

## PORTUGAL

### CESCR E/1996/22

86. At its 7th, 8th and 10th meetings on 4 and 5 May 1995, the Committee considered the second periodic report of Portugal on articles 1 to 15 of the Covenant (E/1990/6/Add.6), as well as the written replies to the additional questions formulated by the pre-sessional working group, and, at its 27th meeting on 18 May 1995, adopted the following concluding observations.

#### Introduction

87. The Committee expresses great appreciation to the State party for its comprehensive and detailed report and the substantial additional information which it communicated in writing, as well as for the excellent dialogue established between the members of the Committee and the large delegation of experts, which included a number of women representing relevant parts of the Portuguese Government.

88. The Committee is most appreciative of the transparent, detailed and precise manner in which the Portuguese delegation replied to all its questions, demonstrating the firm determination of the Government of Portugal to implement all the provisions of the Covenant.

#### Positive aspects

89. The Committee congratulates Portugal on the numerous constitutional, legislative and other measures which it has taken to promote the realization of economic, social and cultural rights as provided for in the Covenant. It notes with satisfaction the efforts of the Government to tackle unemployment from various angles; the positive measures undertaken with regard to the protection of the economic, social and cultural rights of women, elderly workers and disabled persons; the increase, both in absolute terms and in proportion to military expenditures, in public spending on health; the existence of a non-contributory social security system in parallel with the general system; and the measures taken to regularize the situation of clandestine immigrant workers.

90. The Committee welcomes the decision of the Portuguese Government to ratify ILO Convention No. 138 (1973) concerning minimum age for admission to employment. It also notes with interest the raising of the minimum age for access to employment in 1992, the recent decision to increase the duration of compulsory schooling to nine years, and the various measures taken to combat child labour.

91. The Committee notes with satisfaction the campaigns conducted against intolerance and racial discrimination, in favour of equality between the sexes and against child labour. The Committee notes with interest the training courses on human rights given to law enforcement and judicial personnel, and also the information campaign on the Covenant and the Committee on Economic, Social and Cultural Rights.

92. The Committee appreciates the efforts being made by the Portuguese Government to secure from the Government of the People's Republic of China all possible guarantees regarding respect for the provisions of the Covenant in the territory of Macau after 1999.

#### Factors and difficulties impeding the implementation of the Covenant

93. The Committee notes that Portugal is in a situation of economic transition and, in certain respects, still has the characteristics of a developing country, particularly an illiteracy rate which remains fairly high and an appreciable proportion of the population living below the poverty line.

#### Principal subjects of concern

94. The Committee notes with concern that, despite the existing legislative provisions and the efforts of the Commission on Equality in Employment, there is still de facto discrimination against women with regard to the right to equal treatment at work and the right to equal remuneration.

95. The Committee notes that the increase in the minimum wage has not kept pace with economic growth in recent years and is concerned about a tendency for the minimum wage to depreciate.

96. The Committee is also disturbed by the fact that secondary and higher education enrolment rates are still relatively low compared to countries with a stage of development comparable to that of Portugal. Drop-out and failure rates at the secondary and higher levels also remain high.

#### Suggestions and recommendations

97. The Committee recommends that the Portuguese authorities should continue their efforts with a view to ensuring de facto equality between men and women, particularly in the fields of access to employment and equal pay for equal work.

98. The Committee recommends that the Government seek to ensure a gradual increase in the minimum wage, which should take account of Portugal's economic growth and the inflation rate, with the object of increasing the purchasing power of those living on the minimum wage.

99. The Committee urges the State party to continue its efforts to guarantee the right to housing for the most vulnerable groups, through improved sanitation and rehabilitation of dwellings which are insanitary or lack minimum basic services.

100. The Committee recommends that the Government take measures with a view to encouraging registration in secondary and higher education and to facilitate access to secondary and higher levels of education for persons from lower-income families.

## **CESCR E/1997/22**

243. At its 31st to 33rd meetings on 20 and 21 November 1996, the Committee considered the second periodic report of Portugal relating to Macau on articles 1 to 15 of the Covenant (E/1990/6/Add.8), as well as the written replies to the additional questions drawn up by the pre-sessional working group, and, at its 54th meeting on 5 December 1996, adopted the following concluding observations.

### Introduction

244. The Committee expresses its appreciation to the State party for the report and the written replies to the list of issues, as well as for the open dialogue conducted between Committee members and the large delegation from Macau.

245. The Committee notes, however, that the report and the written replies were not prepared in a manner which enabled the Committee to evaluate adequately the enjoyment of economic, social and cultural rights in Macau.

### Positive aspects

246. The Committee appreciates the efforts being made by the Portuguese Government to secure from the Government of the People's Republic of China all possible guarantees regarding respect for the provisions of the International Covenant on Economic, Social and Cultural Rights in the Territory of Macau after 1999. The Committee notes the enactment of article 40 of the Basic Law of the Macau Special Administrative Region, which prescribes that the precepts of the Covenant, which are applicable to Macau, will continue to apply and shall be implemented through legislation enacted by the Macau Special Administrative Region. The Committee hopes that the ongoing discussions between the Portuguese Government and the Chinese Government through the Sino-Portuguese Joint Liaison Group will lead to a continuation of the reporting practice under articles 16 and 17 of the Covenant beyond 1999.

247. The Committee notes with satisfaction that the Covenant was published on 31 December 1992 in Macau's Official Gazette in both official languages (Portuguese and Chinese) and also that its contents have been disseminated in the Administrative Region.

248. The Committee notes that, in January 1993, the Portuguese Government gave the Chinese language (Cantonese) an official status comparable to that of Portuguese.

249. The Committee welcomes the efforts undertaken by the State party to extend coverage of social security, in particular in the private sector, as stated in Decree-Law No. 58/93/M, which came into force in January 1994.

### Factors and difficulties impeding the implementation of the Covenant

250. The Committee notes that prevailing Chinese traditions, namely of avoiding direct

confrontations and strikes in favour of personal or family ties, have not been conducive to the application of the laws concerning the right to collective bargaining and the right to strike.

#### Principal subjects of concern

251. The Committee notes with concern that labour regulations are not enforced effectively in Macau, resulting in workers having to work under unfavourable and repressive conditions without access to legal recourse. Protective measures on working conditions and social security for non-resident workers are still lacking. Measures protecting the right to strike, the right to organize trade unions and the right to collective bargaining are also lacking.

252. The Committee is concerned that the majority of the population is not familiar with the judicial system of the Territory, and that insufficient measures have been adopted to ensure that the principles and provisions of the Covenant are made widely known to the population.

253. The Committee, bearing in mind that China does not recognize dual nationality, expresses concern that residents of Macau, including civil servants who hold Portuguese passports, may not be able to stay in Macau after 1999.

254. The Committee notes with concern that no special programme exists to help the physically and mentally disabled to facilitate their access to employment, education and public facilities.

255. The Committee expresses concern that non-resident workers are not covered by the social security system.

256. Although Chinese constitute about 95 per cent of the population in Macau, the requirements for the civil service effectively exclude many persons of Chinese origin who cannot satisfy the condition of being "local" because they lack a necessary language or other qualifications or for other reasons which cannot be overcome in a short time. The Committee therefore considers it necessary to incorporate persons of Chinese origin into the civil service in order to facilitate a smooth transmission of administration to China.

257. The Committee is further concerned that the Territory does not have a procedure for the determination of minimum wages.

#### Suggestions and recommendations

258. The Committee takes note of the readiness of the State party to provide it with additional information in response to the concerns expressed in the course of the discussion and recommends that, in its replies, the State party pay particular attention to the issue of family reunification and to the legislative provisions safeguarding the principles of ILO Conventions No. 103 (Maternity Protection Convention (Revised), 1952) and No. 138 (Minimum Age Convention, 1973) and their practical application.

259. The Committee recommends that appropriate measures be taken to secure the economic, social and cultural rights of disabled persons, particularly through funding for special programmes aimed

at helping the physically and mentally disabled to gain better access to employment, education and public facilities.

260. The Committee recommends, in view of the lack of sufficient information provided by the State party with respect to article 10 of the Covenant, that detailed information be provided on measures taken to implement the provisions of that article. In that connection, the attention of the State party is drawn to the relevant parts of the Committee's revised guidelines regarding the form and contents of reports to be submitted by States parties. 10/

261. The Committee urges the Portuguese Administration to take affirmative steps to facilitate the integration of persons of Chinese origin into the placement programme of the civil service.

262. The Committee urges the Portuguese Administration to promote appropriate policies to facilitate the right to form labour unions, the right to engage in collective bargaining and the right to strike, so as to fill the gap between domestic law and the Covenant.

263. The Committee also urges the enactment of legislation on the right to social security so as to ensure full compliance with the requirements of the Covenant, and recommends that the State party extend the coverage of social security to non-resident workers.

264. The Committee urges the Portuguese Administration to make more efforts to disseminate the Covenant within the civil society.

265. The Committee welcomes the statement by the State party that measures will be taken to develop information and awareness programmes on the judicial system of the Territory and on the principles and provisions of the Covenant in the various languages spoken in Macau. Additionally, the Committee recommends that comprehensive human rights training be provided to all segments of the population, including law enforcement officers and all persons involved in the administration of justice.

266. The Committee strongly urges the Portuguese Administration to take all necessary measures to ensure that the reports required under the Covenant are submitted after 1999.

267. The Committee encourages the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's second periodic report.

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10 See [E/1991/23, annex IV].

## **CESCR E/2001/22**

403. The Committee considered the third periodic report of Portugal on the implementation of the Covenant (E/1994/104/Add.20) at its 58th to 60th meetings, held on 14 and 15 November 2000, and, at its 73rd and 74th meetings, held on 23 and 24 November 2000, adopted the following concluding observations.

### **A. Introduction**

404. The Committee expresses its appreciation to the State party for the full and detailed report it submitted and for the additional information it provided orally and in writing during the constructive dialogue held by the members of the Committee and the Portuguese delegation.

### **B. Positive aspects**

405. The Committee commends the State party on its efforts to implement the recommendations made in connection with its second periodic report, particularly legislative measures to promote equality between men and women introduced through law No. 105/97 of 13 September 1997.

406. The Committee welcomes the fact that the State party has indicated its strong support for an optional protocol to the Covenant and has ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

407. The Committee welcomes the State party's decision to ratify International Labour Organization Convention No. 118 (1962) concerning equality of treatment in social security for nationals and non-nationals.

408. The Committee commends the efforts the State party is making to promote the independence of East Timor and the substantial assistance it is providing to that United Nations administered territory.

### **C. Factors and difficulties impeding the implementation of the Covenant**

409. In the light of information submitted to it by the State party the Committee does not find any factors or particular difficulties that impede the full implementation of the Covenant.

### **D. Principal subjects of concern**

410. The Committee regrets that approximately one fifth of the population of the State party still lives below the poverty line and that no comprehensive study of the problem of poverty has been undertaken by the State party.

411. The Committee is concerned about the lack of a national human rights plan in accordance with the recommendation contained in paragraph 71 of the Vienna Declaration and Programme of Action.<sup>9</sup>

412. The Committee expresses its concern about the occurrence of child labour in breach of the State party's international obligations, in particular, its obligations under the Covenant.

413. The Committee expresses its concern about cases of intolerance and discrimination with regard to Roma people, refugees and immigrants. The Committee also notes with concern that foreign workers cannot enrol in the vocational guidance and training courses to which Portuguese workers are entitled.

414. The Committee expresses its concern at the persistence of discrimination against women in the fields of employment and equality of wages and opportunity with men. Another subject of concern is the phenomenon of violence against women, including marital violence.

415. The Committee is also concerned at the increase of trafficking in women which is linked to organized crime.

416. The Committee takes note with concern of the increase in paedophilia and child pornography. These phenomena are associated with the increase in drug trafficking and consumption and other criminal activities which endanger the security and health of the population of the State party.

417. The Committee notes with concern the relatively high school drop-out rates and the rate of high illiteracy in the State party.

## **E. Suggestions and recommendations**

418. The Committee urges the State party to review its general strategy for the eradication of poverty and step up its activities to combat it.

419. The Committee calls on the State party to adopt a national human rights plan in accordance with paragraph 71 of the Vienna Declaration and Programme of Action.

420. The Committee urges the State party to intensify its efforts to create a culture of tolerance and to eliminate all forms of discrimination, insofar as they affect women, Roma, asylum-seekers and immigrants.

421. The Committee urges the State party to allow foreign workers to enrol in the vocational guidance and training courses to which Portuguese workers are entitled.

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<sup>9</sup> Adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993 (A/CONF.157/24 (Part One)), chap. III.

422. The Committee recommends that the State party ensure stricter application of the legal provisions guaranteeing men and women equal pay for equal work.

423. The Committee suggests that the State party strictly implement the measures at its disposal to monitor and impose the appropriate penalties on persons or companies using child labour.

424. The Committee recommends that the State party intensify its efforts to prevent drug addiction among young people and impose appropriate penalties on persons who commit offences relating to paedophilia, child pornography and trafficking in women. The Committee also recommends that the State party give due consideration to ratifying ILO Convention No. 138 (1973) concerning the minimum age for admission to employment.

425. The Committee urges the State party to intensify its campaign against the persisting problem of illiteracy.

426. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society and to reflect their implementation in the next periodic report, which should be submitted by 30 June 2005.