



2019 Yearbook

The Committee on Economic, Social and Cultural Rights



The Global Initiative
for Economic, Social and Cultural Rights



“

The 2019 Yearbook of the Committee on Economic, Social and Cultural Rights (CESCR) captures the full range of valuable work that this body has produced throughout the year. This work is more important than ever in the face of ecological breakdown, soaring inequalities and, of course, the COVID-19 pandemic.

In 2019 the Committee engaged with a rich variety of topics which are central to contemporary struggles for a more just and equitable post-COVID future. Within the pages that follow, you will find important human rights guidance on matters ranging from labour rights to austerity measures, corporate accountability, tax justice, gender discrimination and climate action.

By making the work of the CESCR more visible and accessible, GI-ESCR's Yearbook serves as an important tool for civil society, rights practitioners, academics, States, and anyone with an interest in the potential of human rights to tackle endemic problems of poverty, social injustice and inequality.

”

Magdalena Sepúlveda Carmona, Executive Director of GI-ESCR

MESSAGE FROM THE COMMITTEE CHAIR



It is with joy and great satisfaction that I welcome the **third Yearbook published by the Global Initiative for Economic, Social and Cultural Rights**. The undeniable importance of this publication resides in its illumination of the various dimensions, facets and productions of the Committee. The year 2019 was very fruitful, having approved several documents, in addition to **concluding observations, lists of issues and statements**. Important steps were taken to consolidate the mechanism for recommendations on **follow up** and the **2019 day of general debate** enabled the Committee to work towards a **draft General Comment on the relationship between land and ESC rights**. The Committee's approval of a **Statement on the 2030 Agenda for Sustainable Development** was a further highlight.

Important decisions were also taken regarding the **synergy of the human rights treaty body system**, such as the celebration of the **historic joint meeting** with the Human Rights Committee and the approval of **two Joint Statements with other committees**, on **climate change**, and on **trade union rights**. We hope that this practice of joint work and coordination between committees will come to be consolidated in CESCR's journey.

In addition, a **spectacular increase was noted in the individual communications** received by the Committee. This is a demonstration of the growing awareness of the Optional Protocol to the Treaty. At the same time, it is a reminder that **action to clear this backlog must be considered**, such as the designation of more sessions so that the Committee can decide on these cases, and the strengthening of secretarial support. These are all very important results and challenges and **the Committee will spare no effort to consolidate and enhance them**. And, of course, we are grateful for the customary partnership of civil society in favor of the affirmation of human dignity in the international community.

Very sadly, in 2019 the Committee **bid farewell to a dear colleague, and former Chair of the Committee, Waleed Sadi**. Waleed's passing came as a shock during the October Session when he was at our side, doing what he was most passionate about. Waleed had a long and distinguished career as an international human rights expert and a diplomat. His rich experience and expertise was complemented by his bluntness and sense of humor, and strong sense of caring and friendship. I will keep very fond memories of my dear friend.

Renato Zerbini Ribeiro Leão, Chair of the Committee on Economic, Social and Cultural Rights

Table of Contents

The Committee on Economic, Social and Cultural Rights		State Reporting		2019 Individual Communications		Thematic Work	
		An Overview of State Reporting in 2019	10	2019 Individual Communications	26	Day of Discussion on Land	33
Introducing the Committee	5	Civil Society Engagement with the Reporting Procedure	11	2019 Individual Communications in Context	27	Statement on the 2030 Agenda for Sustainable Development	34
State Reporting	6	Key themes in 2019	12	2019 Case Decisions	28	Joint Statement on human rights and climate change	35
Individual Communications and Thematic Work	7	Bulgaria	14	2019 Inadmissibility Decisions	30	Joint Statement on the right to freedom of association and trade union rights	36
The 18 Committee Members	8	Cameroon	15	The Optional Protocol	31		
Nationality and Primary Occupation of Committee Members	9	Estonia	16				
		Kazakstan	17				
		Mauritius	18				
		Denmark	19				
		Ecuador	20				
		Israel	21				
		Senegal	22				
		Slovakia	23				
		Switzerland	24				
		Working Methods	25				

Photo Attributions.

Cover page: "Old Bulgarian Women" by Wengen, Pixabay License; "Cameroon - UN Women's Gender Road Project" by UN Women, CC BY-NC-ND 2.0; "Elderly Estonian Man" by Anamar; "Children playing with water pump southern Kazakhstan" by USAID, CC0 for Public Domain Dedication; "Mauritius Market" by Matthias_Lemm, Public domain; "Children's creativity, education. Danish national gallery" by Radislava Olshevska; "A Kichwa woman", Ecuador, by CIFOR, CC BY-NC-ND 2.0; "Rafah (Palestine) Exodus 7th January 2009" by RafahKid Kid, CC BY-SA; "Trachoma Campaign in Touba, Senegal" by RTI Fights NTDs, CC BY-NC-ND 2.0; "Avisionn Slovak joy" by Avisionn Photo, CC BY-

NC-ND 2.0; "Manifestation nationale pour l'égalité salariale" Switzerland, by Gustave Deghilage, CC BY-NC-ND 2.0; "UN Women Humanitarian Work with Refugees in Cameroon", UN Women, CC BY-NC-ND 2.0 **Page 5:** Map of parties to the International Covenant on ESC Rights, UNOHCHR. **Page 6:** Diagram of treaty body reporting cycle, UNOHCHR. **Page 12:** "Cameroon - UN Women's Gender Road Project" by UN Women, CC BY-NC-ND 2.0 **Page 13:** Ecuador "Fruit Market" by csw27, CC BY-ND 2.0. **Page 28:** "Manifestación contra la Troika" by Juanedc, CC BY 2.0. **Page 29:** "Florence panorama" by Ghost of Kuji, CC BY 2.0. **Page 30:** "Cutting down a tree" by CIFOR, CC BY-NC-ND 2.0.

Introducing the Committee



Palais Wilson, the home of the Committee, on the shores of Lake Lemman, Geneva.

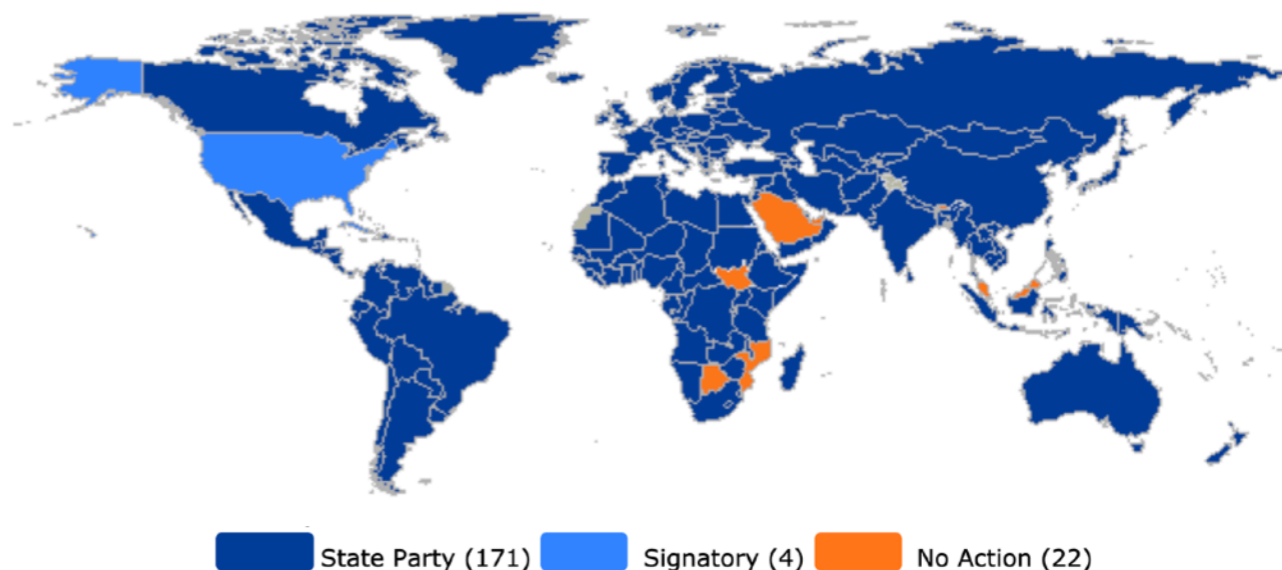
What is the CESCR?

The Committee on Economic, Social and Cultural Rights (CESCR) is a body composed of **18 independent human rights experts** which is mandated to **monitor implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR)** by States Parties. Following the recent accession of Antigua and Barbuda, the ICESCR now has 171 State Parties - covering the vast majority of the globe.

The Committee is one of 10 human rights treaty bodies that monitor the international human rights treaties, and in 2019 it held its 65th and 66th sessions. It has three key functions, each of which will be expanded upon in the following pages:

- Reviewing **State reports**;
- Considering **individual communications**;
- Developing **General Comments** and engaging in other **thematic work**

Parties to the International Covenant on ESC Rights



THE STATE REPORTING PROCEDURE

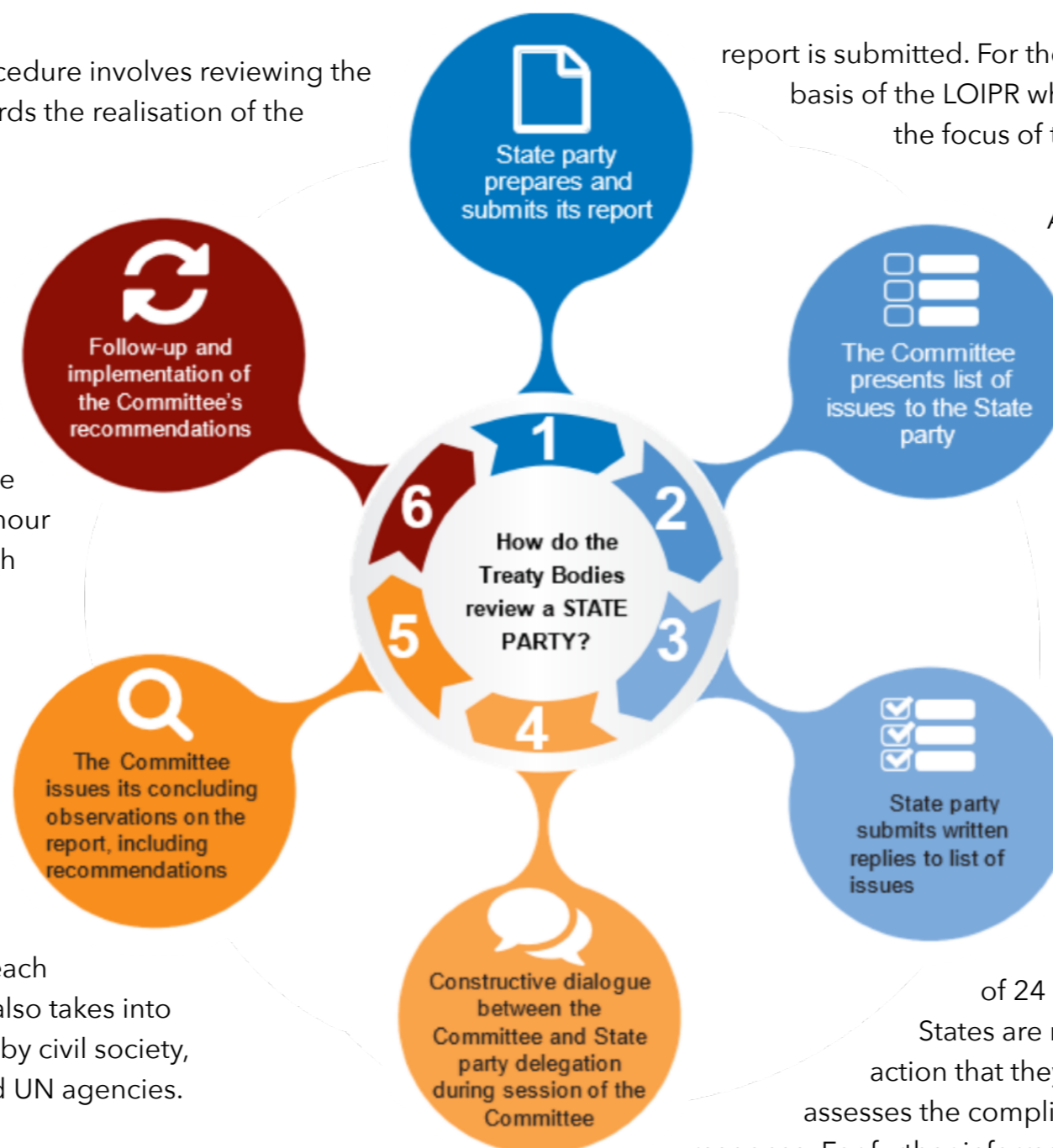
State Reporting

The Committee's State reporting procedure involves reviewing the progress that States have made towards the realisation of the rights contained in the ICESCR.

To that end, **each five years States Parties submit a report** to the CESCR in which they detail the measures that they have adopted to realise economic, social and cultural (ESC) rights. The State report is the basis for the review of the State, which takes place during a six hour constructive **Dialogue** in Geneva, with representatives of the State.

Prior to the Dialogue, the Committee prepares a **List of Issues (LOI)** which identifies pertinent issues not addressed in the State report or on which they request further information. The State **responds to the LOI in a shorter report ('Replies')** prior to the Dialogue. At each stage of the process the Committee also takes into consideration information submitted by civil society, national human rights institutions and UN agencies.

In order to streamline its work and better focus the review, the CESCR is moving towards a **Simplified Reporting Procedure (SRP)** which asks States to focus their report on the issues identified by the Committee in a **List of Issues Prior to Reporting (LOIPR)**. The Committee develops the LOIPR during its Pre-sessional meetings and publishes it before the State



report is submitted. For the SRP the Dialogue proceeds on the basis of the LOIPR which is intended to narrow and sharpen the focus of the review.

At the end of the review process, the Committee adopts **Concluding Observations (COBs)**. These consist primarily of concerns that the CESCR has identified during the review, and recommendations for how the State can improve ESC rights realisation. See [pages 12 - 13](#) for key themes addressed in 2019 COBs, and [pages 14 - 25](#) for a summary of the COBs adopted for each State reviewed in 2019.

In each set of COBs, the Committee selects **up to three recommendations for its follow-up procedure**. These are issues that "require urgent attention" and "should be attainable within a period of 24 months". Within these 24 months States are required to produce a report on the action that they have taken. The Committee then assesses the compliance of the State and publishes its response. For further information on follow-up reports considered in 2019, see [page 10](#).

Civil society plays a vital role providing the CESCR with information on the conditions of ESC rights holders within each State Party and is **invited to submit reports and provide oral briefings to the Committee** ([page 11](#)).

INDIVIDUAL COMMUNICATIONS AND THEMATIC WORK

Individual Communications

2013 saw the entry into force of the Optional Protocol to the ICESCR, which is a treaty that empowers the Committee to consider **communications (complaints) brought by individuals who allege that a State Party to the OP has violated their rights under the ICESCR**. 24 States are currently party to the Optional Protocol (for ratifications see [page 31](#)).

The adoption of the Committee's first decision in 2016 kickstarted the development of a jurisprudence that has already enriched our understanding of the justiciability of ESC rights. In 2019 the Committee adopted 20 decisions (see [pages 26 - 32](#)).

Under the Optional Protocol, **it is possible for third parties to intervene** in the procedure by submitting additional information about the issues raised in the case. The Committee can also request **interim measures** (similar to an injunction) in order to prevent "irreparable damage" to victims. In 2019 the Committee published Guidelines on Interim Measures (see [page 32](#)).

The CESCR considers all materials submitted by the parties and any third party intervention, and makes a decision on the basis of these written submissions as to whether there has been a violation of the ICESCR. Where it finds a violation, it makes a set of recommendations including **specific recommendations** in respect of the complainant (e.g. the payment of compensation) alongside **General Recommendations** that a State removes structural impediments to the realisation of the right in question (e.g. through the enactment of legislative measures).

The Committee has developed a **follow-up mechanism for Individual Communications**, which it uses to monitor States' implementation of its recommendations. For information on the consideration of cases under the follow-up procedure, see [page 32](#).



The Committee during the 2019 review of a State Party.

Thematic Work

The Committee analyses and provides guidance on important thematic issues either via General Comments or public Statements.

General Comments provide an authoritative interpretation of the normative content of ESC rights and State obligations under the ICESCR. The process for the development of General Comments includes a Day of Discussion where the Committee invites submissions and participation from all stakeholders. This year's day of discussion concerned the development of a General Comment on Land, see [page 33](#).

This year, the Committee made **Statements** on the Sustainable Development Agenda ([page 34](#)), human rights and climate change ([page 35](#)) and trade union rights ([page 36](#)).

THE 18 COMMITTEE MEMBERS



Members of the Committee in 2019, pictured with Michelle Bachelet, UN High Commissioner for Human Rights.

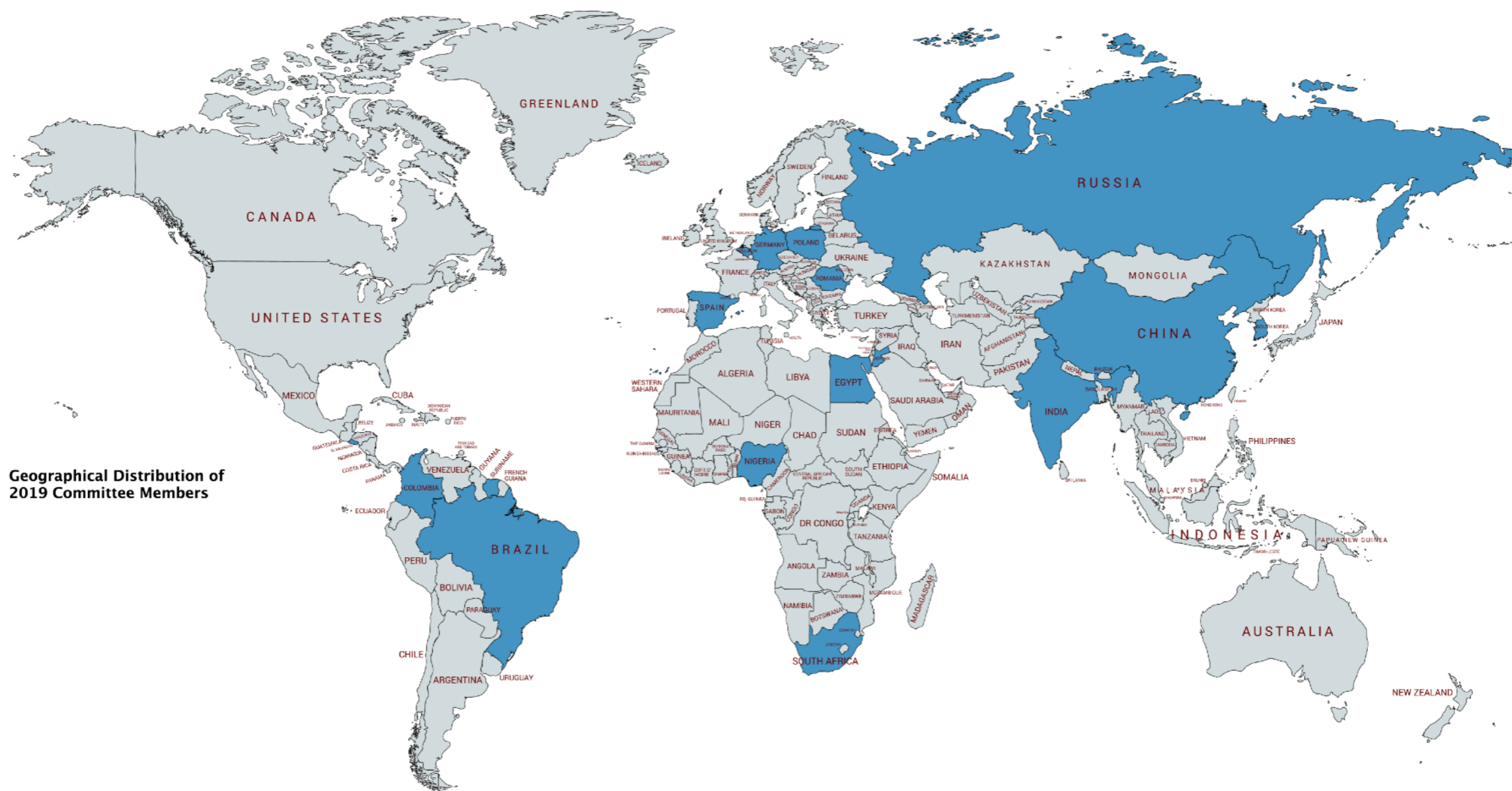
- | | | | |
|--|---|--|--|
|  Mr. Renato Zerbini Ribeiro Leão (Brazil) (Chair) |  Mr. Asraf Ally Caunhye (Mauritius) |  Ms. Laura-Maria Craciunean-Tatu (Romania) |  Ms. Preeti Saran (India) |
|  Mr. Olivier De Schutter (Belgium) |  Mr. Mohamed Ezzeldin Abdel-Moneim (Egypt) |  Ms. Karla Vanessa De Vásquez (El Salvador) |  Ms. Lydia Ravenberg (Suriname) |
|  Mr. Mikel Mancisidor (Spain) |  Mr. Waleed Sadi (Jordan) |  Ms. Heisoo Shin (Republic of Korea) |  Ms. Sandra Liebenberg (South Africa) |
|  Mr. Zdzislaw Kedzia (Poland) |  Mr. Shiqiu Chen (China) | | |
|  Mr. Aslan Abashidze (Russia) |  Mr. Michael Windfuhr (Germany) | | |
|  Mr. Peters Omologbe Emuze (Nigeria) |  Mr. Rodrigo Uprimny (Colombia) | | |
| | | 2/3 Men  |  1/3 Women |

NATIONALITY AND PRIMARY OCCUPATION OF COMMITTEE MEMBERS

CESCR members are **elected for a term of four years** by States during **elections held by ECOSOC every 2 years**. ECOSOC Resolution 1985/17 mandates that the composition of the CESCR must reflect an “equitable geographical distribution”. Accordingly, **each regional grouping is allocated a quota of seats** on the Committee. “African States”, “Asian States”, and “Latin American and the Caribbean States” each have four seats, whilst “Eastern European States” and “Western Europe and Other States” each have 3 seats.

In 2019 the Committee was composed of:

- 9 Academics
- 5 Current or retired diplomats / government officials
- 1 Public prosecutor
- 1 National Human Rights Institution representative
- 1 Judge
- 1 NGO director



Geographical Distribution of 2019 Committee Members

State Reporting

In 2019, the CESCR reviewed **11**

countries: Bulgaria, Cameroon, Estonia, Kazakhstan and Mauritius, Denmark, Ecuador, Israel, Senegal and Slovakia.

Only 1 State, Bulgaria, followed the Simplified Reporting Procedure. In doing so it became the third State to use the procedure, following Spain and New Zealand.

Unfortunately, the CESCR faces a persistent problem with overdue reports and non-reporting States. **None of the reports considered this year were initial reports.** As such, by the close of 2019 there remained 27 States Parties - mostly developing States with small populations - that had never reported to the Committee. 49 periodic reports are also

2019 in numbers

2 Sessions

10 Days of pre-session working group meetings

30 Days of working session meetings

1 Meeting with State Parties

1 Day of General Discussion

overdue, giving the CESCR an unwelcome second place in the list of treaty bodies with the most **overdue reports**.

Unusually, the Committee received

comments on its Concluding Observations

from 1 State Party, Israel. The comments were critical of the Committee, with the State making clear its “profound regret regarding the

text of the concluding observations”.

In 2019, the Committee undertook **follow-up** in respect of its Concluding Observations on Australia, Liechtenstein, the Netherlands and Uruguay, Colombia, Pakistan, the Republic of Korea

and the Russian Federation. Reminders were sent to Sri Lanka and the Republic of Moldova, both of which failed to submit their follow-up reports. The Committee has recently established a webpage for its follow-up procedure.



Flags of UN Member States outside the Palais des Nations, Geneva.

CIVIL SOCIETY ENGAGEMENT WITH THE REPORTING PROCEDURE



NGO representatives Sarah Walsh and Bruce Porter report on their experience attending the first NGO briefing for the CESCR, for the review of Canada in 1993.

During the review of a State Party it is possible for civil society and National Human Rights Institutions (NHRIs) to submit “**parallel reports**”, which help inform the Committee of pertinent ESC rights issues in each State. Civil society organisations play a vital role in identifying matters that have not been included in the State’s own report and

highlighting issues of concern to rights holders.

The Committee received a total of **102 NGO parallel reports** for the countries that were reviewed in 2019. The size of the NGOs that submitted these reports varies greatly, ranging from large international NGOs to organisations that focus solely on national - or even local - issues.

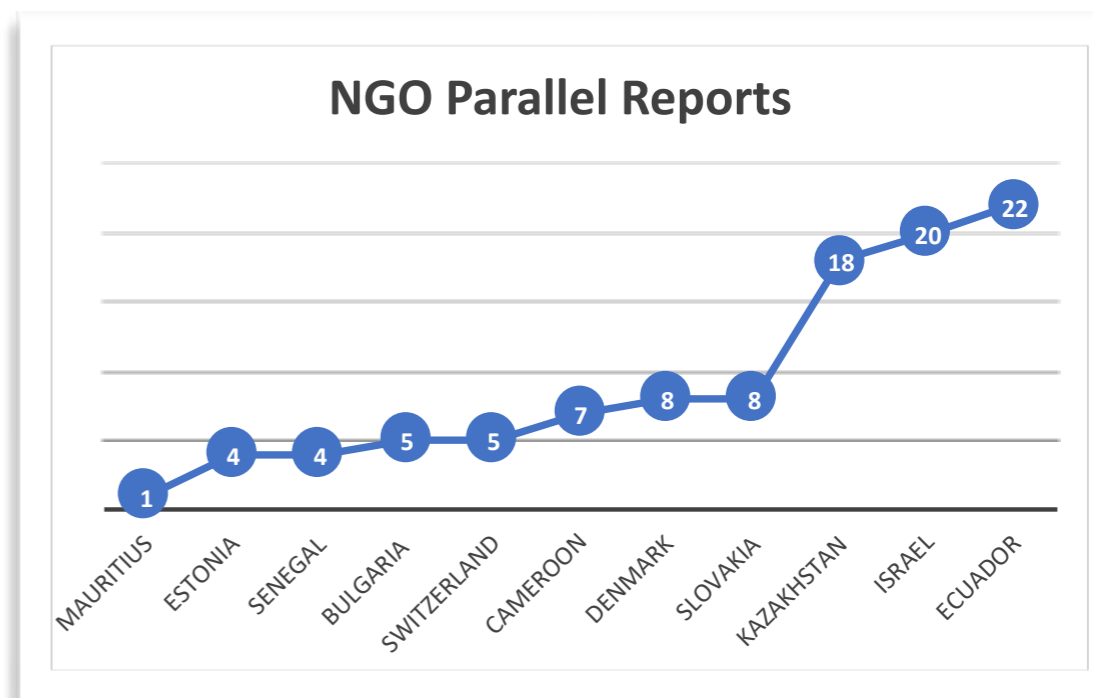
As can be seen from the graph on the right, the most NGO parallel reports were received for the review of Ecuador, 22. The lowest number of NGO parallel reports was received for the review of Mauritius, which attracted just 1.

The majority of NGO parallel reports, 65, were submitted for the session. 37 were submitted for either the List of Issues or List

of Issues Prior to Reporting.

A total of **5 reports were also received from NHRIs**. All but 1 was received for the session. Only in the review of Denmark did a NHRI submit a report for the List of Issues.

The Committee’s follow-up procedure also invites civil society engagement. However, a total of **just 6 parallel reports were received for the 8 States that were subject to the follow-up procedure in 2019**. 3 of these reports were received for the follow-up review of a single State - Australia.



KEY THEMES IN 2019 CONCLUDING OBSERVATIONS

A number of prominent themes emerge from the Concluding Observations (COBs) that followed State reviews in 2019.

The Committee began almost all COBs with an analysis of **the role of the reviewed State's National Human Rights Institution (NHRI)**, variously evaluating the scope of their mandate, their independence, and their capacity to function effectively. It then proceeded to recommend improvements, for example that Mauritius provide their NHRI "with an explicit mandate to protect and promote economic, social and cultural rights."

Most COBs are also prefaced with a consideration of the **applicability of the Covenant** and the extent to which ESC rights can be relied upon in domestic law. The Committee commonly asked questions about the number of times that Covenant rights had been successfully invoked in cases, and the degree to which lawyers and judges were aware of the provisions of the ICESCR.

The CESCR regularly recommended that States **increase public spending** in areas such as social security, housing, health and education so as to ensure that they meet their obligations to **mobilise the maximum available resources** (art. 2 (1)). The Committee drew attention to the significance of **international cooperation** in this context, recommending that States such as Switzerland and Mauritius take measures to combat tax abuse and regulatory races to the bottom, which "make it more difficult for all Governments to mobilize the resources necessary for the fulfilment of the rights in the Covenant".

To fund greater social spending, several States were called upon to develop a more **"progressive and socially just fiscal policy"** (Cameroon, Bulgaria, Ecuador, Estonia, Israel, Senegal). This was often linked to the need to reign in growing levels of **economic inequality**, which is increasingly a concern of the CESCR. The reviews of both Ecuador and Bulgaria broached the topic **austerity measures** and the strict conditions under which they will be compatible with the Covenant.

The Committee also frequently highlighted various other forms of inequality, drawing attention to the ways in which **different groups are specifically affected in their enjoyment of ESC rights**. Thus, it considered the circumstances of young and old people, disabled persons, migrant workers, refugees and asylum seekers, as well as different indigenous peoples and minorities within each State. Additionally, the Committee recommended that States take **measures take to promote the traditions, culture and languages of a number of different minority groups**, from the Arab population of Israel to the Sápara and Shiwiar peoples of Ecuador.

Concern at the persistence of both formal and substantive **gender inequalities** also received significant attention. For example, the gender wage gap surfaces in almost every single review, from Cameroon - where it was linked to the overrepresentation of women in the informal economy to Denmark, where gender disparities in the wages of high earners were attributed to a lack of bodies that negotiate on the behalf of high-earning female employees.



A women's cooperative in the township of Yoko, Cameroon

KEY THEMES IN 2019 CONCLUDING OBSERVATIONS



Vendors at a fruit market in Ecuador

The Committee raised concerns about respect for **trade union rights** in all but 3 COBs, highlighting issues that ranged from Kazakhstani restrictions on the right of civil servants to strike, to unfair dismissals in the export processing zones of Mauritius. When reviewing developing countries, it tended to consider the circumstances of **workers within the informal economy** and the degree to which they are covered by labour laws and social security schemes.

The Committee made use of their COBs on Ecuador to urge the State to implement its recommendations regarding social security in the communication **Trujillo Calero v. Ecuador**. Jurisprudence under the Optional Protocol was also referred to in the COB on Mauritius, with the Committee making an effort to ensure its mechanisms of rights protection are mutually reinforcing.

The issue of **climate change** also surfaced in a number of COBs. *Inter alia*, the Committee recommended that Mauritius strengthen its preparedness for climate induced disasters and implored Switzerland to raise its emissions

reduction target. The CESCR was also sensitive to the **effects that the move away from fossil fuels may have on the labour market**, calling on Estonia to ensure that those affected by the “transition to renewable energy... are able to make an effective and smooth transition to new occupations that enable them to maintain an adequate standard of living”.

The Committee observed that there exists a serious **lack of social and affordable housing** in a number of States, including Estonia, Mauritius, Kazakhstan, Israel, Slovakia, and Denmark. Concerns were also raised in relation to States such as Bulgaria and Slovakia that a large number of persons were living **without access to sanitation or water services**.

A number of observations on the right to health concerned **the health of drug users**, in particular the high rates of HIV amongst those that inject drugs (e.g. Kazakhstan, Senegal). The Committee also made several recommendations regarding the **de-facto segregation of educational systems**, highlighting the segregation of Roma children in both Bulgaria and Slovakia. In relation

to Mauritius, it commented that a “high level of inequality in educational outcomes” exists “due to the frequent selection of private education”.

The Committee made a direct or indirect reference to **the right to enjoy the benefits of science and its applications** in over half of its COBs this year, often calling for the States to widen internet access. This is significantly more often than in previous years, and perhaps related to the Committee’s General Comment on Science and ESC rights which was published in 2020.

Finally, the Committee also made a series of “Other Recommendations” that were almost identical across each COB. For example, nearly every State that had not done so was **encouraged to sign or ratify the Optional Protocol**, a particular concern given that 2019 saw no new signatures or ratifications.

The following pages contain short summaries of the Concluding Observations for each of the States reviewed in 2019.

Bulgaria

• 18 IN STATE DELEGATION • 1 NGO LOIPR REPORT • 4 NGO SESSION REPORTS • 1 NHRI SESSION REPORT



The Committee considered the **6th periodic report of Bulgaria**, which became one of the first three States to follow the Simplified Reporting Procedure.

A particular concern for the conditions of Roma persons is evident throughout the Concluding Observations. Although the Committee welcomed the fact that Bulgaria had developed a National Roma Integration Strategy, it found the impact of the Strategy to be limited and stressed that **discrimination against the Roma** in employment, housing, health care and education is “being exacerbated by a rise in anti-Roma sentiment”. The Roma population is disproportionately affected by poverty, youth unemployment and forced evictions, whilst conditions of de facto school segregation also continue to prevail in the country.

The Committee raised several issues related to inequalities within the State Party. For example, it drew attention to the existence of **economic disparities between both individuals and regions** and recommended that Bulgaria “develop a more progressive fiscal policy” and ensure a fairer geographical allocation of resources. Regional disparities were also identified as having an adverse impact on the

availability of healthcare, with the Committee recommending that the State take measures to incentivise medical professionals to work in disadvantaged districts.

A significant portion of the Concluding Observations was dedicated to **the conditions of women within the State Party**. The Committee drew attention to the persistence of economic and cultural stereotypes of women, the prevailing gender pay gap, the high rate of female unemployment, and the issue of harassment in the workplace. It also called on Bulgaria to incorporate the main principles of the Istanbul Convention in its legislation in order to fully protect women against all forms of violence, including domestic violence.

In relation to **disability**, the Committee raised concerns about the lack of sustainable care solutions and the fact that the draft Natural Persons and Support Measures Act, which abolishes the deprivation of legal capacity of persons with intellectual or psychological disabilities, has not yet been adopted by the National Assembly. It also recommended that Bulgaria take measures to increase the labour force participation rate of persons with disabilities.

Whilst the Committee acknowledged that Bulgaria had increased the share of GDP allocated to public spending over the past 5 years, it remained concerned that efforts to control the deficit may lead to the adoption of **austerity measures** and undermine the State’s capacity to meet its obligation to mobilise the maximum available resources.

The Committee made further recommendations relating to: the mandate of the domestic **Commission for Protection against Discrimination**; State efforts to tackle **corruption**; the need to reduce the **youth unemployment rate**; the insufficiency of **social security** guarantees; the necessity of supporting **children that have left care institutions**; poor conditions in **reception centres for migrants and asylum seekers**; the growing number of **homeless persons**; the high prevalence of **HIV amongst those that inject drugs**; and the **cultural rights of minorities**.

SESSION 65 (E/C.12/BGR/6)

Cameroon

• 11 IN STATE DELEGATION • 4 NGO LOI REPORT • 3 NGO SESSION REPORTS • 0 NHRI SESSION REPORTS



At its 65th Session, the Committee considered the **4th periodic report of Cameroon**.

The Committee began by acknowledging the **“critical security situation”** that prevails in several regions of Cameroon. It raised concerns that violence in the Far North, North-West and South-West Regions has severely affected the enjoyment of ESC rights by, *inter alia*, restricting the availability of medical supplies, damaging educational infrastructure and displacing large numbers of persons.

Although willing to recognise both security and climate related challenges faced by Cameroon, the Committee criticised the **inadequacy of the State’s anti-poverty programs and the lack of domestic resources that had been mobilised** for the purposes of realising ESCR. It urged Cameroon to evaluate its poverty reduction strategy and develop a “more efficient, progressive and socially just fiscal policy”. Further, the Committee called for greater transparency in public administration and action that would ensure the **protection of both anti-corruption activists and human rights defenders**.

Many of the Concluding Observations reflected a concern for the **situation of the indigenous**

peoples of Cameroon. For example, the Committee highlighted the adverse impacts that development projects can have on indigenous communities and requested that the State consult with indigenous people with a view to obtaining their free, prior and informed consent before taking action that may affect them. The Committee also drew attention to the difficulties that indigenous people face gaining **access to the labour market**, the limited availability of **education in indigenous languages**, and allegations that members of indigenous peoples **work under conditions “tantamount to forced labour.”**

On the issue of work, the Committee also raised concerns about the **prevalence of child labour, the high level of unemployment**, and excessive **restrictions on trade union rights**, including the right to strike. It observed that the fact that the majority of workers are employed in the informal economy means that they are not properly covered by labour laws or the social protection system. Women are particularly affected as they are overrepresented in the informal economy, a fact which contributes to the existence of a gender wage gap.

The Committee stressed that Cameroon should prioritise ending **persistent inequality between men and women** by repealing legal provisions that bar women from certain jobs, adopting measures to ensure women have access to political life, and taking action to change traditional attitudes that interfere with women’s enjoyment of ESC rights, including their access to land. It also urged the State Party to adopt a broad anti-discrimination law, decriminalise consensual homosexual relations, and take steps to prevent the de facto marginalisation of ethnic, linguistic and religious minorities.

Other recommendations include that Cameroon should: **ensure that ESC rights can be invoked** at all levels of the judicial system; increase the **rate of birth registration**; strengthen the legislative framework regarding **violence against women**; develop a comprehensive strategy for guaranteeing **the right to adequate food**; decriminalise the **non-payment of rent**; review criminal legislation under which **abortion** is prohibited; and improve **internet access**.

SESSION 65 (E/C.12/CMR/4)



In March 2019, the CESCR considered the **3rd periodic report of Estonia**. It began its Concluding Observations with praise for several developments that had occurred since the State's last review, such as the introduction of an increased minimum wage and a fall in the absolute poverty rate.

Despite this progress, however, the Committee remained concerned at the low **proportion of the public budget allocated to social services**, the high **at-risk-of-poverty rate**, and the fact that **poverty was particularly prevalent amongst pensioners, the unemployed and single-parent families**. Accordingly, it recommended that Estonia increase its level of social spending, introduce supportive measures that target the most disadvantaged, and conduct a review of its fiscal policy with the goal of reducing the at-risk-of-poverty rate.

The Committee made a number of observations that related to the rights of linguistic minorities in Estonia. For example, it recognised the persistent **discrimination experienced by persons who were not proficient in the Estonian language** and emphasised that that language barrier affected access to employment, housing, education, health care and other services. The

Committee also advised Estonia to be more flexible in its implementation of a quota of teaching in Estonian in Russian-speaking secondary schools, to consider lowering the threshold for the use of a minority language in communications with local authorities, and to remove obstacles to the acquisition of Estonian citizenship.

The growing number of teenagers with **mental health issues** and the **high male suicide rate** in the State Party were identified as points of concern, with the Committee urging Estonia to adopt a national mental health policy. Further concerns were also raised about the widespread **social stigma against drug users**.

With regards to the right to water, the Committee drew attention to the **high radon content in groundwater in northern Estonia**, which had been linked to various instances of cancer. It recommended that those exposed to contaminated water be provided with healthcare and alternative drinking water sources, and called on Estonia to review their legal regulations to ensure compliance with EU and WHO standards.

The Committee also considered **the impact that Estonia's transition to renewable energies is**

having on the right to work. It stressed that workers in the textile and oil shale industries had been left unemployed by industrial restructuring and recommended that the country improve its training programmes so the workforce can adapt to the changing demands of the labour market.

The Committee pointed out that Estonia's **rapid digitalisation of public service delivery may have adverse effects** on those that do not use the internet or have limited digital skills. It called on the State to ensure that assistance and face-to-face support are easily available.

Other observations related to: the **lack of domestic cases in which Covenant rights had been protected**; the poor living **conditions of asylum seekers**; the **gender pay gap**; **domestic violence**; the **lack of data collected on occupational accidents** and diseases; the **shortage of social housing**; and the high **prevalence of HIV** amongst women and drug users.

Kazakhstan

• 18 IN STATE DELEGATION • 8 NGO LOI REPORTS • 10 NGO SESSION REPORTS • 0 NHRI SESSION REPORTS



The Committee considered the **2nd periodic report of Kazakhstan**.

The Committee identified Kazakhstan's **low levels of expenditure on social services** as a principle subject of concern, drawing particular attention to healthcare, education and social security. It also raised issues relating to **the accessibility and quality of education** and called on the State to improve investment in infrastructure and teacher training.

Concern was further expressed that the country's **social security system did not cover all relevant population groups**, overlooking workers in the informal economy, self-employed workers, non-nationals and irregular migrant workers. The Committee called on the State to develop a universal social security system that would ensure coverage for these groups.

The Committee also made several observations on the **ESC rights of LGBT persons**. It raised concerns that: civil society groups which promote LGBT rights had faced difficulties registering as NGOs; that the lack of a prohibition on discrimination on the grounds of gender identity and sexual orientation had contributed to discriminatory access to employment, health care

and education; and that, in the context of the right to education, LGBT students faced instances of bullying and violence.

On the matter of **business and human rights**, the Committee called on Kazakhstan to finalise and adopt a national action plan on business and human rights. It also urged the State to begin to collect information on the claims of victims who argue that their ESC rights have been violated by business operations.

A number of the CESCR's observations related to workers' rights. For example, the Committee outlined its concern at the continued existence of a **list of prohibited jobs for women**, the **harassment of trade union activists**, and **restrictions on the rights of civil servants and law enforcement officers to strike**. Moreover, the Committee raised several concerns in relation to the **working conditions of migrants**, taking up issues such as the domestic servitude of women migrant workers and reports of forced and bonded labour in the tobacco, cotton and construction industries. The situation of migrant workers was also considered in the context of access to social security and social housing.

Although it recognised the progress that Kazakhstan had made on Transparency International's Corruption Perceptions Index, the Committee remained troubled by the scale of **corruption and its impact on ESC rights**. It drew particular attention to corruption in the allocation of resources for scientific research, and expressed concern about the way this can affect **the right to participate in scientific activities**.

Further observations related to: the low level of resources available to the national **Commissioner for Human Rights**; the **underrepresentation of women** across the public and private sectors; the persistence of the **gender wage gap; domestic violence; child labour**; the situation of **disabled children in overcrowded orphanages**; the lack of support services available to the **large number of persons addicted to opioids**; and the fact that under the public health code doctors may carry out **medical procedures** on patients declared "incapable" **without seeking their informed consent**.

SESSION 65 (E/C.12/KAZ/2)

Mauritius

• 8 IN STATE DELEGATION • 0 NGO LOI REPORTS • 1 NGO SESSION REPORTS • 0 NHRI SESSION REPORTS



At its 65th session, the CESCR considered the **5th periodic report of Mauritius**.

The Committee by welcoming the recent case on the separation of the Chagos Archipelago from Mauritius, in which the International Court of Justice “affirmed the **right to self-determination** of the Chagos Archipelago on the basis, *inter alia*, of article 1 of the Covenant.”

Climate change was amongst the first issues addressed by the CESCR, which stressed that **natural disasters had already had a serious impact on the enjoyment of ESC rights**, particularly for those living at sea level. The Committee acknowledged that Mauritius had played a negligible role in causing climate change and recommended that the island nation adopt a human rights-based approach to its preparation for disasters. It also urged the State to seek international support for its efforts.

The Committee outlined concerns that the **low rate of corporate income tax in Mauritius may reduce public revenues** and “encourage unhealthy regulatory competition in the subregion.” It called on the State to actively seek the upward harmonization of corporate taxation so as to ensure that all countries in the region can

maximise the public revenue raised from foreign investment.

The Committee expressed further concern that the definition of a “worker” in the Public Procurement Act may exclude subcontractors from **labour protections**. It reminded Mauritius that, as part of the duty to protect the rights enshrined in the Covenant, the State should require that corporations certify that their business partners respect these rights. The Committee also touched upon the poor working conditions of migrant and domestic workers, the harassment of trade union representatives, and the fact that minimum wages for workers in export-oriented enterprises were lower than the national minimum wage.

Occupational gender segregation, the high level of female and youth unemployment and the greatly inequitable distribution of family responsibilities between men and women were also identified as principle subjects of concern. Amongst its many recommendations for alleviating **gender-based inequalities**, the Committee suggested that Mauritius ensure that both men and women can take advantage of the State’s teleworking policy. The Committee also highlighted the **low level of internet users** on

the island and urged the State to ensure that all can enjoy their right to benefit from scientific progress.

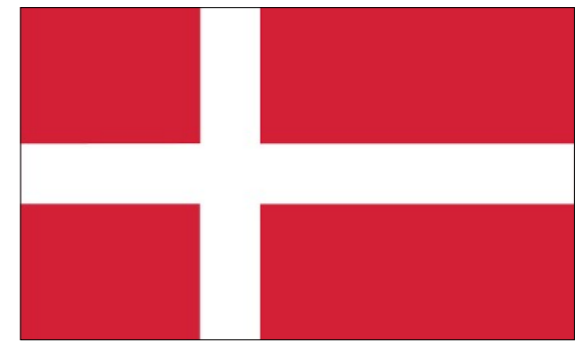
The Committee made several comments that were of particular relevance to the **Creole population of Mauritius**. It drew attention to systematic disadvantages faced by the Creole and called for “effective and equal access to employment, adequate housing, health-care services and inclusive quality education.” It also recommended that Mauritius broaden access to educational materials in the Creole language and take steps to accord it an official language status.

The Committee also made observations relating to: the State’s **repressive approach to drug use**; the **stigmatisation of mental health** conditions; the fact that **marital rape** is not explicitly criminalised; the limited protection available to **LGBTI persons**; the inadequate provision of **social housing**; and the fact that the basic **retirement pension** remains below the relative poverty line.

SESSION 65 (E/C.12/MUS/5)

Denmark

• 31 IN STATE DELEGATION • 1 NGO LOI REPORT • 1 NHRI LOI REPORT • 7 NGO SESSION REPORTS • 1 NHRI SESSION REPORT



The CESCR considered the **6th periodic report of Denmark** during its 66th session.

A significant portion of the Committee's Concluding Observations related to issues of housing. Concerns were raised about reports of **forced evictions** in Greenland, a general **shortage of affordable housing** across Denmark, the scale of **homelessness**, and the **discriminatory impact of the Social Housing Rent Act**, which categorises certain neighbourhoods as "ghettos" according to the share of residents from "non-Western" countries.

The Committee also registered its unease at a number of **retrogressive measures that have eroded the rights of refugees and migrants**.

Amongst these, it identified: the establishment of a policy which no longer obligated municipalities to provide refugees with permanent housing; the curtailment of entitlements to free interpretation in health services; and the introduction of difficult conditions for family reunification. The Committee also raised concerns about the fact that refugee children are not automatically enrolled in school and noted that strict residence requirements for unemployment benefits discriminated against migrant workers from

countries that were not part of the European Economic Area.

The Committee made several additional comments related to the right to health, noting its concern at reports of the use of **coercive measures in mental health institutions** and imploring Denmark to intensify its efforts to combat the **higher rate of suicide among young people in Greenland**. It also drew attention to the inadequacy of the definition of **'intersex' persons** in Danish legislation, recommending that the definition be broadened and that health-care personnel be specifically trained on the health needs and human rights of intersex persons.

The Committee also sought to influence the content of Denmark's second national action plan on **business and human rights**, advising the State to: a) hold business liable for violations of ESC rights; b) require that businesses exercise human rights due diligence; and c) allow victims to seek remedies through both judicial and non-judicial mechanisms.

In the area of **gender equality**, the Committee recommended that Denmark take steps to improve women's representation in corporate

management and ensure the equal sharing of responsibilities within work and family life. It also raised concerns about the high incidence of **sexual violence**, including rape.

The Committee welcomed the announcement of the Danish delegation that it intended to double the contribution it proposed to the Parliament for the **Green Climate Fund**. It called on the State to ensure that all contributions to the Fund increase overall levels of development assistance instead of displacing funds from other areas.

Amongst its other recommendations, the CESCR called on Denmark to: **respect the right of the Thule tribe to self-identification; expedite the establishment of a human rights institution in the Faroe Islands; and legislate on conditions of work** so as to guarantee that minimum standards are applicable to all workers, including those that are not covered by collective agreements.

SESSION 66 (E/C.12/DNK/6)

Ecuador

• 8 IN STATE DELEGATION • 4 NGO LOI REPORTS • 18 NGO SESSION REPORTS • 1 NHRI SESSION REPORTS



The Committee's 66th session saw it consider the **4th periodic report of Ecuador**.

A concern with the impact of **austerity measures** can be discerned throughout the Concluding Observations published at the close of the review. Whilst the Committee recognised Ecuador's fiscal deficit and high level of debt, it recommended that the State conduct an assessment of the impact that economic measures have on ESC rights and avoid cutting social spending on health and education to below 2018 levels. It advised Ecuador to **increase spending on education** in order to ensure that it is universally accessible.

The Committee also raised concerns about the disproportionate **use of force against anti-austerity demonstrators**. It reminded Ecuador of its obligations to both consult affected populations about cuts and guarantee the right to association. The Committee underscored that **retrogressive measures are compatible** with the ICESCR **only if they meet the criteria of necessity, proportionality, temporariness and non-discrimination**.

On the right to social security, the Committee drew attention to Ecuador's **failure to**

implement its recommendations in the communication Trujillo Calero v. Ecuador (E/C.12/63/D/10/2015) and called on the State to do so.

The CESCR also considered Ecuador's efforts in relation to **climate change mitigation**, highlighting the contradiction between the State's commitments under the Paris Agreement and the recent increase in oil development and large-scale mining. The Committee stressed that global warming will negatively impact "the enjoyment of economic and social rights by the world's population and future generations" and advised Ecuador to promote renewable energy and reduce its greenhouse gas emissions.

Several observations touched upon the **impact that extractive activities have had on indigenous territories**, leading to environmental degradation, the forced sale of land, and adverse effects on cultural rights. In this context, the Committee noted a **widespread failure to consult** indigenous peoples and communities of African descent, on decisions that may affect them, as well as a lack of information on measures to ensure the **right to water**, and a lack of protection afforded to **human and environmental rights defenders**.

The Committee proceeded to highlight the significant **poverty rate of indigenous people, people of African descent and Montubio people**, drawing particular attention to those that live near the northern border. It advised Ecuador to **promote the use of indigenous languages** in the public sphere and to implement a policy of bilingual intercultural education in all indigenous communities. The Committee also called on Ecuador to take action that would narrow the **'digital divide'** which had disproportionate effects on the rural population, indigenous peoples, people of African descent and Montubio people.

The Committee also made observations that related to: the scale of **economic inequality**; disparities in **access to healthcare**; the high **concentration of land ownership**; the persistence of **underage marriage**; the criminalisation of **abortion**; the practice of **extortion and sexual abuse** as forms of corruption; **violence against women, children and adolescents**; and the growing **informal sector of the economy**.

SESSION 66 (E/C.12/ECU/4)



The CESCR considered the **4th periodic report of Israel** during its 66th session.

The Concluding Observations were dominated by concerns relating to the **situation of individuals living in the Occupied Palestinian Territory (OPT)**. The Committee began by reminding Israel that its ICESCR obligations apply to the OPT, before proceeding to outline the “severe impact of the policies adopted by the State Party.”

Of particular concern was the closure policy and permit regime applicable to the Gaza Strip, which had **separated families**, engendered a situation of **food insecurity**, and **restricted access to medical treatment, higher education and historical and religious sites**. The Committee was also troubled by reports that multinational companies had been given licences for oil, gas and renewable energy projects in the OPT without prior consultation of affected communities. Further concerns were raised about the effects that Israel’s settlement policy and frequent demolition of water infrastructure and school buildings had had on the enjoyment of ESC rights. The Committee urged the State to

“immediately” **lift the blockade on Gaza and reverse settlement policies in the West Bank.**

The CESCR raised concerns about the possible **discriminatory effects that the “Basic Law: Israel - the Nation State of the Jewish People” had on the ESC rights of non-Jewish people** residing in the State Party. It also drew attention to the disproportionately poor health and education of Arab and Bedouin populations, as well as the fact that Arabic had been downgraded from its status as an official language.

The Committee recommended that Israel ensure **meaningful consultation with Bedouin communities** before implementing its Socioeconomic Development Plan for Negev Bedouin and cease evicting persons living in unrecognised villages. It also called on the State to ensure Bedouin villages are linked to water and sewage disposal infrastructure.

The high rate of **poverty amongst older people** was also identified as a point of concern, with the Committee arguing that this reflected the fact that pensions were insufficient to provide a decent

standard of living. It also advised Israel to equalise the retirement ages of men and women.

Additional concerns were raised about the large **number of outstanding asylum applications**, the negligible number of persons granted refugee status, and restrictions on the ability of asylum seekers to enter the labour market. The Committee also recommended that Israel take steps to improve the **labour market participation** of persons with disabilities, Bedouins, Arab women and ultra-Orthodox Jewish men. It urged Israel to strengthen the enforcement of its Prevention of Sexual Harassment Law and take action to raise workers’ awareness of their rights under the Covenant.

Other recommendations included that Israel: adopt framework legislation regulating **clinical trials on human beings**; establish a **national human rights institution** that accords with the Paris Principles; and **assess the current system of religious law governing marriage and divorce** with a view to harmonising it with the provisions of the Covenant.

SESSION 66 (E/C.12/ISR/CO/4)

Senegal

• 7 IN STATE DELEGATION • 3 NGO LOI REPORTS • 1 NGO SESSION REPORTS • 0 NHRI SESSION REPORTS



During its 66th session, the Committee considered the **3rd periodic report of Senegal**.

Given that Senegal had not been reviewed since 2001, the Committee had a number of positive comments to make on the progress that the country had made. It praised a 2004 Act which had **made education compulsory until the age of 18** and a 2016 constitutional amendment which had **enshrined the rights to a healthy environment, natural resources and land**.

The CESCR expressed its disappointment at the **lack of data on ESC rights enjoyment that had been provided by the State**. The Committee made similar comments in relation to the lack of information on the coverage rate of social security schemes, and cases in which Covenant rights had been applied in domestic courts. Accordingly, Senegal was advised to improve its data-collection system.

The Committee made a series of observations on the rights of women in Senegal, raising concerns about the existence of a significant **gender pay gap**, the **overrepresentation on women in the informal sector**, and the adverse consequences of criminalising **abortion** in all circumstances where the mother's life is not at risk. It called on

the State to address social norms pertaining to the role of women, facilitate the **ease with which women can access credit**, and improve the availability of **educational opportunities**. The Committee also recommended that Senegal **adopt comprehensive legislation on discrimination** and ensure that existing legislation on gender parity is uniformly enforced throughout the country.

On matters of **health**, the Committee made clear its concerns about the **insufficiency of the resources** allocated to the health sector, the inadequacy of efforts to ensure that those most in need have **free access** to health services and the **lack of information available on reproductive health**. Senegal was also advised to challenge social stigmas which prevent drug users and homosexual persons with **HIV / AIDS** from equally enjoying their right to health.

The Committee also dedicated one of its observations to **the right to health and the environment**, highlighting issues with the disposal of plastic bags, the dumping of household waste and atmospheric pollution. It urged the State to implement measures that would address the public health effects of these environmental hazards.

Senegal was called upon to **protect children from work that may affect their health** and development, and to ensure that children in remote areas have access to health care. The Committee also outlined its **concerns about the lack of access to free public education**, the prevalence of sexual abuse in schools, and the practice in some Qur'anic schools of using children for economic gain. It requested that the State **"send a strong signal of the political will to end the practice of forced child begging."**

The Committee also recommended that Senegal: introduce a mechanism to secure the **land rights of rural women**; eliminate a requirement that the establishment of **trade unions** must be authorised by the Ministry of the Interior; and mobilise domestic resources by increasing **fees charged to foreign investors** for the exploitation of extractive and fisheries resources.

SESSION 66 (E/C.12/SEN/3)

Slovakia

• 15 IN STATE DELEGATION • 3 NGO LOI REPORTS • 5 NGO SESSION REPORTS • 1 NHRI SESSION REPORT



During its 66th session the CESCR reviewed the **3rd periodic report of Slovakia**.

The Committee opened its Concluding Observations by welcoming Slovakian policies that had contributed to the **country's low-levels of inequality**. Indeed, the remainder of the report contained no criticism of Slovakia's fiscal policies, and barely mentioned social spending.

The Committee did, however, outline its concerns about the continued prevalence of **corruption**. It recommend that the State take further action to increase the number of investigations, prosecutions and convictions related to corruption.

A number of the Committee's Concluding Observations concerned **the rights of Roma persons** living within the State Party. For instance, the Committee drew explicit attention to the fact that Roma people are regularly discriminated against, are disproportionately affected by poverty, often lack permanent access to clean water, and face segregation in their access to maternal health care services, housing and education. Accordingly, the Committee advised that Slovakia implement a raft of different

measures designed to tackle intolerance and promote integration.

The Committee was troubled by the **poor rate of enrolment in preschool education**, a phenomenon which it linked to low levels of investment and stereotypes surrounding gender roles. It further emphasised that **tertiary education was not sufficiently aligned with the demands of the labour market**, and called on the education system to be reformed so as to make it easier for young people to enter employment. Additionally, the Committee recommended that Slovakia take measures that would **ensure that disabled children are accommodated** within mainstream educational facilities.

Concerns were also raised about the **prevalence of discrimination based on gender identity and sexual orientation**, with the Committee recommending that Slovakia formulate specific legal provisions that would improve levels of protection. It also advised the State to create a legal institution, such as registered partnerships or civil unions, that would afford same-sex couples protection equivalent to marriage.

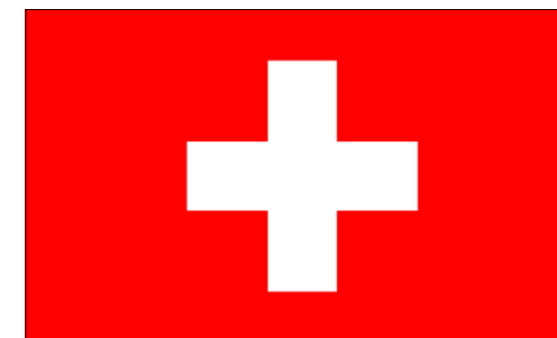
Slovakia was also advised to invest in public health campaigns so as to combat the **high level of obesity** and **drug and alcohol abuse** in the country. On the topic of **mental health**, the CESCR urged the State Party to effectively implement its commitment to cease using cage beds as a form of restraint within care institutions.

The CESCR also registered its deep concern at the number of **obstacles that women face accessing sexual and reproductive health services**. It detailed financial, legal and policy barriers to migrant women accessing maternal health care, as well as more widespread difficulties in obtaining access to safe abortions and contraceptives. Adding to this, the Committee pointed out that access to **assisted reproductive procedures** under public health insurance was reserved to those who meet specific conditions, such as a man and woman who declare that they are in an intimate physical relationship. It urged Slovakia to reconsider such conditions, so as to satisfy the right of every individual to enjoy the benefits of scientific progress and its applications.

SESSION 66 (E/C.12/SVK/3)

Switzerland

• 20 IN STATE DELEGATION • 10 NGO LOI REPORTS • 10 NGO SESSION REPORTS • 0 NHRI SESSION REPORTS



During its 66th session, the CESCR considered the **4th periodic report of Switzerland**.

The Committee addressed the matter of **how Covenant rights ought to be implemented under Switzerland's unique confederal system**, which accords each of its constituent political units (cantons) a high degree of autonomy over economic, social and cultural affairs. It cautioned that any disparities in the enjoyment of rights "may be inconsistent" with the Covenant and recommended that Switzerland "strengthen the coordination mechanisms" across different political units.

A number of the Committee's observations related to the impact that the actions and omissions of the State and entities within its jurisdiction had on the human rights of individuals abroad. Thus, for example, it called on Switzerland to ensure that victims of **human rights violations by Swiss businesses** can access grievance mechanisms, and, whilst acknowledging efforts to combat cross-border tax evasion, urged the State to "**intensify its efforts to address global tax abuse**". The Committee also recommended that Switzerland undertake systematic human rights impact assessments on the effects of its **free trade**

agreements and **raise official development assistance** to the international target of 0.7% of Gross National Income.

In a similar vein, the CESCR highlighted the **inadequacy of Switzerland's efforts to meet its 2020 targets for greenhouse gas reductions**. Further, its 2030 emissions target was "not compatible with the climate change mitigation objectives set by the international community." The Committee recommended that Switzerland take action to reduce investment in the fossil fuel industry and "raise the target for 2030 so that it is consistent with the commitment to limit temperature rise to 1.5°C."

The CESCR drew attention to discrimination faced by groups such as LGBTI persons, persons with disabilities, migrants, and persons living in poverty, raising particular concerns about the **mental health** and **high suicide rate** of several of these groups. It expressed its regret at the fact that Switzerland had yet to pass a general anti-discrimination law, calling on the State to do so.

Discrimination faced by Yenish, Sinti/Manouche and Roma communities was also a source of concern. The CESCR requested that Switzerland "**foster an enabling environment for the**

preservation, development and sharing of the identity, history, culture, traditions and customs of these minority groups."

Switzerland was called upon to **take steps towards ensuring substantive equality** between men and women, including by combating perceptions of traditional gender roles. The **absence of a federal minimum wage** and the **high cost of childcare** throughout the country were also identified as matters on which the State Party should take action.

The Committee also raised concerns about barriers to **accessing the labour market faced by foreign nationals** admitted on a temporary basis, challenges to **child refugees and asylum seekers accessing education**, and restrictions on the **family reunification of refugees**.

Further recommendations included that Switzerland should: ensure **domestic workers** enjoy the same conditions as other workers; harmonize **social assistance systems** across cantons; and take further **measures to promote the Romansch and Italian languages**.

SESSION 66 (E/C.12/CHE/4)

Strengthening the Treaty Body System

In 2019 the CESCR continued to **review its working methods** in response to General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system.

In July 2019, **the Chairs of the 10 treaty bodies developed a position paper**, in which they agreed to align their respective working methods, such as the format of dialogues, Concluding Observations and the follow-up procedure. The chairs of the CESCR and the Human Rights Committee (HRC) also agreed to **review countries on an 8-year cycle** and to synchronize the timing of their reviews. The paper notes that there would be benefits to conducting regional dialogues with States, and that treaty bodies should increase their review capacity, for instance by working in chambers, groups or country teams.

Both the position paper and the broader 2020 review of the treaty body system were also discussed by the full CESCR.

Coordination with HRC

In furtherance of the push for greater co-ordination between treaty bodies, the CESCR decided to pilot a procedure which would see it **coordinate Lists of Issues Prior to Reporting, with the HRC** under circumstances where they are both reviewing the same country. It is expected that this will reduce overlap and improve the efficacy of reviews.

Meeting with States

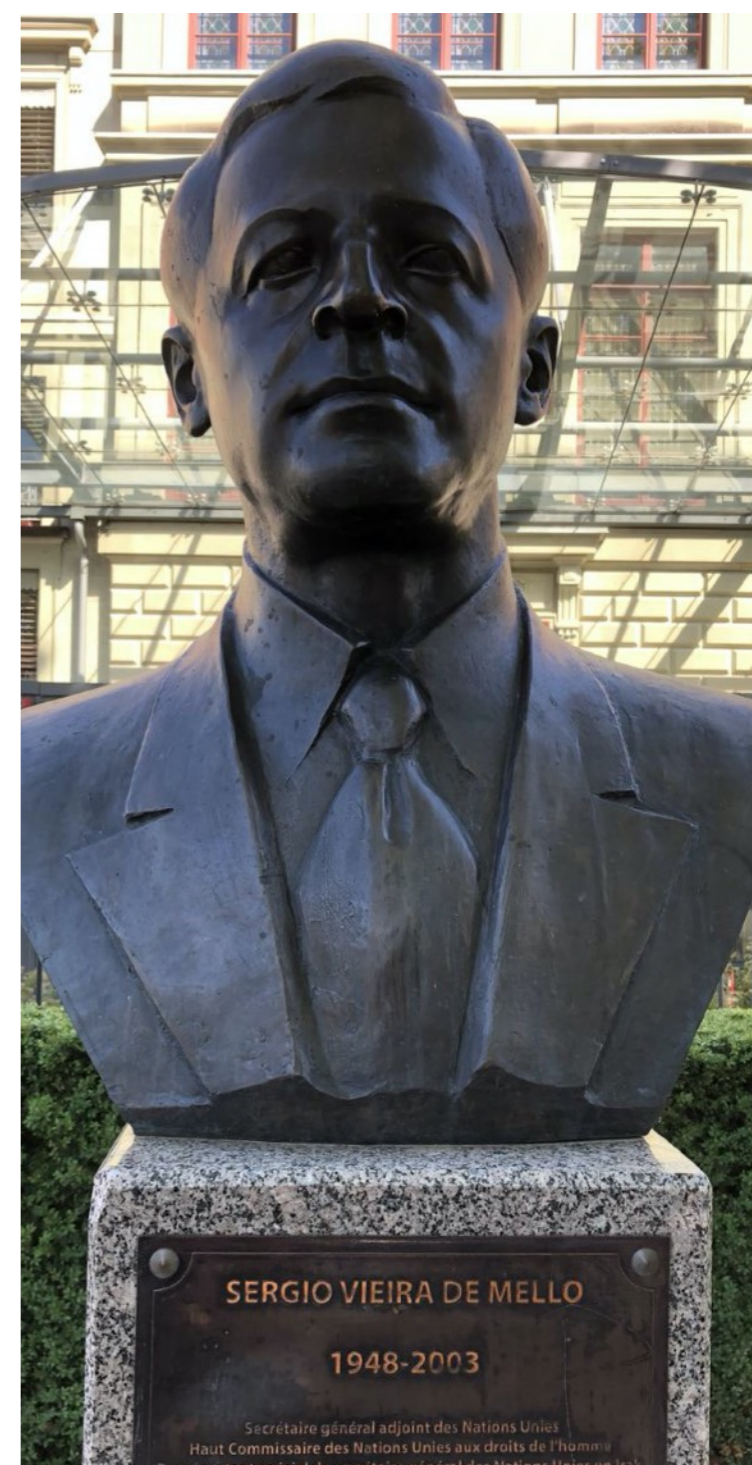
In March 2019 the CESCR held its usual meeting with States Parties. The Committee updated States on the **backlog of individual communications**, its assessment of **follow-up reports**, its **General Comment on science-related rights**, and its views on the **simplified reporting procedure (SRP)** and the 2020 Review.

Simplified Reporting Procedure

The CESCR informed States that the SRP would be **extended to all States that wished to use it** other than where it is the State's initial report. Departing from the position paper of the Chairs, it informed States that the idea of having committee subgroups sitting in parallel chambers was "not considered suitable for State Party reviews".

Additional Meetings

In the 65th Session the Committee was briefed by the **UN Independent Expert on the effects of foreign debt on human rights**, Juan Pablo Bohoslavsky, on the Guiding Principles for human rights impact assessments for economic reform policies ([A/HRC/40/57](#)). The CESCR also held **meetings with the Human Rights Committee** in order to discuss the 2020 review and a [joint Statement on trade union rights](#).



A tribute to former UN High Commissioner for Human Rights Sérgio Vieira de Mello - killed in the Canal Hotel bombing in Iraq - sits outside Palais Wilson.

2019 Individual Communications

Cases brought to the CESCR pursuant to the Optional Protocol are first assessed for compliance with the **admissibility** criteria. Then the Committee proceeds to consider the **merits**, deciding whether there has been a violation of the ICESCR or not. In some cases the case is **discontinued** by the Committee, or at the request of the parties, before any decision.

2 Decisions On The Merits

- S. C. and G. P. v. Italy
- López Albán et al. v. Spain

3 Inadmissibility Decisions

- M. L. B. v. Luxembourg
- S. S. R. v. Spain
- Pankka & Pérez v. Spain

20
Total Decisions

15 Discontinuance Decisions

- M.P. v Spain
- M. T et al v Spain
- D. P. et al v Spain
- S. L. & son v Spain
- T. H.. v Spain
- A.L. v Spain
- M. P. y otros v. Spain
- G. J. et al v. Spain
- E.V. v Spain
- Z. P. y otros v Spain
- M. R & P. M v. Spain
- M. V. v Spain
- Elisabet Posada Pérez et al v Spain
- Abdelhakim Atti et al v Spain

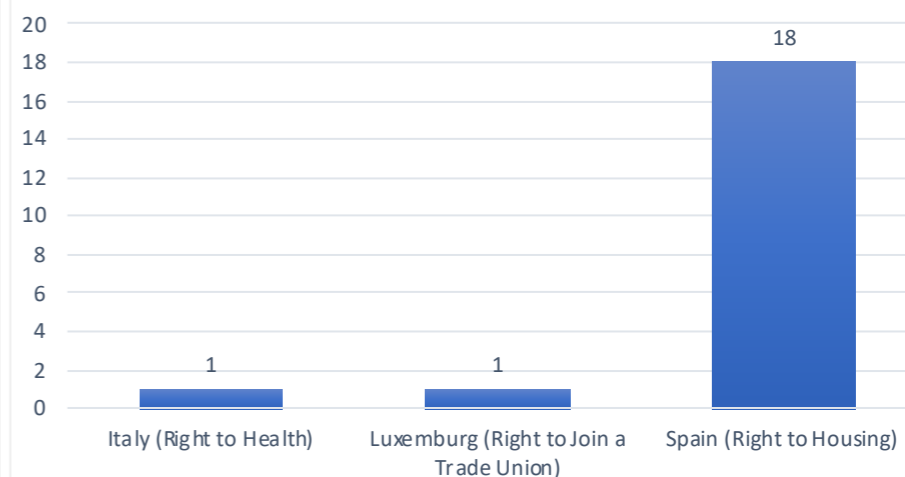
- El Hasnaoui El Fakraoui et al v Spain

During the course of 2019 the Committee **registered** a total of **84** communications. **82** of these concerned **Spain**, **1** concerned **France**, and **1** concerned **Argentina**. As of the 31st December 2019 there were **134 communications pending before the CESCR**.

The Committee decided 2019 communications an average of **nearly 16 months** after they were initially submitted. If discontinuance decisions are discounted, this figure rises to just under **26 months**.

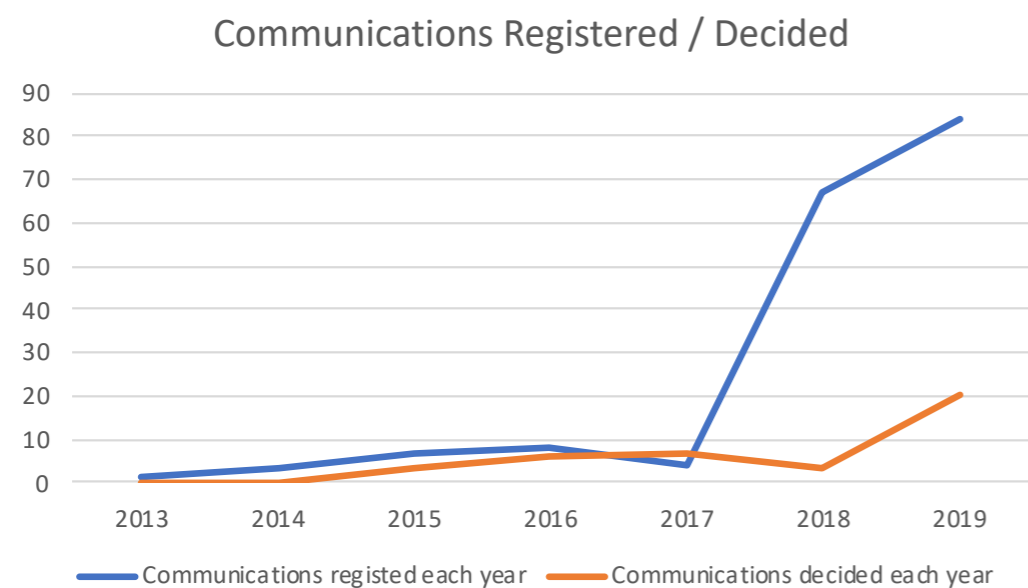
All **15 discontinuance decisions** concerned **Spain** and the **right to housing**. 6 were discontinued because the author could not be contacted. The remaining 9 were discontinued following requests by authors whose housing situation had changed.

2019 Decisions by State & Covenant Right



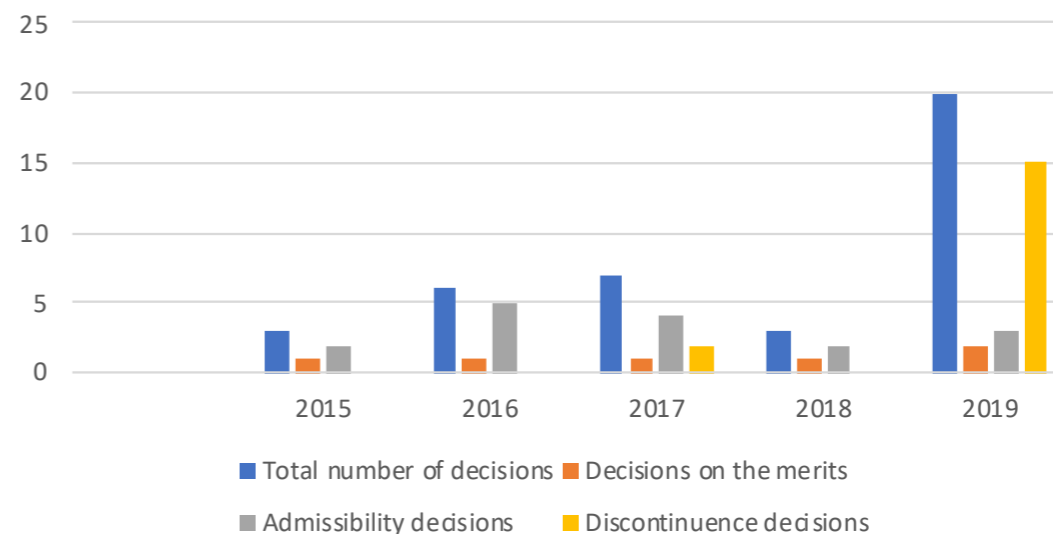
2019 INDIVIDUAL COMMUNICATIONS IN CONTEXT

In 2019 there was a large **increase in the number of communications** decided by the Committee, which was higher in 2019 than all previous years combined. This was primarily **due to an enormous increase in the number of discontinuance decisions**. However, 2019 was also the first year that the Committee reached two decisions on the merits, double the number that it had made in each of the previous years.



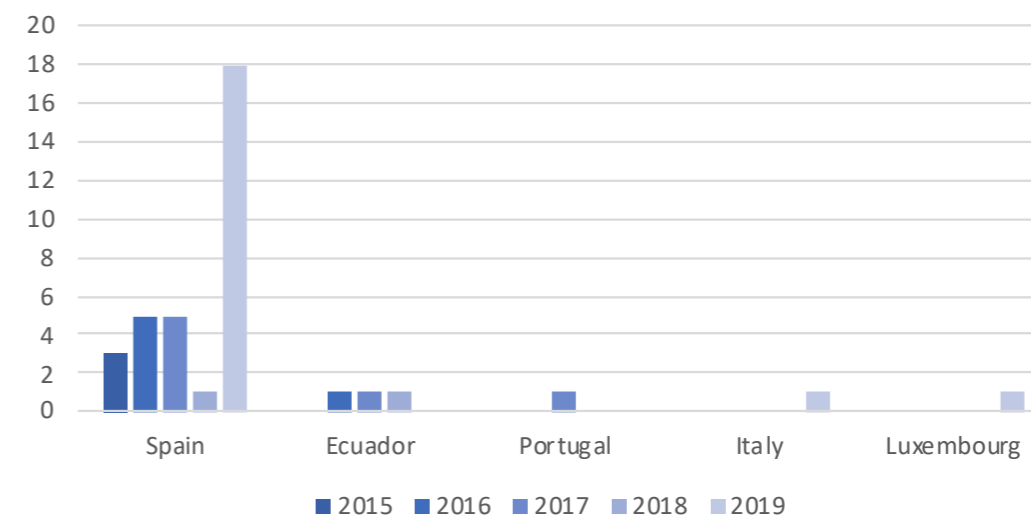
After a brief period of respite in 2018, in 2019 **decisions concerning Spain surged to their highest level**. Whilst most were discontinuance decisions, the Committee also made 2 inadmissibility decisions that concerned Spain, double the number that it had in the previous year. A significant number of the cases against Spain also involved requests for interim measures, which are usually given priority due to the urgent nature of the requests. The Committee also made 1 decision on the merits against Spain, finding a violation. The Committee's **decisions concerning Italy** (finding a violation) and **Luxembourg** (finding the communication to be inadmissible) **were the first decisions that concerned either State**.

CESCR Decisions by Type



Despite a large increase in the number of decisions, the **gap between the communications registered and decided continues to grow**. In 2019 the Committee registered some 64 more communications than it decided, meaning that it is developing a backlog of cases.

CESCR Decisions by State Concerned



López Albán et al v. Spain

This case was brought by Ms López Albán and her six children, who claimed to have paid to rent an apartment from a person that turned out not to be the legal owner. Without evidence to substantiate this claim, Ms López Albán was **convicted of unlawful appropriation** and ordered to surrender the apartment. Whilst she had applied for **public housing**, her **application was disqualified on the grounds that she was occupying a residence without title**. Ms López Albán and her children were subsequently **evicted** from their home and spent the following months living in temporary shelters.

The Committee found a violation of the ICESCR and the OP-ICESCR on the following grounds:

1. The exclusion of the author from social housing on the grounds that she occupied the property without title **did not account for her "situation of necessity"**, "perpetuated her irregular situation" and "led to her eviction". As such it constituted a violation of the right to housing (article 11).
2. Although the State Party has a legitimate interest in protecting national rights to private property, the Madrid Court **did not weigh the proportionality of the legitimate objective of the eviction against its consequences for the persons evicted**, as required by article 4 of the Covenant.
3. The Committee had requested interim measures in the form of either a suspension of

the eviction, or the provision of adequate alternative housing. The author was evicted three days after this request and, given that temporary shelters do not "provide security of tenure", could not be considered to have been provided with "adequate" housing. As such, Spain had **violated its obligation to comply with requests for interim measures** (article 5 of the Optional Protocol).

Alongside **recommendations** in respect of the author, the Committee made several general recommendations. These included that Spain "end the practice of automatically excluding persons who are occupying a property without legal title because they are in a situation of necessity".



The last decade has seen a number of anti-eviction protests across Spain.



Before turning to the CESCR, the authors had attempted to sue the clinic and the State Party before the Court of Florence.

S. C. and G. P. v. Italy

The communication S.C. and G.P. was submitted by a **couple undergoing in vitro fertilization (IVF) treatment** at a private clinic in Italy. In the knowledge that one of the embryos she had produced had only a low chance of nesting, S.C. declined to have it transferred into her uterus. The clinic informed her that, according to their understanding of Italian Law 40/2004, it **was not possible to revoke consent to the procedure** and threatened legal action if she did not proceed. S.C. therefore agreed to the transfer of the embryo and **subsequently suffered a miscarriage**.

Following an unsuccessful attempt to sue the clinic and State Party in domestic courts, the authors turned to the CESCR, which found a

violation of the Covenant. It made two key findings:

1. The right to health “includes the right to make free and informed decisions concerning any medical treatment” and **“forcing a woman to have an embryo transferred into her uterus clearly constitutes a forced medical intervention”**. Moreover, the restriction of the right to withdraw consent places an “extremely high burden on women.” As such, the transfer of the embryo amounted to violation of S.C.’s right to health (article 12), read alone and in conjunction with the right to gender equality (article 3).
2. The uncertainty created by Law 40/2004 gives the authors reason to fear attempting IVF

again, lest a similar situation occur. The Law thus imposes a restriction on the authors’ right to health, as it **prevents their access to a health treatment that is otherwise available** in the State Party. This restriction was found to be unjustified and thus entailed a violation of article 12 of the Covenant in respect of both authors.

Having established a violation of the ICESCR, the Committee made several **recommendations** in respect of the authors and two general recommendations that Italy adopt legislative and/or administrative measures to guarantee: i) the right of all women to take free decisions regarding medical interventions, and ii) access to all reproductive treatments generally available.

2019 INADMISSIBILITY DECISIONS

S. S. R. v. Spain

The communication S.S.R. was brought by a disabled Spanish national who had **occupied an apartment owned by a bank with no legal title to do so.**

After a number of postponed eviction attempts, and **despite the Committee's request for interim measures, S.S.R was evicted** from the property. The author has since been "without stable, decent housing." She submitted that officials did not hold genuine and effective consultations with her or take the essential steps, to the maximum of available resources, to ensure that she had alternative housing. She claimed that this amounts to a violation of her right to housing.

In determining the admissibility of the communication, the Committee acknowledged that not all authors are represented by lawyers and there is a need to "refrain from imposing any unnecessary formalities". However, in this particular case

the author was represented by counsel, **had not explained her current circumstances in any detail, and had not indicated how her right to adequate housing had been violated by the eviction.** As such, the communication was insufficiently substantiated and inadmissible pursuant to article 3 (2) (e) of the Optional Protocol.

Whilst Spain had asked the CESCR to withdraw its request for interim measures, the eviction of S.S.R. took place before the Committee had made a decision on this matter. The Committee found this to be a **violation of article 5 of the Optional Protocol** and reminded Spain that a **request for interim measures "does not imply a determination on admissibility or on the merits of the communication"**.



Spanish housing cases continue to make up a large proportion of the Committee's caseload.



In 2019 the CESCR struck out three cases at the admissibility stage, one more than in 2018.

Pankka and Pérez v. Spain

Ms Pankka and Mr Pérez, who are husband and wife, brought a case to the Committee regarding the purchase of an apartment “off the plan”. **Without his wife’s knowledge, Mr Pérez had agreed to purchase the apartment** and paid a significant deposit to a private company that was constructing the apartment building. On realising that changes had been made to the façade of the property during its construction, Mr Pérez sought to annul the contract. The company filed suit against Mr Pérez for payment of the full purchase price, plus interest. The court found against the couple and ordered them to pay the full amount. The company sought to enforce that order against the couple’s **properties, including the family apartment.**

The fact that Ms Pankka had not been involved in the purchase of the apartment and the risk that their family home may be auctioned off led the authors to

claim that their rights under articles 2 and 11 of the Covenant had been violated. However, the Committee found the claim inadmissible since the **authors had “not substantiated their claim** that their main home was at imminent risk of being seized, that they would be subject to forced eviction or that their right to housing might, therefore, be infringed.” Accordingly, the communication was not sufficiently founded for the purposes of admissibility (article 3 (2) (e) of the Optional Protocol).

M. L. B. v. Luxemburg

This communication concerned a trade union delegate who had been dismissed for setting up a slush fund using proceeds from the resale of surplus company materials. The Committee found the claim inadmissible on the grounds that **he had not exhausted domestic remedies** (art 3(1) OP-ICESCR). In doing so, it stressed that “mere doubts about the chances of success of a particular remedy do not excuse the author from exercising it.”

THE OPTIONAL PROTOCOL

Follow up

The Committee has established a procedure to follow-up on its decisions under the Optional Protocol. The Committee assesses the extent to which the State has implemented its recommendations and indicates its view in its follow-up report. 2019 saw the CESCR adopt its **first report on the follow-up to communications** (E/C.12/66/3).

In relation to **I.D.G. v. Spain**, the Committee examined submissions from both the author and the State Party before concluding that its **General Recommendations had been “satisfactorily implemented”** (Spain had, amongst other things, followed the Committee’s call to **amend its legislation** so as to limit the use of notification by public posting in mortgage enforcement proceedings). However, given that the Committee’s **recommendations in respect of the author had only been “partially implemented”** (for example the authors claim for compensation was still pending settlement), it opted to continue the follow up procedure.

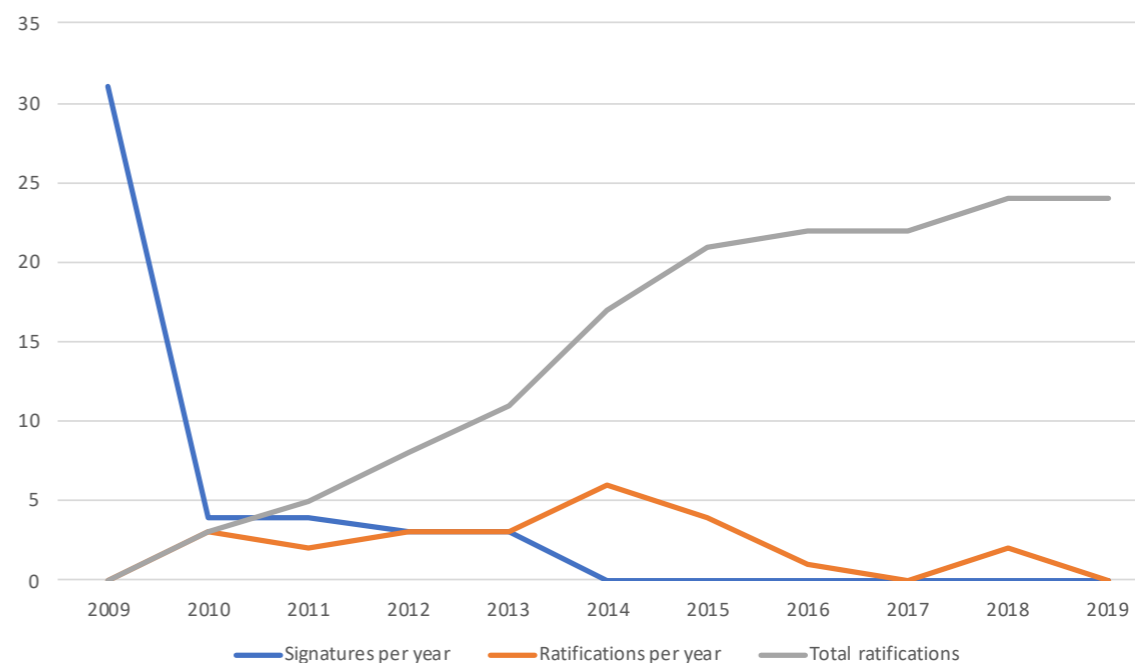
In Ben Djazia et al. v. Spain the CESCR found that the authors **“now have adequate accommodation”** and that, in this regard, satisfactory action had been taken. However, the authors had **not received financial compensation or had their legal costs reimbursed**. The Committee concluded that overall “some initial action has been taken” but “further action” was still necessary. Accordingly, it again decided to continue the follow-up procedure.

The follow up procedure is **currently active in relation to four different decisions** (this includes Trujillo Calero v. Ecuador and S.C. and G.P. v. Italy)

Optional Protocol Ratifications

No States ratified the Optional Protocol in 2019, nor were there any additional signatures. This confirms a troubling trend whereby, as can be seen from the graph on the right, the **total number of ratifications appears to have reached a plateau** (currently 24).

Ratifications / Accessions to the Optional Protocol



Guidelines on Interim Measures

At its 66th Session the Committee adopted a new set of guidelines on interim measures. Several of the guidelines relate to the conduct expected of the authors of communications and their legal representatives. For example, it is Stated that, absent justification, “requests for interim measures should be made **at least four working days before the damage is expected to materialize.**”

The guidelines follow two 2019 decisions in which one State Party, Spain, failed to respect the interim measures that the Committee had requested (see page 28 and page 29). The Committee made clear that **“a State Party that does not implement requested interim measures is failing to fulfil its obligation to respect in good faith the procedure for individual communications established in the OP”**. It was also keen to emphasise that a request for interim measures is without prejudice to subsequent decisions regarding either the admissibility of a communication or the eventual finding of a violation.

Thematic Work

Day of Discussion on Land: 14 October 2019

As part of its process to elaborate a new General Comment on Land, the CESCR held a day of general discussion on **the land related obligations of States under the ICESCR**. The day was an opportunity for stakeholders to provide input into the process of drafting the new General Comment.

The Day of Discussion was well attended by **over 90 participants**, including at least 19 States. Five panel discussions were held: (i) Pressures on land and speculation; (ii) Protection of security of tenure, including gender dimensions; (iii) Land related concerns of indigenous peoples, traditional groups and other vulnerable groups; (iv) Land rights and conflicts; and (v) Land under changing environmental conditions and climate change.

The Rapporteurs for the General Comment, Mr Windfuhr, Mr Uprimny and Mr De Schutter introduced and

moderated the various panel discussions. Speakers and participants raised a range of important issues, including:

- The connection between business activities, land and the enjoyment of ESC rights;
- The recognition of the linkages between gender equality and access to and control of land;
- The special relationship that indigenous peoples and other local communities have to land;
- The potential recognition of a right to land and the recently adopted Declaration on the Rights of Peasants;
- The importance of participation and the democratisation of processes related to land;
- The adverse effects of speculation and the financialisation of land;
- Good practices such as the concept of 'social forestry' in Indonesia, which provides access to land for community needs;
- The responsibility of the industrial extractive growth economy for causing the collapse of the natural world;
- The close link between land and the climate crisis; and
- The fact that prominent negative emissions technology - increasingly seen as essential for avoiding climate crisis - require massive land use.

The Committee is **yet to publish a first draft of the General Comment**. Once it does so, it will invite comments on the draft from stakeholders, refine the text, hold a second reading, and proceed to adopt it.

The Committee continues to work on a General Comment on sustainable development.



A Kichwa villager cutting down a tree to clear an area to sow corn to feed his animals in Orellana, Ecuador.



The Committee's statement comes during a time in which it is also working on a General Comment on sustainable development.

Statement on the 2030 Agenda for Sustainable Development

At its 65th Session the Committee adopted a Statement on the pledge to 'Leave No One Behind' in the 2030 Agenda for Sustainable Development ([E/C.12/2019/1](#)).

The Committee began the Statement by declaring that the objective of the **Agenda 2030** - to eradicate poverty in all its forms by promoting just, inclusive and sustainable societies is a **powerful expression of "the essence" of the ICESCR.**

The Statement **centred the ICESCR as "a fundamental pillar of the 2030 Agenda"** and identified the ways in which ESC rights underpin the Sustainable Development Goals (SDGs). When discussing SDG 10 (reduce inequality), the Committee called for the States that report to it to provide information on income and wealth inequalities, an issue often overlooked in periodic reports.

Particular attention was dedicated to the **prioritisation of disadvantaged** and marginalised individuals and groups as a **common objective of the 2030 Agenda and the Covenant.**

The Committee also used the Statement to clarify its position that **the ICESCR's rights-based methodology should be employed when monitoring progress towards the attainment of the SDGs.** Key components of this methodology include the identification of the groups that are most marginalised so as to ensure that measures are effectively targeted, and assessment by States as to how their own actions or omissions affect the realisation of Covenant rights. The Committee further stressed that human rights principles such as participation, accountability and transparency can ensure "that those left behind are treated not as passive

beneficiaries of government programmes but as rights holders entitled to respect for their inherent human dignity."

The Committee underscored that **the ICESCR's normative framework should be the 'bedrock' of all measures adopted by States to advance Agenda 2030.** It emphasised that the framework of the Covenant can establish space "for affected persons to be heard when decisions that will affect them are taken."

The CESCR concluded by urging States to ensure that **national action plans for SDG implementation "take full account of the recommendations contained in the COBs"** that the Committee issues in the context of the state reporting process. Reciprocally, the Committee committed to continue to integrate the SDGs into its work.

Joint Statement on Climate Change and Human Rights

In September 2019, five UN human rights treaty bodies issued a [Joint Statement](#) calling on States to consider their binding human rights obligations when setting and implementing their climate change commitments.

The Joint Statement opens by identifying the myriad ways in which **climate change stands to threaten a range of human rights** protected under international human rights treaties, including the right to life, the right to food, the right to adequate housing, the right to health, and the right to water.

Drawing upon the [2018 Statement of the CESCR on Climate Change](#), the Joint Statement reiterates that **human rights mechanisms have an important role to play** in ensuring States

both “avoid taking measures that could accelerate climate change” and “dedicate the maximum available resources to the adoption of measures aimed at mitigating climate change”.

Whilst the Joint Statement leaves no doubt as to the fact that **vulnerable and marginalised groups will be disproportionately affected** by the adverse impacts of climate change, it cautions against reductive approaches that see these groups “only as victims”. Instead, **they must be “recognised as agents of change”** and empowered to participate as “essential partners in... efforts to tackle climate change”.

The five treaty bodies are equally clear that **human rights obligations require States to take action to tackle climate change**. It was

stressed that to comply with their obligations, States “must adopt and implement policies aimed at reducing emissions, which reflect the highest possible ambition, foster climate resilience and ensure that **public and private investments are consistent with a pathway towards low carbon emissions** and climate resilient development”.

The Joint Statement underscores the importance of **international cooperation** and calls for high-income States to “support adaptation and mitigation efforts in developing countries”.

The Committees concluded the Joint Statement with a commitment to keep under review the impacts of climate change on rights holders.



The issue of climate change occupies an increasingly prominent place in the work of several of the UN human rights treaty bodies.



"We won't pay the debt of banks": trade unions strike against economic conditions in Izmir, Turkey.

Joint Statement with the Human Rights Committee on Trade Union Rights

To mark the 100th anniversary of the International Labour Organisation the CESCR and the HRC issued a **Joint Statement on the basic principles of freedom of association common to both Covenants**. The focus of the Statement is on article 8 of the ICESCR (the right to form and join trade unions) and article 22 of the ICCPR (the right to freedom of association, which includes the right to form and join trade unions).

The Committees used the Statement to reflect on important points of commonality between the two provisions. They stressed that the rights to free association and to join and form trade unions sit at **the intersection between civil and**

political rights on the one hand, and ESC rights on the other.

In this vein, it is pointed out that the exercise of these rights is **closely linked to freedom of opinion and expression and the right of peaceful assembly** (articles 19 & 21 ICCPR), and is **instrumental to the realisation of workers' rights**, such as the right to work and the right to just and favourable conditions of work (articles 6 & 7 ICESCR).

The Committees also stressed that freedom of association includes the right to form and join trade unions **without distinction**. This right in

turn **"requires that trade unionists be protected from any discrimination, harassment, intimidation, or reprisals."**

Additionally, no excessive restrictions should be placed on trade union functioning.

The Statement clarifies that freedom of association and the right to peaceful assembly both inform **"the right of individuals to participate in decision making within their workplaces"**. Finally, it concludes with a reminder that **"the right to strike is corollary to the effective exercise of the freedom to form and join trade unions."**

The Global Initiative for Economic, Social and Cultural Rights

Together with partners around the world, the Global Initiative for Economic, Social and Cultural Rights works to advance the realisation of economic, social and cultural rights, tackling the endemic problems of poverty, social injustice and inequality through a human rights approach.



In addition to the **annual Yearbook** on the Committee for Economic, Social and Cultural Rights, GI-ESCR also provides regular **updates from Geneva** on significant developments that relate to the field of ESC rights. This includes updates from each session of the Committee for Economic, Social and Cultural Rights, as well as each session of the Human Rights Council. You can subscribe **here**.

Please feel free to send us any comment or question regarding the Yearbook - we are always interested in learning of how it is received!

www.gi-escr.org

Geneva
Switzerland

Dakar
Senegal

Brussels
Belgium

Mexico City
Mexico

Nairobi
Kenya

Santiago
Chile

