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I - THE COMMITTEE OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

In the period October 2016- March 2017 the Committee adopted the concluding observations and recommendations in respect of Costa Rica, Cyprus, Dominican Republic, Lebanon, Philippines, Poland, Tunisia.¹ The Committee again pointed the need to promote the provisions of the ICESCR on the national level and to encourage their direct application in courts.

The problems of implementation were revealed in the following spheres:

- 1) informal labour: Poland, Costa-Rica and the Philippines were recommended to take action in order to regularize informal labour and systematically include the informal sector of the economy in labour inspections.
- 2) discrimination in the labour market: Cyprus, Dominican republic, Lebanon and the Philippines were recommended to adopt a comprehensive anti-discrimination legal framework. The Committee noted that Lebanon has to implement the employment quota and develop employment opportunities for persons with disabilities.
- 3) minimum wage: it was found that the minimum wage in Cyprus covers only 13 per cent of the workforce and that the sum of it is insufficient. Dominican Republic and Lebanon were recommended to adopt the necessary measures to ensure that all workers receive a minimum wage that enables them to have decent living conditions
- 4) social security system: almost all the countries were recommended to ensure that social security benefits were sufficient to provide a decent standard of living. Poland was criticized for the lack of progress towards creating a unified pension system and for the establishment of the income criterion for granting social assistance at a lower level than the minimum subsistence level. Lebanon was urged to transfer the responsibility for the payment of maternity benefits from employers to the social security system. The Philipines - to establish unemployment benefits.
- 5) trade-union activities: The Committee was concerned about reports regarding restrictions on the right to collective bargaining in the public sector in Costa Rica and pointed the need to ensure effective mechanisms for the protection of union rights. It was noted that the right to strike in the Dominican Republic is limited by excessive legal requirements and urged it to bring relevant legislation into line with the Covenant. Lebanon was criticized for not allowing civil servants and foreigners to form trade unions.

Several most interesting points of the concluding observations will be discussed further in more detail. Considering the report of Poland the Committee noted the high rate of civil law contracts, which may negatively affect the right to just and favourable conditions of work

¹ All the reports are available: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CESCR (accessed 30.03.2017)

for the workers. It was also noted that such workers were not covered by health insurance or social security and Poland was recommended to ensure that the labour and social security rights of persons with civil law contracts are fully guaranteed in law and in practice. The problems arising from the excessive use of civil law contracts were also noted by the European Committee of Social Rights (ECSR²) and the ILO Committee of experts (CEACR)³. In the present concluding observations the CESCR, in fact, repeated the requirement of the CEACR. It appreciated the judgment of 2 June 2015 of the Constitutional Tribunal recognizing the right of persons employed under civil law contracts to join or establish trade unions and recommended the State to ensure that due legislative changes will be in line with article 8 of the Covenant. This example demonstrates that the conclusions of the UN Human Rights body reflect the approach to the problem by other international bodies such as ILO and the ECSR.

The approach of the CESCR to Kafala system in Lebanon is another example of the international “chorus of condemnation”. Under the Kafala system the migrant worker may be identified as a ‘guest worker’ but are often treated as a disposable economic commodity at the mercy of their sponsor⁴ and are legally tied to their employers. ILO noted with concern that one may terminate his or her employment where serious abuse such as violence, assault, or harassment has been proved, though termination in all cases leads to the worker having to leave the country. Migrant workers suffering from discrimination and abuse may be reluctant to bring complaints and seek redress out of fear of retaliation by the employer, including termination or non-renewal of the employment contract.⁵ In the present concluding observation the opinion of the CESCR was in line with the ILO findings. CESCR urged Lebanon to review the relevant laws with a view to abolishing Kafala. Thus CESCR gave its voice in the chore of condemnation. Remembering the situation in Qatar, where the Kafala system was recently abolished under the pressure of international community⁶, there is a hope that the “name and shame” system will work out in respect of Lebanon as well.

II - THE HUMAN RIGHTS COMMITTEE

During its 118th and 119th sessions the Human Rights Committee reviewed the implementation of the ICCPR in Azerbaijan, Colombia, Jamaica, Morocco, Poland, Republic of Moldova, Slovakia, Bangladesh, Bosnia and Herzegovina, Italy, Serbia, Thailand, Turkmenistan.⁷ It noted with concern that discrimination of women in public and private sectors is still prevalent and pointed the need to adopt a comprehensive anti-discrimination law. Bangladesh was urged to take measures to end the de facto caste systems, and ensure

2 ECSR, Conclusions XXI-1 - Poland (XXI-1/def/POL/10/1/EN) 09/12/2016.

3 Poland Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015).

4 Policy Brief No. 2: REFORM OF THE KAFALA (SPONSORSHIP) SYSTEM. Migrant forum in Asia. www.ilo.org/dyn/migpractice/docs/132/PB2.pdf (accessed 12.04.2017).

5 Lebanon, ILO No 111 (direct request 2012), cited from Shauna Olney, Ryszard Cholewinski, Migrant Workers and the Right to Non-discrimination and Equality. In: Cathryn Costello, Mark Freedland (eds) *Migrants at Work: Immigration and Vulnerability in Labour Law*. OUP, Oxford, 2014, p. 279.

6 <http://www.bbc.com/news/world-middle-east-38298393> (accessed 10.04.2017).

7 All the reports are available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CCPR (accessed 30.03.2017).

that individuals from so-called lower casts are not relegated to caste based employment. Italy was criticized as the existing anti-discrimination legislation addresses only some grounds of discrimination in limited spheres. Serbia was recommended to increase the capacity of the Commissioner to bring claims under the anti-discrimination law and strengthen judicial enforcement of the anti-discrimination law. Morocco - to amend the Act on Equal Treatment to prohibit discrimination comprehensively on all grounds prohibited under articles 2 and 26 of the Covenant and improve the accessibility of effective remedies for any such discrimination.

The need to combat effectively child labour was also emphasized in the conclusions of the Committee. It found that Morocco should rigorously enforce the laws on child labour with a view to putting an end to this practice.

Human trafficking and forced labour were the main points of concern in respect of almost all the countries. Researchers note that the human trafficking has grown significantly since the early 2000s, and there are now between 700,000 and 2 million people trafficked internationally each year.⁸ This phenomenon is particularly relevant for the developing countries and European countries facing now the migration flows.

Italy was called to establish clear procedures for identifying victims of human trafficking, to strengthen labour inspections in the sectors where most migrant workers are working, and establish effective complaint procedures. In the recent article published by the Guardian newspaper a shocking story about thousands of female Romanian farm workers suffering horrendous abuse in Sicily was told.⁹ This story is a living proof of the need to take steps emphasized by the Human Rights Committee in order to combat forced labour.

In 2014 the government of Thailand declared a policy of "Zero Tolerance for Human Trafficking", battling human trafficking has been elevated to a national priority by the Prime Minister.¹⁰ Considering the report of Thailand the HR Committee mentioned that there were reports of victims of trafficking being deported without effective screening for their protection needs and about the premature collection of their testimonies in order to facilitate prompt deportation and urged the State to increase victim identification, prosecute and punish those responsible. According to the statistics gathered in 2016, in spite of the official acknowledgment of the need to combat trafficking, Thai victims of trafficking and some of the estimated three to four million migrant workers in Thailand are forced into labour or sex trafficking.¹¹ According to the Global Slavery Index about 425,500 people are living in modern slavery in Thailand.¹² These numbers demonstrate that the international society should strengthen its efforts to contribute to the struggle with human trafficking.

8 George Ritzer, Paul Dean, *Globalization: A Basic Text*. John Wiley & Sons, 2015, p. 292As.

9 <https://www.theguardian.com/global-development/2017/mar/12/slavery-sicily-farming-raped-beaten-exploited-romanian-women>

10 Thailand's Progress Report on Anti-Human Trafficking Efforts 31 March 2015; www.mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf (accessed 12.04.2017).

11 Trafficking in Persons Report. Thailand <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258876.htm> (accessed 12.04.2017).

12 <http://www.globallslaveryindex.org/country/thailand/> (accessed 12.04.2017).

The problem of forced labour in Turkmenistan is also internationally recognized.¹³ In the concluding observations the HR Committee for the second time¹⁴ underlined the need to promptly put an end to forced labour in the cotton sector.

Meanwhile other measures were taken in order to make the government of Turkmenistan take steps to effective prohibition of forced labour. In 2016 Turkmenistan have joined the *Tier 3* category in the US State Department's blacklist of countries whose governments do not fully meet the minimum standards and are not making significant efforts to do so.¹⁵ Under US law such counties face limitations in trade relations with the USA.¹⁶

H&M in 2015 introduced a ban on cotton from Turkmenistan. All suppliers working with H&M will sign a commitment requiring that they don't buy cotton from this country.¹⁷

The conclusions of the HR committee in the sphere of protection from human trafficking in Turkmenistan are shared by ILO. Even though these conclusions are not binding and cannot challenge the situation immediately, they contribute to the general condemnation of the situation in the relevant country and attract public attention to the problem.

13 Observation (CEACR) - adopted 2015, published 105th ILC session (2016) Abolition of Forced Labour Convention, 1957 (No. 105) - Turkmenistan.

14 HR Committee. Concluding observations. Turkmenistan. CCPR/C/TKM/CO/1(19.04.2013).

15 Trafficking in persons. Report. 2016. Available at:
<https://www.state.gov/documents/organization/258876.pdf> (12.04.2017).

16 Defending Public Safety Employees' Retirement Act. Public Law No: 114-26 (06/29/2015).

17 Ban On Cotton From Turkmenistan And Syria:
about.hm.com/en/media/news/ban-on-cotton-from-turkmenistan-and-syria.html
(accessed 12.04.2017).