

CYPRUS

CESCR E/1990/23

50. The second periodic report of Cyprus concerning articles 10 to 12 of the Covenant (E/1986/4/Add.2 and E/1986/4/Add.26) was considered by the Committee at its 2nd, 3rd and 5th meetings, held on 16 and 17 January 1990 (E/C.12/1990/SR.2, 3 and 5).

51. The report was introduced by the representatives of the State party, who provided information and answers to a list of issues prepared by the pre-sessional working group. He stated that following the 1974 Turkish invasion of Cyprus, 37 per cent of the territory of Cyprus came under the military occupation of Turkey; 200,000 members of the Greek Cypriot population were forcibly expelled from their ancestral homes; and thousands of Greek Cypriots lost their lives or were reported missing. The economy of Cyprus including its agriculture, industry, tourism, mining industry, construction, trade, public transportation and telecommunications, were seriously destroyed, and the cultural heritage of thousands of years civilization had been and was still being deliberately and systematically destroyed.

General matters

52. With regard to the general framework within which the Covenant was implemented, the members of the Committee wished to be provided with a short country profile including information on: land and people, economic, social and cultural characteristics of the country and the legal framework within which human rights were protected. It was asked what measures existed in the Constitution for the protection of these rights, in particular economic, social and cultural rights, and whether these were justiciable. A member wished to know whether there had been cases in which economic and social rights had been invoked before the High Court or administrative authorities.

53. Information was also sought on whether the economic situation of individuals who were not of Greek or Turkish origin was inferior to that of the population as a whole. The Committee wished to be informed whether there were differences between the economic situation in the Government-controlled areas and in the occupied areas.

54. In his reply, the representative of the reporting State stated that Cyprus was the third largest island in the Mediterranean and had an area of 9,251 square kilometers; and at independence in 1960 had a population of 450,000 Greek Cypriots and 103,000 Turkish Cypriots. At present the population was 80 per cent Greek Cypriots, 18 per cent Turkish Cypriots and 2 per cent other minorities.

55. With regard to the economic situation, he stated that despite the unprecedented catastrophe in the history of his country as a result of the Turkish invasion of 1974, the people and the Government of Cyprus were working together to rebuild the country, and that today one could characterize the economy of the country in the areas under the effective control of the Government of Cyprus as quite satisfactory. He pointed out that unemployment stood at 2.8 per cent of the economically

active population, the rate of growth of the economy was estimated at about 6 per cent, inflation in 1988 was about 3.5 per cent, and the standard of living of the population was steadily rising.

56. With regard to the rights of the Covenant which were guaranteed by the Cypriot Constitution, the representative stated that the most important rights safeguarded were: the right to a decent living and social security, freedom to work and trade in business, freedom to contract, freedom to form and join trade unions and the right to strike. All these rights were clearly defined in the Constitution and effective enforcement measures were also provided for. She pointed out that the High Court might declare any act null and void, or declare that an omission should have been performed. She stated that under article 169 of the Constitution, international instruments ratified by the Government of Cyprus had the force of law and took precedence over any municipal law. She stated that to the best of her knowledge there had been no cases in which economic and social rights were invoked before the High Court.

57. As for the comparison between the economic situation in the government-controlled areas and in the occupied areas, she stated that while no accurate figures were available, the economic situation in the occupied areas was undoubtedly not good. The Cypriot Government was providing technical and other assistance to the Turkish Cypriots, electricity and water was being provided free of charge, and gas supply was subsidized by the Government. The Turkish Cypriots also benefited from assistance extended to the Cypriot Government by such institutions as the EEC, UNDP, FAO, WHO and the World Bank.

Article 10: Protection of the family, mothers and children

58. Members of the Committee asked to be informed of the results of the recent study designed to aid the “early identification and prompt offering of preventive services to anti-social and maladjusted youths” (E/1986/4/Add.26, para.17, sect. i), and how those terms were defined. Members also wanted to know what were the conclusions of the law-reform Committee on family law. Information was also requested as to the requirements necessary for the maternity grant and the widow’s pension, and whether they had been changed significantly by the 1985 legislation on the subject. More specifically, the members of the Committee wanted to know how the Government defined the “upper” and “lower” part of ensurable earnings, on a “basic” part and a “supplementary” part.

59. Members wished to know what was the specific nature of the extensive system of preventive services which the Government claimed were provided to families by social workers. It was also asked what percentage of working mothers were provided with day-care services for their children.

60. With regard to the protection of children, members wished to know what was the minimum age of employment for children. Information was also sought on the legal status of adopted children and children of unmarried couples; it was asked whether they had the same status as children born in marriage.

61. A member wanted to know whether a wife had the same rights as her husband, and in case of divorce whether both parents would continue to exercise parental authority over the children. Information was also requested as to the difference between civil and religious marriages, as to

whether spouses had free choice between the two types of marriage, and as to the rate of marriages and percentage of divorces.

62. The ILO representative informed the Committee about the relevant ILO conventions ratified by Cyprus. He pointed out that Cyprus had not yet ratified the ILO Maternity Protection Convention (Revised), 1952 (Convention No. 103). As regarded the protection of children and young persons in employment, he drew the Committee's attention to an observation made by the Committee of Experts on the Application of Conventions and Recommendations of ILO relating to the registers which employers should keep, in accordance with the Minimum Age (Underground Work) Convention, 1965 (Convention No. 123), giving all the indications concerning employment of those less than 18 years of age, and which employers should make available to representatives of workers. The Cypriot authorities had made it known that that question would be examined on the occasion of the revision of the law on employment of children.

63. In reply, the representative of the reporting State explained that the strengthening of the family, identification of family problems and offer of specialized services to the family for its smooth functioning and the promotion of child welfare remained constant aims of the social welfare services of his country. In that respect the following measures were envisaged: updating of the legislation for children, juvenile delinquents and adoption; relevant draft bills on these subjects were due to be submitted to the Council of Ministers shortly; offering of services of social workers to elementary schools; improvement of the services offered to families facing a problem; updating and streamlining of the institutional services offered to children and young persons facing problems of adjustment or antisocial behaviour.

64. He stated that the Law Reform Committee on Family Law had reached the following conclusions: there was a need for immediate reform and modernization of the family law of Cyprus; family law was deeply rooted in custom and tradition and had been highly influenced by the law of the Church, which presented a serious obstacle to the evolution of the family law and hindered the State in efforts to harmonize it in order to respond to its obligations under relevant international conventions, in particular, with regard to the equality of spouses in civil law. In that regard he stated that the amendment of article 111 of the Constitution was considered to be absolutely necessary. Article 111 vested exclusive jurisdiction on matters of marriage and divorce, in the case where both spouses were members of the Greek Orthodox Church, in the Church, exercised through ecclesiastical courts which were outside the jurisdiction of the courts of the State. The amending law should provide that matters of marriage, divorce, separation and family relations would be governed by the laws of the State; all citizens should freely choose between a civil or a religious marriage or the possibility of both; jurisdiction on matters relating to marriage and divorce should be transferred to civil courts; a permanent committee on family law should be set up to submit periodically to the Government suggestions on the necessary reforms. He stated that amendments to article 111 of the Constitution had already been approved by the Council of Ministers and deposited in the House of Representatives for the implementation of the conclusions of the Law Reform Committee on Family Law. It was stated in this respect that the marriage rate in the country was 7.0 per thousand of the population and the divorce rate 0.56 per thousand of the population.

65. With regard to protection afforded to pregnant women and working mothers, he stated that the

maternity grant which was payable to a woman giving birth either on her own or on her husband's insurance had been increased substantially since the submission of the first report of his country, from 27 Cypriot pounds to 103 Cypriot pounds. However, though paid on either the woman's or the man's insurance, it was not paid to the man. He stated that the first special law on maternity protection was enacted in April 1987, and provided the right of employed women to maternity leave of 12 consecutive weeks; guaranteed payment of an allowance during maternity leave; protected pregnant women from unlawful dismissal; provided facilities for nursing and care of the child for a period of six months following confinement; prohibited the employment of pregnant women in work defined as being prejudicial to her health or that of her child; preserved the seniority rights of women as well as their right to reinstatement in their former work or in equivalent work paid at the same rate.

66. The representative of the reporting State stated that widow's pension was payable to the widow of a person if at the time of his death he satisfied the relevant contribution conditions and she was living with him or was wholly or mainly maintained by him. A widower's pension was payable to a widower whose wife satisfied the contribution conditions on her death only if he was permanently incapable of self-support and was wholly or mainly maintained by her. He explained that the weekly amount of the basic pension was 60 per cent of the average weekly earnings of the deceased insured spouse in the lower band of insurable earnings over a specified period. The supplementary amount was 60 per cent of 1/52 of 1.5 per cent of the total amount of the paid and credited insurable earnings of the deceased spouse in the upper band of insurable earnings. He explained that the insurable earnings included a lower limit known as the basic earnings. The total annual insurable earnings of every insured person was divided into two bands: the lower band, which included the insurable earnings up to the basic earnings, and the upper band, which included the insurable earnings above the "basic earnings".

67. With reference to minimum pension, he stated that the Government introduced in 1985 the institution of a minimum pension for pensioners whose pensions were substantially reduced due to reduced contributions. That pension amounted to 50 per cent of the full basic pension and from July 1989 that amount had been increased to 70 per cent of the full basic pension.

68. The representative of the State party stressed with regard to the protection of children and young persons that preventive services continued to be one of the most important programmes of social welfare in the field of family and child protection. Since 1978 a new procedure had been adopted for dealing with juvenile delinquents in co-operation with the police and the Attorney-General, so as to avoid penal measures for persons under 16 years of age. He stated that 32 community operated day-care centres had been established in different parts of the island, which catered for approximately 2,300 children. Community centres and youth clubs were also used to supplement and enrich the family's provisions, especially in the areas of play and recreation. Other measures in the field of protection of children included the extension during the last 10 years of the services for the care of children of working parents. The percentage of working parents provided with day-care services for their children was estimated to be between 57 and 60 per cent.

69. With reference to the minimum age of admission to employment for children and young persons, he stated that a revision of the existing Children and Young Persons (Employment) Law was due to be submitted shortly to the House of Representatives. Under this Bill the minimum age

of admission to employment of children would be raised from 13 to 15 years of age in non-industrial undertakings. However children under 15 years of age would be allowed to be apprenticed for the purpose of learning a trade. He further stated that underground employment of persons under 18 would be prohibited completely.

Article 11: Right to an adequate standard of living

70. Information was sought as to whether there were problems of malnutrition, whether in Cyprus the concept of a poverty line existed, and, if so, how many persons fell below it and how they were assisted. With regard to housing, information was requested concerning the disparity in standard of houses between the urban and rural areas and as to the criteria used for comparison.

71. In reply, the representative stated that the protection afforded under the public assistance legislation had been improved substantially since the submission of the initial report (E/1980/6/Add.3); the rates of benefits had risen from Cyprus pounds 10.40 in 1979 to 60.50 in 1990. The Government had intensified its efforts for developing non-institutional services for the aged, such as home help services and day-care centres. In order to assist the lower and middle income families to acquire their own houses, the Government had established two corporations in 1980: the Housing Finance Corporations and the Cyprus Land Development Corporation.

72. With regard to the question of malnutrition it was stated that, if anything, Cypriots were overfed rather than undernourished. With regard to daily calorie intake, the representative quoted a figure of 3,000 per inhabitant, and pointed out that that figure would be confirmed in the next report. The representative stated that with regard to the concept of a poverty line, a study carried out three years previously had established the basic needs of citizens. Any person, whether or not a Cypriot citizen, whose income and other resources were not sufficient to cover his/her needs had a legal right to public assistance.

Article 12: Right to physical and mental health

73. The members of the Committee wished to know why the number of hospital days had declined by 50 per cent when the number of in-patients during the same period had risen by close to 3,000; it was asked whether it was true that vaccinations against tetanus were only given to young females and if so, why. Members also wanted to know how the Government had acted to remedy the deficiencies found by the relevant authorities overseeing the implementation of the European Social Charter with respect to safe and healthy working conditions of farmers and the inability of children to get the full benefit of compulsory education when employed.

74. Information was also sought concerning the number of registered cases of AIDS; and if the public authorities had taken the necessary measures to prevent discrimination against those suffering from AIDS. It was asked whether health services were of the same quality in the public sector and in the private sector and whether disadvantaged groups of the population had access to the health services in the private sector. Statistical information was also requested concerning drug addicts and whether there existed specialized centres for their treatment.

75. Members of the Committee wanted to know whether abortion was illegal, and, if so, whether

it was allowed if the health of the mother was in danger. It was also asked whether abortion in cases of rape and homozygotes foetuses was compulsory.

76. In reply, the representative of the reporting State stated that in the general field of occupational safety and health a number of significant pieces of legislation had been enacted since the submission of the second periodic report, the most important of which were: the Woodworking Machinery (Amending) Regulation 1988; the Safety at Places of Work Law, 1988; the Safety Committees at Places of Work Regulations, 1988; the Factories (Amending) Law 1989.

77. With reference to safety, health and welfare in the agricultural sector, it was pointed out that in 1989 the Government had issued the Agricultural Works (Safety, Health and Welfare) Regulations.

78. The representative stated that the public health care sector was open to low-income individuals free of charge, while that of the private sector was open to those who could afford to pay. Apart from general hospitals functioning in all towns, a great number of rural hospitals, rural health centres and sub-centres were dispersed all over the island serving the rural population.

79. He explained that only girls were given a booster dose of tetanus at 15 years of age, because the boys were vaccinated later, when they joined the Army at the age of 17 or 18. The reduction in the number of beds available at the public hospitals whilst the number of in-patient increased was attributed to the shortage of nursing staff. All security, social assistance and medical health programmes and services of the country were enjoyed by all groups of population, without discrimination on any grounds whatever.

80. With reference to abortion, the representative stated that termination of pregnancy had been made legal in the case of rape, in the wake of the Turkish invasion. But abortion was never compulsory; even in the case of homozygotes foetuses the decision remained with the mother. He stated that only 4 persons had died of AIDS, 4 were suffering from it and there were 40 carriers. Publicity about AIDS had helped to reduce discrimination against AIDS sufferers.

81. Finally, the representative stated that questions regarding fertility rates, per capita income in Cyprus and matrimonial law would all be referred to the competent authorities and responses would be given in the next report.

Concluding observations

82. In concluding consideration of the second periodic report, the members of the Committee expressed their appreciation to the Government of Cyprus for its detailed and informative report, as well as to the Cypriot representatives for their candid replies and explanations given to the questions raised by the members. The Committee noted in particular that despite the situation obtaining in the country as a result of the fact that part of the national territory had been occupied for the past 17 years by the Turkish army, the Committee could not but appreciate the efforts, both legal and economic, displayed by the Government in the carrying out of its obligations under the Covenant. The Committee expressed concern about this situation and hoped that the talks under the auspices of the Secretary-General of the United Nations would lead to a just and lasting solution of the problem, so as to enable the Government of Cyprus to fulfil its obligations under the Covenant

within the entire territory of the Republic.

83. The Committee considered that both the report of the Government of Cyprus and the Committee's dialogue with the Cypriot representative had been positive. The Committee observed that the report had been admirably presented and that the Government's representatives had been ready to engage in a dialogue without taking refuge in generalities.

84. The Committee noted that, as stated by the representative of Cyprus, questions which were not fully answered would receive detailed replies in the next report.

CESCR E/1999/22

273. The Committee considered the third periodic report of Cyprus on the rights covered by articles 1 to 15 of the Covenant (E/1994/104/Add.12), along with the written replies to the list of issues, at its 34th to 36th meetings, held on 18 and 19 November 1998 and, at its 55th meeting on 3 December 1998, adopted the following concluding observations.

Introduction

274. The Committee welcomes the submission of the third periodic report of Cyprus, which it found to conform generally to its guidelines on the preparation of reports. The Committee also expresses appreciation for the submission of comprehensive written replies to its list of issues, as well as for the additional information presented by the delegation during the dialogue. It regrets, however, that the report did not contain sufficient information on obstacles and problems faced in the implementation of the Covenant.

Positive aspects

275. The Committee welcomes the status accorded to international legal instruments, including the Covenant, in the legal order and appreciates the fact that they are superior to national law in the legal hierarchy. It notes that the provisions of the Covenant can be invoked directly by individuals before the courts.

276. The Committee commends the efforts of the Government in continuing to provide services, such as electricity supply and payment of pension benefits, to the population living in the part of the island that it does not control.

277. The Committee welcomes the recent establishment of the National Institution for Human Rights as an independent body consisting of members appointed from the public and private sectors. The Committee notes, however, that the Institution has not been formally promulgated in law and that its independence has not been guaranteed.

278. The Committee takes note, with satisfaction, of the efforts to include human rights in school and university curricula, as well as the activities being carried out in the country to commemorate the fiftieth anniversary of the Universal Declaration of Human Rights.

279. The Committee welcomes the abrogation of the provisions of the Penal Code criminalizing homosexual acts.

280. The Committee also takes note with satisfaction of the delegation's statement that the report has been widely publicized among governmental and non-governmental bodies.

281. The Committee welcomes the appointment of an advisory committee for the purpose of preventing violence in the family and for providing subsidies to the non-governmental organization Association for the Prevention and Confrontation of Domestic Violence.

Factors and difficulties impeding the implementation of the Covenant

282. The continuing partition of Cyprus hinders the ability of the State party to exercise control over its entire territory and, consequently, to ensure the implementation of the Covenant throughout the country.

Principal subjects of concern

283. The Committee is concerned that no information is available on the enjoyment of economic, social and cultural rights by the Cypriot population living in the area that is not controlled by the Government.

284. The Committee is concerned at the continued existence of discrimination between men and women, including inequalities in, among other things, professional opportunities, wages and salaries for work of equal value (especially in the private sector), protection under social security, the transmission of nationality to children and the conferment of refugee status on children (only children of displaced men are so treated). This appears to be caused by structural and cultural factors.

285. Domestic workers enjoy little protection against being forced to work unduly long hours. The State party appears not to provide adequate protection against repressive and exploitative measures directed at prostitutes. Such persons are particularly vulnerable because of their fear of retribution from their employers. Moreover, the Committee notes the tendency of the State party to underestimate the problems.

286. The Committee notes with concern that the legal minimum wage does not guarantee an adequate standard of living in the sense of article 7, paragraph (a) (ii) and article 11 of the Covenant, especially with regard to shop assistants, nurses, clerks and nursery assistants.

287. The Committee expresses its serious concern at the incidence of domestic violence against women and children in Cypriot society. The continuation of this situation calls into question whether the State party has made its best efforts to comply with its obligations under articles 10 and 12 of the Covenant. In particular, the Government appears to have failed to adopt an adequate prevention policy, to enforce fully the existing legislative measures to combat violence in the family and to assist victims of such violence.

288. The Committee is alarmed by the allegations of inhuman or degrading treatment of mentally ill patients in some health institutions. It stresses that such a situation constitutes a serious violation of the State Party's obligations under articles 2 and 12.

289. The Committee further notes that there are many bills and other measures concerning economic, social and cultural rights which are awaiting parliamentary or Cabinet approval, or implementation by other official bodies, and calls upon the State party to speed the process up in order to meet obligations existing under the Covenant.

Suggestions and recommendations

290. The Committee recommends that the recently established National Institution for Human Rights be promptly promulgated in law and that its independence be guaranteed.

291. The Committee recommends that the State party intensify its efforts to guarantee the equal enjoyment by men and women of their economic, social and cultural rights, in particular:

(a) By engaging in a large-scale public awareness campaign to eradicate social prejudices concerning gender roles;

(b) By taking all necessary steps to guarantee fully the principle of equal pay for work of equal value, in particular in the private sector of the economy;

(c) By promulgating the draft regulations concerning the employment and working conditions of pregnant women and nursing mothers and ensuring that they comply with the Covenant;

(d) By abrogating the discriminatory provisions of the social security legislation;

(e) By enacting the bill aimed at abolishing discrimination in the acquisition and transmission of nationality.

292. The Committee urges the State party to take all the necessary steps to improve understanding of the nature and scope of the problems faced by domestic workers, with a view to implementing fully existing laws. The Committee emphasizes the necessity:

(a) To initiate campaigns to raise awareness of this issue among trade unions, women's organizations and communities in Cyprus to which the domestic workers belong;

(b) To improve the system of complaints concerning abuse, with a view to protecting fully the rights of complainants.

293. The Committee also urges the State party to monitor more closely the phenomenon of forced prostitution in Cyprus, with a view to rescuing victims who are trapped or forced into it and to protecting their rights under the Covenant.

294. The Committee recommends that the State Party endeavour to take steps to review the existing minimum wage level, in order fully to comply with its obligations under article 11 of the Covenant.

295. The Committee recommends that the State party adopt an appropriate policy to prevent and tackle the problem of domestic violence against women and children in all its complexity and requests that the next periodic report contain information on measures adopted to deal with it. In this connection, the Committee urges the State party to financially assist the Association for the Prevention and Confrontation of Domestic Violence to set up, as soon as possible, its proposed women's shelter.

296. While taking note of the delegation's statement that the situation as regards the treatment of mentally ill people has improved dramatically, the Committee emphasizes the need for the State party to review thoroughly its health policy towards those patients in order best to address all their needs and protect all their human rights.

297. The Committee requests the State party to include in its next periodic report comprehensive information on the extent of drug-addiction in Cyprus and to indicate whether the bill on narcotic drugs and psychotropic substances now before Parliament has been passed into law, and also to assess the workings of the anti-narcotic/therapeutic units proposed under the bill, when it has passed into law.

298. The Committee recommends that bills and proposed regulations should be speedily submitted for parliamentary or Cabinet approval, in order to enhance effective application of the Covenant. Such bills and proposals include:

- (a) The proposed law relating to marriage, divorce and family courts;
- (b) A bill to regulate the rights of asylum seekers;
- (c) A bill to amend the relevant law with respect to the nationality of a child born to a Cypriot woman;
- (d) A draft law to regulate the right to strike, to ensure that it conforms fully with ILO Convention No. 87 (1948) concerning freedom of association and protection of the right to organize;
- (e) A bill entitled "National Health System" which has been before the Cabinet for approval since 1996.

299. Lastly, the Committee requests the State party to ensure the wide dissemination in Cyprus of the present concluding observations and to inform the Committee, in its fourth periodic report, of steps taken to implement the recommendations.