach to the protection of Covenant's rights does not penetrate deeply to the issues of national policy and thus its conclusions do not reveal the most significant problems in the implementation of the ICDESCR.

4 Observation (CEACR) - adopted 2016, published 106th ILC session (2017) Freedom of Association and Protection of the Right to Organise Convention, 1948 (n°87) - Russian Federation (Ratification: 1956).

5 ECSR. Conclusions 2016. Republic of Moldova.

6 ECSR. Conclusions 2017. Russian Federation.

The lack of CESCR's attention to certain issues raised by other international bodies can be most vividly illustrated on the example of Columbia. The problem of human trafficking is not mentioned in the concluding observations while concluding observations of the Human Rights Committee urges the State to step up its efforts to prevent and combat trafficking in persons⁷ as well as CEACR⁸ and the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families⁹.

International law does not have strong tools for struggling with the problems revealed in a certain state, in particular when labour and social security rights are concerned. This is why the common approach to the protection of these rights by international bodies, the harmonious "core of condemnation" is the only way to tackle the issues considered in this brief review.

To conclude the part on CESCR I will refer to the common recommendation of the Committee addressed to all the counties in each concluding observation: the states are urged to disseminate the observations widely at all levels of society, including at the federal, regional and territory levels, particularly among parliamentarians, public officials and judicial authorities. As almost 6 months have passed since the adoption of the observations considered in this paper, I have checked the implementation of the recommendation to disseminate by Moldova and Russia. The search on the Russian language Internet did not disclose any publications on the conclusions of the CESCR regarding Russia and Moldova, and both sites of national ombudsmen are silent on this account.¹⁰

II - THE HUMAN RIGHTS COMMITTEE

During its 121st session the Human Rights Committee (HRC) reviewed the implementation of the ICCPR in Romania, Mauritius, Jordan, Dominican Republic, Congo, Cameroon, Australia and prepared a follow-up report in respect of certain countries.¹¹ The need to combat human trafficking (further HT) and forced labour was one of the main issues considered in almost all of the observations. However, it was surprisingly not mentioned in respect of Cameroon and Kongo, although according to the US research these countries are a source, transit, and destination country for women and children subjected to forced labour and sex trafficking and a source country for men in forced labour.¹² The ILO Committee has recently addressed a number of direct Requests in relation to the violation of the prohibition of forced labour in Congo.¹³

7 HRC. Concluding observations on the seventh periodic report of Colombia. 17 November 2016.

8 CEACR. Observation - adopted 2014, published 104th ILC session (2015) Forced Labour Convention, 1930 (No. 29) - Colombia (Ratification: 1969).

9 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Concluding observations on the second periodic report of Colombia. 2013. CMW/C/COL/CO/2.

10 <http://ombudsman.md>, <http://ombudsmanrf.org> (accessed 10.03.2018).

11 All the reports are available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CCPR (accessed 10.03.2018).

12 United States Department of State, 2017 Trafficking in Persons Report, 27 June 2017, available at: <http://www.refworld.org/docid/5959ecf311.html> [accessed 12 March 2018].

13 For example, Congo Direct Request (CEACR) adopted 2017, published 107th ILC session (2018) C105; Congo Direct Request (CEACR) - adopted 2017, published 107th ILC session (2018) C029.

It is noteworthy that Romania, according to the HRC, increased its efforts to prosecute perpetrators of HT. Even though the Committee remained concerned that the State party remains a source, transit and destination country for HT, the progress achieved is evident. It is important to note that Romania rose from tier 3 to tier 2 in the US HT report.¹⁴ According to the US Trafficking Victims Protection Act (TVPA)¹⁵, governments of countries on tier 3 may be subject to certain sanctions, whereby the U.S. government may withhold or withdraw non humanitarian, non-trade-related foreign assistance and may not receive funding for government employees' participation in educational and cultural exchange programs. The US approach to the worldwide struggle with the HT is remarkable as it provides an additional incentive to countries, where this problem is particularly spread.

It is curious to compare the number of cases on HT considered in Romania, which is interested in not being in tier 3, and Russia, whose referral to tier 3 does not change already existent "landscape" of sanctions, imposed since 2014. Thus, 864 new trafficking cases were opened in 2016 in Romania, while Russia's federal-level investigative committee reported 14 investigations opened under article 127.1 of the Criminal code prohibiting HT. ¹⁶ It might seem too simplified, but in my opinion, however, such discrepancy in the statistics demonstrates the lack of the will to take measures to combat HT on the part of the Russian Government and evidence that official condemnation of the state by international bodies is much more efficient when supported by additional measures, as proposed by the US experience.

14 Anthony DeStefano, *The War on Human Trafficking: U.S. Policy Assessed*. Rutgers University Press, 2007, p. 141.

15 <https://www.gpo.gov/fdsys/pkg/BILLS-106hr3244enr/pdf/BILLS-106hr3244enr.pdf>

16 <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271268.htm>