



Global Initiative
for Economic, Social
& Cultural Rights

Yearbook

of the Committee on Economic, Social and Cultural Rights



2023

Table of Contents

A Message From Our Executive Director	1	Individual Communications in 2023	21
A Message From the Committee Chair	2	2023 In Context	22
The Committee on Economic, Social and Cultural Rights	3	2023 Committee Backlog	24
State Reporting Procedure	4	2023 Merits Decisions	25
Individual Communications	6	2023 Inadmissibility Decisions	28
Thematic Work	9	2023 Discontinuance Decisions	29
The Committee in 2023	10	2023 Follow-Ups to Individual Communications	30
The Composition of the Committee	11	Thematic Work in 2023	31
State Reporting in 2023	13	General Comments Under Preparation	32
2023 Key Themes in Concluding Observations	15	Working Methods and Procedural Information	34
2023 Follow-Up to Concluding Observations	17		
2023 Civil Society Engagement	19		

A Message From Our Executive Director



The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is delighted to present the seventh edition of the Committee on Economic, Social and Cultural Rights (CESCR) Yearbook. The annual Yearbook provides easy access to information and an analytical view of the Committee's activities in a given year.

The present edition provides an up-to-date, concise, yet informative review of the CESCR's work throughout 2023, including an overview of its seventy-third (from 13 February 2023 to 3 March 2023) and seventy-fourth (from 25 September 2023 to 13 October 2023) sessions.

This year was marked by the Committee's commitment to addressing critical issues of current relevance to the full enjoyment of economic, social, and cultural rights (ESCR), like the application of the Covenant on Economic, Social and Cultural Rights during armed conflicts, stopping deforestation, addressing environmental degradation and mitigation of the effects of climate change. This year, particular progress has been made on the ongoing work of a General Comment on ESCR and sustainable development and the beginning of discussions on two additional ones (on drug policies and ESCR and on armed conflict and ESCR). Additionally, the Committee continued with the full breadth of its activities, comprising reviewing State reporting, decisions on individual communication, and its thematic work output.

In 2023, the Committee solidified its forward-thinking perspective on human rights, continuing to present its impactful views on global challenges and striving for climate and economic justice through its work. In particular, the CESCR confirmed its progressive interpretations of human rights obligations concerning international cooperation and fiscal policies. Moreover, the Committee continued

to welcome participation and collaboration from various stakeholders. Upon perusing the Yearbook, I am hopeful that readers will agree that the Committee persists in its pivotal role of advancing and safeguarding economic, social, and cultural rights worldwide.

Given the significance and relevance of the Committee's endeavours, GI-ESCR publishes the Yearbook annually, intending to reach a broad audience. For seven years, this report has been a practical tool for civil society and State representatives, as well as for academics and practitioners, fostering dialogue and engagement among those committed to safeguarding economic, social, and cultural rights.

Our intent is that the Yearbook continues as an invaluable resource, bringing the Committee's work closer to all those committed to the international protection of ESC rights. On behalf of GI-ESCR's team, we hope you will enjoy this new edition of the Yearbook. If you have any comments, suggestions, or positive feedback, please write to us (info@gi-escr.org); we would be delighted to hear your opinion. tates, whose responsibility it is to promote and protect the economic, social and cultural rights of all persons.

Yours sincerely,

Magdalena Sepúlveda Carmona

A Message From the Committee Chair



I am delighted to introduce the 2023 edition of the Yearbook of the UN Committee on Economic, Social, and Cultural Rights (CESCR). Once again, this comprehensive publication has been meticulously prepared and published by GI-ESCR. The Yearbook provides a thorough overview of the Committee's work throughout 2023, serving as a valuable resource in promoting and safeguarding economic, social, and cultural rights (ESCR).

I extend my sincere appreciation to GI-ESCR for their unwavering efforts and their continued support across various aspects of the Committee's work, including our annual engagement with civil society. This crucial forum allows us to hear directly from those who closely interact with rights holders, bridging the gap between our global efforts and national contexts.

As reflected in the Yearbook, throughout the year, we grappled with unprecedented challenges to ESC rights arising from the pandemic's lingering aftermath, the continued global impact of conflicts, surging inflation rates, and the climate crisis. Our discussions with States Parties emphasised the urgent need for robust economic, social, and cultural rights policies to mitigate these crises' consequences and to better prepare for any crisis in the future.

The situation of human rights defenders, particularly those working on ESCRs, remained high on our agenda and a cause for concern, and we have urged States to ensure that HRDs do not face reprisals for their engagement with the Committee.

The Committee, however, would have wished it could have dialogues with a higher number of States and regrets the limited resources available to it to review State party reports and to introduce the simplified reporting procedure along with

a predictable 8-year calendar, which would allow it to engage with all State parties to the Covenant. We hope support from States will be forthcoming.

Regarding our work under the Optional Protocol, the Committee considered 14 communications against one country, Spain, focusing on the right to housing. The Committee found violations of the author's right to adequate housing under Article 11(1) of the Covenant in two of these cases, it declared two cases inadmissible, and discontinued 10 cases.

Furthermore, we remain concerned about the low number of ratifications of the Optional Protocol and the even lower number of States Parties that have accepted the optional procedures outlined in the Protocol.

Finally, and very importantly, we pursued work on the draft general comment focused on 'Sustainable Development and the International Covenant on ESC Rights', including holding a general day of discussion. Our key takeaway remains clear: enjoying ESC rights remains vulnerable to multifaceted challenges, including climate change, pollution, and biodiversity loss. To create a healthier and safer world where everyone can enjoy ESCRs without discrimination, we must address these challenges head-on for current and future generations.

Laura-Maria Crăciunean-Tatu

**Chair Committee on Economic,
Social and Cultural Rights**

The Committee on Economic, Social and Cultural Rights

Introduction

The Committee on Economic, Social, and Cultural Rights (CESCR) is the expert human rights body tasked with monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The ICESCR is a binding treaty containing human rights such as the right to just and favourable work conditions, the right to an adequate standard of living, the right to education, and the right to participate in cultural life. It entered into force in 1976 and by 2023, had 171 State Parties. There were no new ratifications of the Covenant in 2023.

The Committee has three essential functions to monitor State Parties' compliance with their obligations under the Covenant:

Reviewing States Through the Reporting Procedure

The Committee periodically reviews reports in which parties to the Covenant must detail their measures to realise the rights enshrined therein (see pages 13-20)

Considering Individual Communications Under the Optional Protocol

Since the entry into force of an Optional Protocol to the ICESCR (OP) in 2013, the Committee has been empowered to consider complaints brought by individuals who allege that their Covenant rights have been violated (see pages 21-30). By 2023, 28 States were Parties to the OP. In 2023, the Committee welcomed the ratifications of State Parties of Germany and Serbia to the OP.

Developing General Comments and Statements and Engaging in Other Thematic Work

The Committee provides authoritative guidance on Covenant rights by drafting General Comments. It also publishes Statements and Open Letters which clarify Covenant obligations and offers States guidance on applying them to pressing issues (see pages 31-34).



Jacob Lund/Shutterstock.com

State Reporting Procedure

The Committee uses its State reporting procedure to periodically assess the progress that States have made towards realising the rights contained within the Covenant.

STAGE 2: In-Session Dialogue

The Committee then invites a delegation of the reviewed State to Geneva, where it engages in a six-hour constructive dialogue on the State's periodic report. During the dialogue, Committee members comment on the progress made to comply with its obligations under the ICESCR and ask questions to representatives from various ministries.



STAGE 1

STAGE 1: The State Report

The first stage of the State reporting procedure depends on whether the State under review follows the standard reporting procedure or the simplified reporting procedure. The simplified reporting procedure has thus far only been made available to a limited number of States on a pilot basis.

If a State follows the standard reporting procedure, it must first submit a periodic report to the CESCR. This report should outline all the steps

that the State has taken to realise Covenant rights.

A pre-sessional working group of the Committee then considers this report and prepares a List of Issues (LOI). Non-governmental Organisations (NGOs), National Human Rights Institutions (NHRI) and International Organisations can contribute with submissions to influence the definition of the LOI and participate in the sessions of the pre-sessional working group before the issuance of the LOI. With the LOI, the Committee requests from the State further information that it believes will be required for the review. The State then replies to the



STAGE 2

LOI in a shorter report.

If a State uses the simplified reporting procedure, the reporting process begins with a pre-sessional working group of the Committee preparing a List of Issues Prior to Reporting (LOIPR).

The LOIPR requests information on the issues that the Committee considers necessary to conduct a review of the State's implementation of the Covenant.

State Reporting Procedure

STAGE 3: Concluding Observations

The Committee then adopts a set of Concluding Observations (COBs). The COBs consist primarily of concerns that the Committee has identified during the course of the review, as well as recommendations on how the State can improve the enjoyment of economic, social and cultural rights.

STAGE 4: Follow-Up to Concluding Observations

In each set of COBs, the Committee selects up to three recommendations for its follow-up procedure. These are recommendations that “require urgent attention” and “should be attainable within a period of 24 months”.

Within these 24 months, States are expected to submit a report on the steps that they have taken to implement the three recommendations. The Committee then evaluates the State’s action and, for each recommendation, gives a grade of “sufficient progress”, “insufficient progress”, “lack of sufficient information to make an assessment”, or “no response”.

Civil Society Engagement

The Committee receives and considers information from civil society in advance of each stage of the reporting process, including the LOI/LOIPR, the in-session dialogue, and the follow-up to COBs.

These civil society reports – referred to as “shadow” or “parallel” reports – play a vital role in informing the Committee of human rights issues and allowing it to identify important developments. They are especially crucial for the Simplified Reporting Procedure, as there is no State report to begin with.

Alongside civil society organisations, national human rights institutions and UN agencies can also submit reports to the Committee. Civil society may also deliver formal and informal oral briefings to Committee members. Organisations that are interested in making a submission to the Committee can contact GI-ESCR (info@gi-escr.org) for advice on the process.



STAGE 3



STAGE 4

Individual Communications

Individual Communications

Under the OP, the Committee may consider individual complaints that contain information on acts or omissions that violate human rights recognised in the ICESCR. Communications can also be submitted by groups of individuals and by third parties on behalf of a victim, individual, or group (with their consent).



STAGE 1

STAGE 1: Submission

The individual communication process starts with submitting a complaint to the Committee. Upon the initial registration of the communication, the Committee may request that the respondent State take interim measures so as to avoid “possible irreparable damage” before it makes a decision.



STAGE 2

STAGE 2: Admissibility

The Committee begins its consideration of a complaint by assessing its admissibility against criteria contained in Articles 2 and 3 of the OP. To be admissible:

- Domestic remedies must have been exhausted.
- The alleged violations must have occurred after the entry into force of the OP for the State concerned.
- The same matter must not have been examined or be under examination by the Committee or another treaty body.

- The complaint cannot be manifestly ill-founded, insufficiently substantiated, or exclusively based on mass media reports.
- The complaint cannot entail an abuse of rights.

If it does not meet all of the criteria, a complaint will be declared inadmissible, and the communication process will end.

Individual Communications



STAGE 3

STAGE 3: Merits

If a communication is admissible, the Committee will proceed to consider it on its merits. At this stage, the Committee must determine whether the actions or omissions of the respondent State can be reasonably justified given their procedural and substantive obligations under the Covenant. The intensity of the Committee's scrutiny will vary depending on the circumstances of each case.

When the Committee engages in close scrutiny, its approach resembles proportionality analysis. Accordingly, when a State has imposed a

prima facie restriction on a Covenant right, it may be asked to justify that its actions are authorised by law, have a legitimate objective, are rationally connected to this objective, are the minimum interference with the right that will achieve the objective, and impose a burden that is not disproportionate to its benefit.



Anton_Ivanov/Shutterstock.com

Individual Communications

Friendly Settlements and Discontinuance Decisions

In accordance with Article 7 of the OP, the Committee can offer its good offices to reach a friendly settlement of a dispute based on respect for the obligations contained in the Covenant. A settlement will end the consideration of the communication.

The Committee may decide to discontinue a communication by ending it before a final determination has been reached. This may occur at the request of the author or State, or simply because the Committee has lost contact with the individual who submitted a communication.



STAGE 4

STAGE 4: Follow-Up to Concluding Observations

If the Committee establishes that the respondent State Party has violated the Covenant, it will make individual recommendations specific to the case at hand regarding the author (e.g., recommending payment of compensation).

It will also make General Recommendations to ensure that the respondent State Party removes structural impediments to realising the right in question (for example, it may recommend implementing new legislation).



STAGE 5

STAGE 5: Follow-Up

The OP provides the basis for a follow-up mechanism, according to which State Parties are given six months to submit a report on the measures they have taken to implement the Committee's recommendations.

The Committee then assesses whether the State has satisfactorily implemented its views. If it is determined that they have not, it will keep the communication under review and request further action or information.



Agence DyF/Shutterstock.com

Thematic Work

The Thematic Output of the Committee

The CESCR regularly provides analysis and guidance on a range of thematic issues related to economic, social, and cultural rights.

General Comments

General Comments provide policy advice and authoritative guidance on the normative content of Covenant rights and State obligations.

They are usually formulated following a Day of Discussion with civil society and other stakeholders, who are invited to provide input at various stages in the process. (see page 23)

As of 2023, the Committee has published a total of 26 General Comments. These General Comments have been cited in the jurisprudence of domestic constitutional courts worldwide, as well as by a range of other judicial bodies. The last General comment published by the Committee was General Comment No.26 on Land and Economic, Social, and Cultural Rights in 2022.

Statements

The Committee has also established a practice of adopting Statements in which it sets out Covenant obligations and applies them to issues that it considers to be of importance.

Statements are shorter and more informal than General Comments. They afford the Committee a degree of flexibility and allow it to engage with pressing ESC rights developments.
















Open Letters

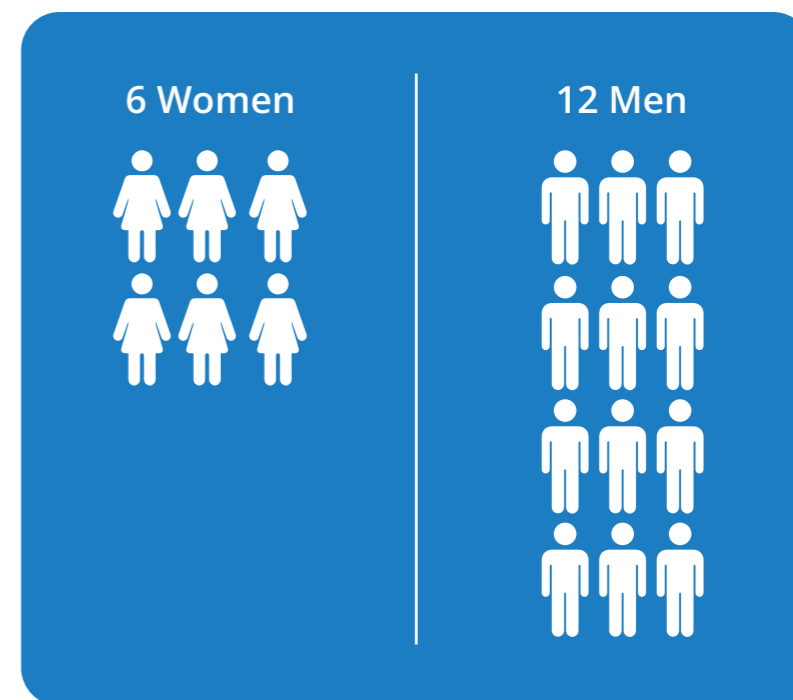
In the past, the Committee has used Open Letters to establish how Covenant obligations relate to policy developments in States that are party to the Covenant. In 2012, for example, the Chair of the Committee wrote an open letter addressing the widespread adoption of austerity measures in the wake of the financial crisis.



Members of the CESR in 2023. Note: members are not pictured in the order listed above.

The Committee in 2023

- | | |
|--|--|
|  Mr Aslan Abashidze (Russian Federation) |  Ms Joo-Young Lee (Republic of Korea) |
|  Mr Mohamed Ezzeldin Abdel-Moneim (Egypt) |  Ms Karla Vanessa Lemus De Vásquez (El Salvador) |
|  Mr Mohammed Amarti (Morocco) |  Mr Mikel Mancisidor de la Fuente (Spain) |
|  Mr Nadir Adilov (Azerbaijan) |  Mr Seree Nonthasoot (Thailand) |
|  Mr Asraf Ally Caunhye (Mauritius) |  Ms Lydia Carmelita Ravenberg (Suriname) |
|  Ms Laura-Maria Crăciunean-Tatu (Romania) |  Ms Julieta Rossi (Argentina) |
|  Mr Peters Omologbe Emuze (Nigeria) |  Ms Preeti Saran (India) |
|  Mr Santiago Manuel Fiorio Vaesken (Paraguay) |  Mr Shen Yongxiang (China) |
|  Mr Ludovic Hennebel (Belgium) |  Mr Michael Windfuhr (Germany) |



The Composition of the Committee

Members of the Committee serve in their personal capacity and are elected for four-year terms.

Regional groupings are each allocated a quota of Committee seats that align with the number of State Parties to the Covenant.

In 2023, the Committee was composed of four members from each of the “African”, “Asian”, and “Latin American and the Caribbean” regions, and three members from the “Eastern European” and “Western Europe and Other States” regions.

Elections took place in 2023 for the seats of three Committee members whose terms were set to finish in December 2023. Of the newly elected Committee members, one was a man (Mr. Santiago Manuel Fiorio Vaesken), and two were women (Ms Julieta Rossi and Ms Joo-Young Lee). Although two of the three recently elected committee members were women, a gender disparity persists within the Committee. The current composition reveals twice as many men as women holding seats on the Committee.

In 2023, the Committee was composed of:



- In accordance with rule 14 of its rules of procedure, at the 1st meeting of its seventy-fourth session on 25 September 2023, the Committee elected the members of its Bureau as follows:
- **Chair:** Laura-Maria Crăciunean-Tatu
 - **Vice-Chairs:** Peters Sunday Omologbe Emuze, Ludovic Hennebel, Karla Vanessa Lemus de Vásquez and Preeti Saran
 - **Rapporteur:** Peters Sunday Omologbe Emuze

The Composition of the Committee



Geographical distribution of Committee members in 2023

State Reporting in 2023

States Reviewed in 2023

In 2023, the Committee reviewed 12 states: Cambodia, China, China (Hong Kong), China (Macau), Lithuania, Panama, Portugal, Yemen, Armenia, Brazil, Chad, France; Qatar and the State of Palestine.

Follow-Up in 2023

In 2024, the Committee published three Follow-up evaluations, which assessed whether the relevant Parties had implemented the key recommendations identified in its previous Concluding Observations. These States were Bosnia and Herzegovina, Finland and Latvia.

Overdue Reports and Backlog

The Committee has been seized by a situation of overdue reports, of which by 13 October 2023, the number of overdue reports has reached 84. Of those reports, 26 States parties had initial reports overdue, of which the following 17 States parties were more than ten years overdue: Bahamas, Congo, Côte d'Ivoire, Dominica, Eritrea, Eswatini, Ghana, Grenada, Guinea-Bissau, Lesotho, Liberia, Maldives, Papua New Guinea, Saint Vincent and the Grenadines, Seychelles, Somalia and Timor-Leste. 58 States parties had overdue periodic reports, and those of the following 14 States parties were more than ten years overdue: Barbados, Democratic People's Republic of Korea, Hungary, India, Jordan, Libya, Malta, Nigeria, San Marino, Solomon Islands, Suriname, Syrian Arab Republic, Trinidad and Tobago, and Zambia.

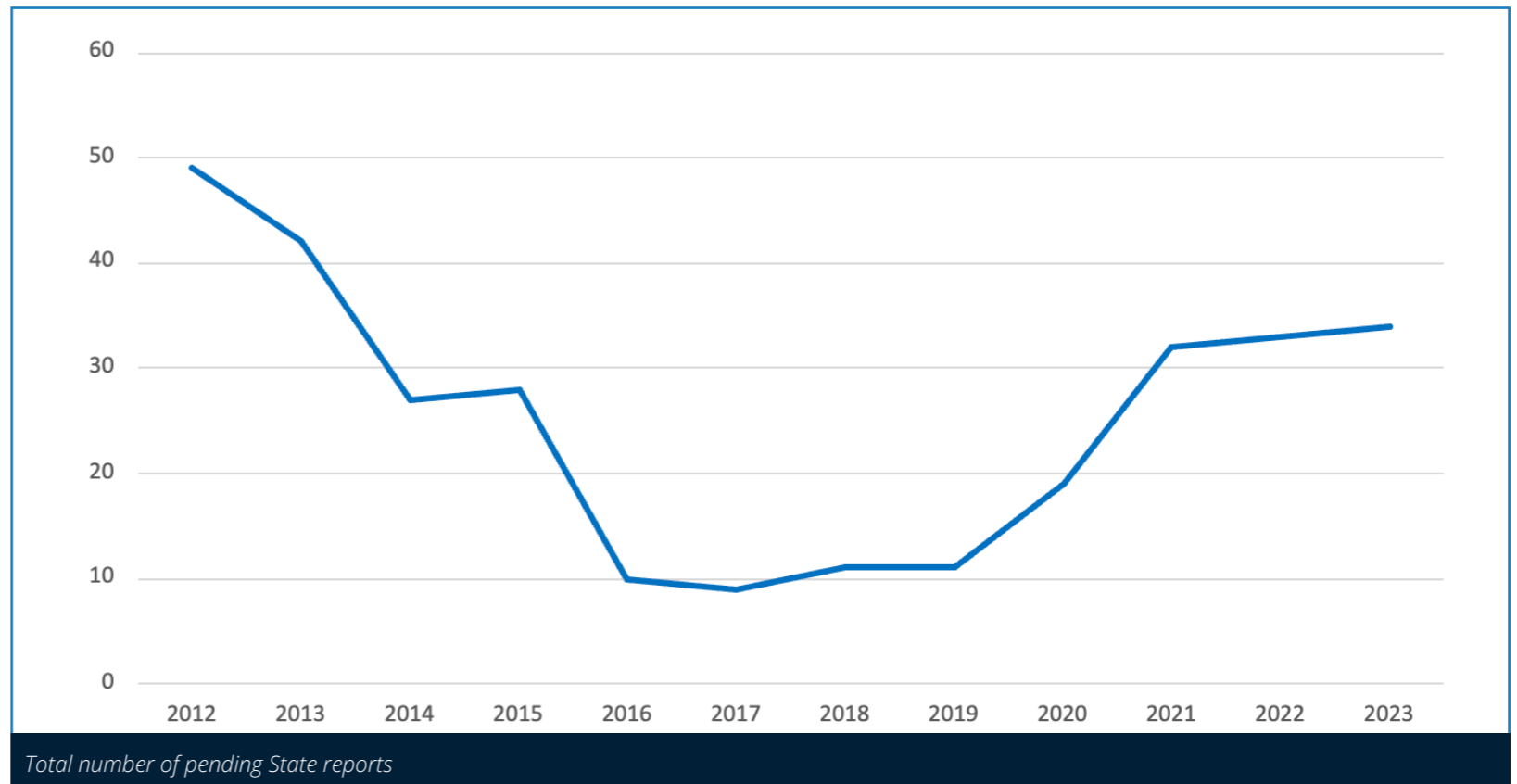
Considering the high level of non-reporting by State parties, as initiated during its sixty-seventh session, the Committee intends to continue to engage with non-reporting States to engage and discuss reporting challenges and to encourage

compliance with the reporting system. Additionally, the Committee plans to expand the simplified reporting procedure to all State parties, once resources are available. This year, the Committee welcomed the submission of the long-overdue initial report of Sierra Leone. GI-ESCR encourages State Parties to submit reports in accordance with Article 16 of the Covenant.

As of 13 October 2023, the Committee received reports from 34 State parties and are pending consideration. The States parties, in the order of receipt of the reports, are Mauritania, Romania, Ireland, Iraq, Kyrgyzstan, Indonesia, Albania,

Iceland, Poland, Sweden, Cyprus, Honduras, Peru, Rwanda, Philippines, Chile, Croatia, Malawi, United Kingdom of Great Britain and Northern Ireland, Kingdom of the Netherlands, Kenya, Russian Federation, Colombia, Zimbabwe, Uruguay, Lao People's Democratic Republic, Georgia, Namibia, Sierra Leone, Pakistan, Angola, Mexico, North Macedonia and Turkmenistan.

As can be seen from the graph, the Committee is still dealing with the backlog that grew due to the effects of the Covid-19 pandemic. Nevertheless, the number of reports pending in this last year did not significantly increase compared to 2022.



State Reporting in 2023

Reports for Consideration in the Following Sessions

As of 13 October 2023, the Committee had received the 13 reports outlined below, which it decided to consider at its seventy-fifth and seventy-sixth session, held in 2024. According to Article 16 of the Covenant, reports submitted by States parties are, in principle, scheduled for consideration in the order in which they are received by the Secretary-General, which are Indonesia, Iraq, Ireland, Mauritania, Romania, Sweden, Albania, Cyprus Honduras, Iceland, Kyrgyzstan, Malawi and Poland.



2023 Key Themes in Concluding Observations

States Reviewed in 2023

In 2023, the Committee's Concluding Observations (COBs) on the fourteen States reviewed throughout its seventy-third and seventy-fourth sessions revealed several significant themes.

In line with the general structure of the COB, the reports commenced by addressing observations and recommendations concerning the domestic application of the Covenant. The Committee expressed concern over issues regarding the incorporation of the Covenant into domestic legislation due to reservations, resulting in not all provisions being directly applicable by national courts and tribunals, notably in the cases of China (including Hong Kong and Macao), Chad, and Qatar. Furthermore, the Committee highlighted concerns regarding Brazil's intricate federal system, where Covenant rights are implemented at various levels of government, potentially leading to disparities in the enjoyment of Economic, Social, and Cultural (ESC) rights. Even when the Covenant was adequately incorporated into the domestic system, challenges persisted regarding the lack of knowledge among public officials about its contents and applicability, resulting in a deficit of court decisions invoking Covenant provisions. To address these issues, the Committee stressed the significance of familiarising public officials, particularly judges, prosecutors, and lawyers, with the Covenant's content and justiciability through training initiatives to enhance their understanding of its provisions.

This year, the Committee dealt with two particular cases of States' reports in precarious contexts. First, the COB for Yemen included a note of the Committee's appreciation of the difficulty of applying the Covenant in the context of armed conflict. The Committee raised concerns over the mass violations of Human Rights taking place in Yemen. However,

the Committee reminded the State party that international humanitarian Law does not preclude the application of International Human Rights Law and, thus, the rights enshrined in the Covenant. The Committee advised the State party to endeavour, as far as possible, to fulfil its obligation under the Covenant, by providing systematic training to military forces on principles of proportionality, distinction and precaution as well as the prohibition of attacking civilians and civilian infrastructure critical to the realisation of ESC rights. The acknowledgement of the contextual specificities in the COB for Yemen remains pertinent, especially given the Committee's ongoing efforts concerning the development of the General Comment on Economic, Social, and Cultural Rights and armed conflicts.

The Committee also reviewed the State of Palestine in its 2023 COBs, where it recognised the ongoing occupation and partial annexation of the territory of the State party. The Committee acknowledged that the expansion of settlements and the continued blockade of the Gaza Strip posed severe challenges for the State party in fully implementing its obligations under the Covenant and led to grave violations of the ESC rights of Palestinians, including forced displacement and evictions, seizure of private land, house demolitions and illegal settlements, restrictions on gaining access to health-care services, destruction of cultural sites and denial of access to humanitarian aid. Nevertheless, the Committee reminded the State party that the Covenant applies to its entire territory and emphasised the importance of implementing all possible measures across all regions, despite the ongoing occupation. The Committee recognised that Palestinians continue to be subject to multiple legal systems that impede the full realisation of their rights under the Covenant.

The Committee also emphasised the significance of National Human Rights Institutions (NHRIs) for States. It underscored

the need for these mechanisms to operate independently to effectively fulfil their functions, particularly within Hong Kong (China) and Chad. The Committee was concerned with the failure to establish a NHRI in China including in Macao (China), despite its previous recommendation to do so. The Committee recommended that several States provide human, technical, and financial resources necessary for an NHRI to discharge its mandate effectively and independently to ensure compliance with the Paris Principles (Principles Relating to the Status of National Human Rights Institutions). Similarly, the Committee was concerned by high levels of intimidation, victimisation and targeting of Human Rights Defenders. Notably, it referenced the *Sales Pimenta v. Brasil* case at the InterAmerican Court of Human Rights. It called for measures to be implemented to address the structural impunity for the violent deaths of human rights defenders in Brazil.

The Committee grappled again with the ongoing climate emergency in most of its reports. There was a call for many states to reassess and intensify their efforts to reach their nationally determined contributions under the Paris Agreement. The Committee called upon Brazil to take all measures necessary to stop deforestation, protect the environment, and address environmental degradation. Mitigation and adaptation measures have often come up, which called for the adoption or updating of national adaptation plans. Additionally, COBs for Armenia, Brazil, and Panama all included recommendations to address climate change while considering the impacts of policies and measures on local communities and Indigenous Peoples through meaningful consultation.

The Committee raised concerns about discrimination experienced by several different groups: the Uighur in China; the Roma in Lithuania, Portugal, and France; the Quilombolas

2023 Key Themes in Concluding Observations

and other traditional communities in Brazil; Baha'i religious communities in Qatar; lesbian, gay, bisexual, transgender and intersex persons in Chad and Cambodia; indigenous peoples and afro-descendants in Panama; as well as refugees, asylum seekers came up in the majority of reports, to name only a few. Thus, the Committee recommended that States, such as Brazil and Qatar, to adopt comprehensive anti-discrimination legislation. The Committee identified the issue of discrimination to have negative cross-cutting impacts on several other rights enshrined in the Covenant, such as the right to housing in Qatar; protection of family and children in China; right to education in France, as well as a broader detrimental impact on cultural rights.

The Committee issued several recommendations regarding gender equality, tackling issues such as the gender pay gap, labour market segregation, gender-based violence, reproductive health restrictions, disparities in caregiving responsibilities as well as an overall underrepresentation specifically of women from minority groups.

The Committee raised various concerns regarding unemployment and social security coverage and made recommendations on the operation of the informal economy and the minimum wage, as well as working conditions, unfair dismissals, and trade union rights. The Committee was also concerned with the high level of intimidation, violence, harassment, and detention towards trade union members and leaders, specifically in Cambodia and France. It called on Lithuania to guarantee the right to form trade unions and exercise the right to strike. The Committee also raised concerns over the interaction of businesses and human rights. It thus issued several recommendations requiring States to concentrate efforts towards measures of due diligence for business, such as adopting a national action plan proposed in Cambodia.

A prevalent theme observed in this year's COBs was the Committee's recognition of disparities in the enjoyment of ESC rights between rural and urban communities. These discrepancies encompassed access to social security and basic infrastructure such as healthcare, sanitation, and clean water and exacerbated economic inequalities and poverty. In Panama, for instance, regressive taxation policies were identified as counterproductive measures aggravating these disparities.

The Committee grapples with several issues concerning extraterritorial obligations. In its COB for Lithuania, the Committee raised concerns over recent measures taken by the State party that have prevented transportation of potash from Belarus destined for third countries in Africa and Latin America, thus adversely affecting food security in those countries. In China, the Committee recommended a review of its current loan repayment conditions due to concerns about reports of the adverse effects of this in connection with the Belt and Road Initiative infrastructure development in third countries. In France, the committee expressed its concern at operation Wuambushu in Mayotte, which was conducted to demolish shanty towns and has resulted in the eviction of many families from their homes, and recommended that any measures to improve housing conditions incorporate a human rights-based approach.

The Committee addressed the impacts of COVID-19, particularly on marginalised groups, and broader recovery strategies in a number of its COBs. It also addressed shortcomings in state healthcare systems and the enjoyment of the right to health.

The Committee recommended that Brazil adopt a multidimensional national action plan to eradicate poverty, addressing its root causes and the additional effects of

Covid-19. It also called on France to ensure that trade agreements are consistent with its obligations under the Covenant vis-à-vis the enjoyment of economic, social and cultural rights in third countries, regarding access to Covid-19 drugs and vaccines. In general, it called for all States to fully consider their obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the recovery from the Covid -19 pandemic.

The right to enjoy the benefits of scientific progress was also raised in the reviews for Panama, Brazil, and China. In particular, the Committee recommended that Macao (China) and Chad work on reducing the digital divide by improving digital skills from primary school onward and ensuring the enjoyment of scientific progress without discrimination.

Finally, the Committee also advised that States consider their obligations under the Covenant when implementing the 2030 Agenda for Sustainable Development and called on those who had yet to ratify the OP-ICESCR to do so.

2023 Follow-Up to Concluding Observations

Follow-Up Overview

In 2023, the Committee published a follow-up to the Concluding Observations of three State parties' reports, namely, Bosnia and Herzegovina, Finland, and Latvia, which concluded in its seventy-fourth session. During its seventy-third session, the Committee did not consider follow-up reports. The follow-up assessments evaluate the extent to which the State parties have implemented the three key recommendations that it had identified after each State's review during previous sessions. During this 74th session, the Committee identified "sufficient progress" concerning implementing three recommendations. Additionally, it found "partial progress" for the implementation of 4 recommendations and 2 recommendations for which insufficient information was available to make an assessment. None of the recommendations made by the Committee were found to have had "no progress" concerning their implementation.

Bosnia and Herzegovina

The Committee's assessment of Bosnia and Herzegovina found that the State party had made sufficient progress concerning its obligation under paragraph 7(a) of its concluding observations. In relation to this, the Committee noted, in particular, the different sectoral plans and strategies implemented by the various levels of government in the State party to ensure the enjoyment of ESCRs in their jurisdictions. However, the Committee also noted a lack of a unified legislative and public policy framework across the different levels of government. The Committee reminds the State party that it bears the ultimate responsibility for the implementation of the Covenant at all levels of government, including cantons and municipalities, including harmonising legislative and policy measures taken or envisaged. In relation to the Right to Social Security in the State party, the Committee welcomed the follow-up report highlighting multiple measures taken to reform its social security system, such as measures encompassing the adoption of various laws, strategies, and policies, including legislation pertaining to social security, healthcare, child protection, and specific programs aimed at children, persons with disabilities, and older persons. However, again the partiality of the progress was in large part due to the fragmented and complex structure of the social security system at the State-level. Finally, the Committee noted with concern that the information provided by the State party showed disparities in vaccine distribution among regions and different levels of government. Though it recognised that some steps had been taken in relation to the recommendations of the Committee regarding vaccination efforts in the context of the Covid-19 pandemic, no sufficient information was provided to make an adequate assessment of the progress made thereby.

Finland

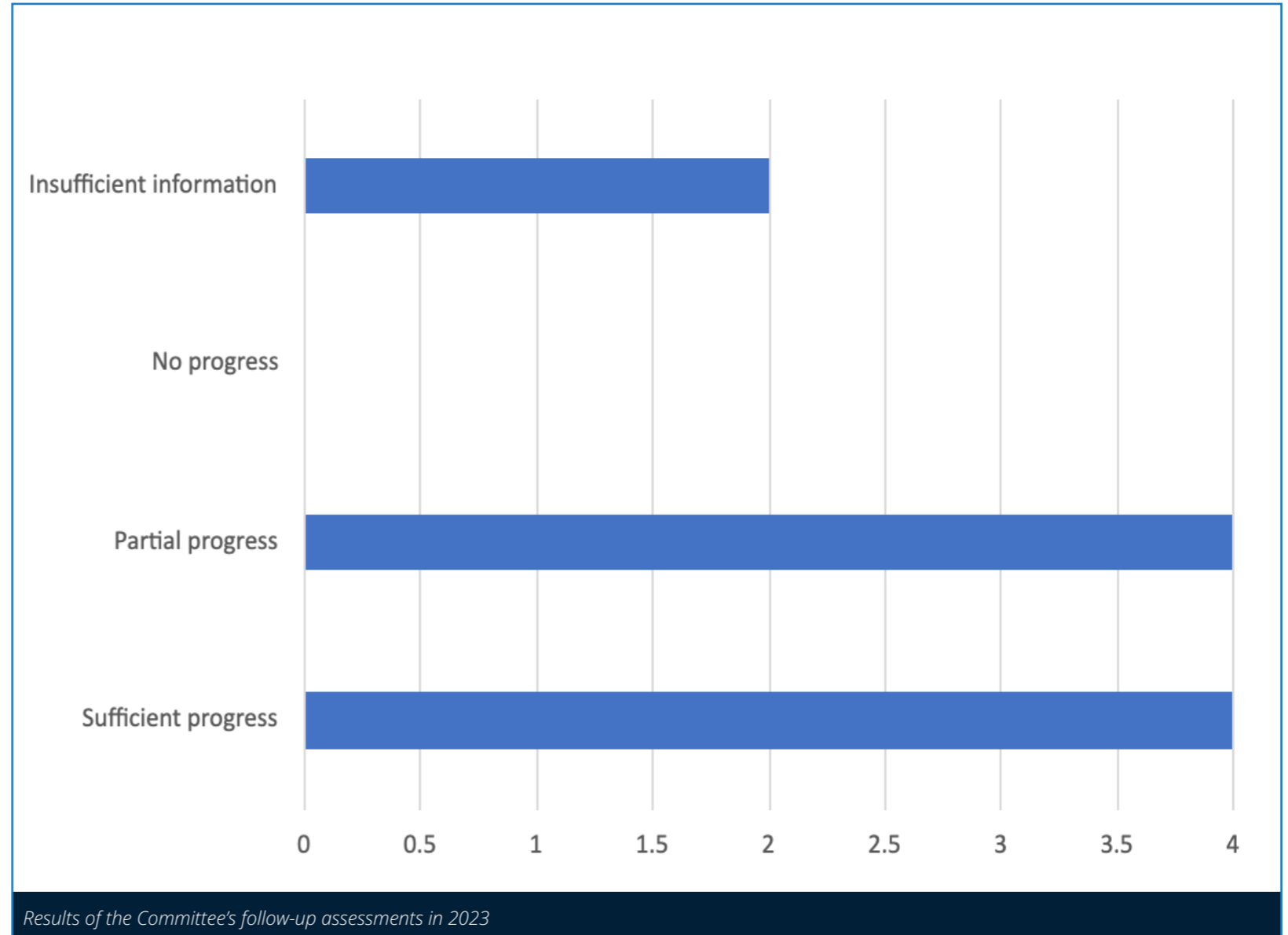
Partial progress was found in the State party's decision to support the European Commission's initiative to introduce a legislative proposal on mandatory due diligence on human rights by companies, which was a development welcomed by the Committee in relation to its recommendations on Business and Human Rights in paragraph 7 of its report. However, the Committee showed concern about the lack of progress made in going beyond voluntary corporate due diligence and effectively adopting a binding regulatory framework at the national level, particularly in relation to ensuring companies exercise human rights due diligence throughout their operations and are held liable for violations of economic, social and cultural rights. That access is provided to effective remedies and redress through judicial and non-judicial mechanisms. The Committee noted the sufficient progress made by the state party in its efforts to promote universal, equitable and affordable access to Covid-19 vaccines and drugs and its role in strengthening global vaccine research and development. The Committee assessed the lack of sufficient information to assess Finland's progress in ensuring a right to social security due to the absence of detailed information in response to the recommendation to include further safeguards in the reform of the Social Security Act.

2023 Follow-Up to Concluding Observations

Latvia

Concerning mitigating responses to climate change's impacts on economic, social, and cultural rights, the Committee found that the State party had made sufficient progress through the legislative, administrative, and policy measures adopted. These include establishing the Ministry on Climate and Energy and adopting the National Plan for Adaptation to Climate Change 2030, the National Development Plan (2021-2027) and the Guidelines for Environmental Policies (2021-2027). Moreover, the Committee welcomed and encouraged the ongoing efforts towards developing a comprehensive law on climate. The overall assessment of progress in adopting measures to address poverty in Latvia suggests that there has been some "partial progress". This was based on the partial progress made in eradicate poverty, including through the adoption of sectoral policy frameworks, despite not yet adopted a national action plan to eradicate poverty and address its root causes; the sufficient progress made in the adoption of immediate measures, such as raising minimum income thresholds for social benefits and pensions and extending unemployment and parental benefits; and the partial progress made in relation to the increasing benefits and pensions, which particularly benefit groups who are disproportionately affected by poverty, which however did not include targeted support for migrants and Roma. Finally, the Committee found that the State party had made sufficient progress with its overall healthcare response to the Covid-19 pandemic. This assessment included measures adopted to ensure healthcare resource availability through equipment repurposing and the expansion of healthcare facilities; measures to enhance Covid-19 testing capacity and vaccination strategy; measures to disseminate accurate information to the public in various languages through dedicated Covid-19 webpages; measures to ensure the provision of essential healthcare services amidst the

pandemic; and efforts made by the State party to promote universal, equitable and affordable access to Covid-19 vaccines and drugs.



2023 Civil Society Engagement

States Reviewed in 2023

The Committee received 274 NGO reports for the 14 States reviewed in 2023. 67 of these reports were for the LOI, with the remaining 207 for the review. As can be seen from the graph, China received the most reports (77) and Portugal the least (1).

2023 saw a significant increase in civil society organisations' participation compared to the past five years. As seen in the graph below, the average climbed to 19,6 reports per state, almost doubling the 10,8 reports of last year. This increase may, largely, be attributed to the high number of submissions from civil society organisations under China's state report session.

The increase in civil society engagement is an encouraged and welcomed trend in support of the Committee in assessing state reports and in the design of its recommendations

Follow-Up in 2023

At its seventy-third session, the Committee did not consider follow-up reports; therefore, only at its seventy-fourth session did the Committee pursue work on follow-up under the guidance of rapporteurs Mr. Asraf Ally Caunhye and Mr. Mancisidor de la Fuente.

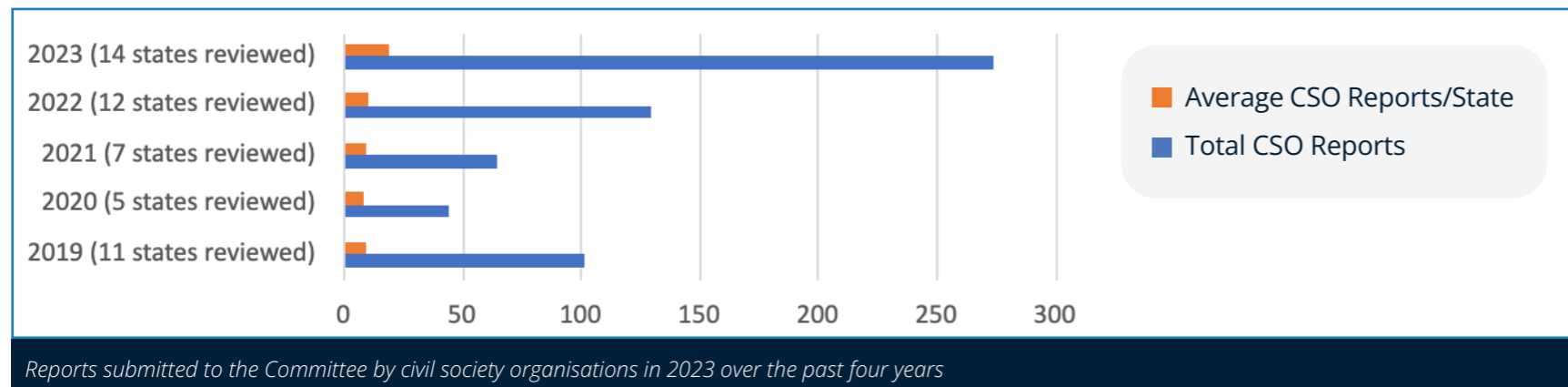
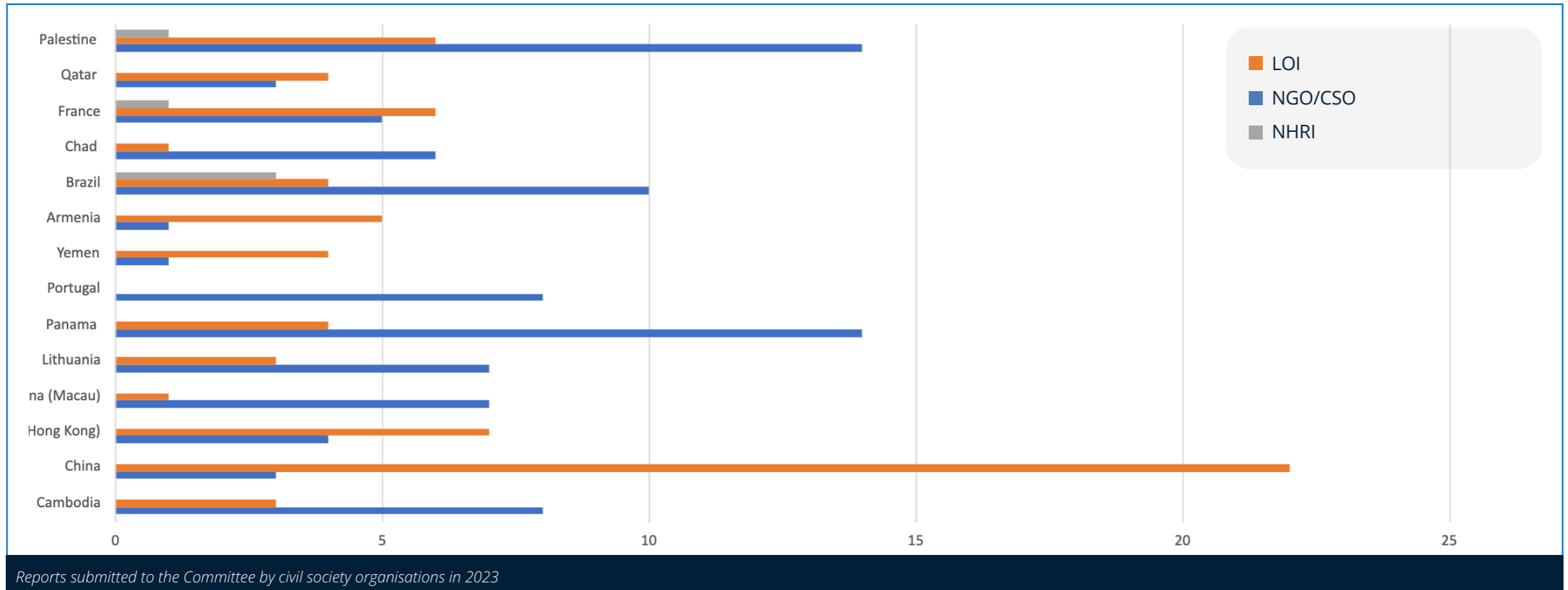
Although the number of follow-up reports has decreased since 2022 from eight to three, on average, civil society engagement with the follow-up procedure has increased. All three states, with follow-up reviews, received reports from civil society and NHRIs. Overall, in 2023, the follow-up process received 26 NGO reports, with Bosnia and Herzegovina and Finland receiving eleven each and four for Latvia.

This increase in engagement with the follow-up, both by civil society organisations and NHRIs, is particularly significant in ensuring the Committee's capacity to assess



Mr. Vicpax/Shutterstock.com

2023 Civil Society Engagement



Individual Communications in 2023

2

Merit decisions

Infante Díaz v. Spain Vázquez
Guerreiro et al. v. Spain

2

Inadmissibility decisions

Acosta Martínez et al. v. Spain
Martínez Cortés v. Spain

11

Discontinuance decisions



amnat30/Shutterstock.com

2023 In Context

Number of cases remains consistent:

In 2023, the Committee published 15 decisions, mirroring last year's number of decisions. Although 2021 saw a significant jump in the number of decisions for the Committee, apart from this, the number of decisions this year reflects the steady trend seen in the past five years. The Committee has now published a total of 118 decisions, including:

This increase in engagement with the follow-up, both by civil society organisations and NHRIs, is particularly significant in ensuring the Committee's capacity to assess effectively whether States have made sufficient progress in implementing its recommendations.

16 considerations concluded by the adoption of Views of which:

- **13** cases found a violation of the Covenant and;
- **3** cases found no violation
- **27** inadmissibility decisions
- **75** discontinuance decisions/ withdrawal

Housing cases continue to dominate:

For four years now, the influx of cases brought to the Committee has been dominated by disputes under Article 11(1) of the Covenant, namely the right to adequate housing. This year's submissions contained the right to adequate housing as the substantive issue. This cements a long-term trend toward housing cases forming most Committee decisions.

The totality of communications is addressed to Spain:

This year, all submissions through the individual complaint mechanisms have been directed towards Spain. This is the first time since 2015 that no communications have been addressed to States other than Spain. This reflects the substantial proportion of decisions that address Spain. Of the total of 118 decisions delivered by the Committee, 108 have been addressed to Spain, meaning communications addressed to Spain make up over 91% of the overall complaints lodged.

This continuation of an influx of complaints lodged against Spain coincides with the decision taken by the Spanish Supreme Court in November 2023. This ruling re-established the 2018 considered UN Treaty Body decisions as legally binding, despite the ruling in 2020, in which the Supreme Court seemed to retrace its steps. The apparent effect of this decision would confirm that CESCR's decision on individual complaints could be sufficient for domestic courts to revise a prior domestic judicial decision. The impact of this in the longer term for complaints through Article 2 of the Optional Protocol and whether Spain will stick to and enforce this decision remains to be seen.

An addition to communications addressed to States other than Spain:

Although in 2023, Spain was the only State from which the Committee considered any individual communications, communications are currently pending against Argentina, Finland, France, Italy, Portugal, Uruguay, Venezuela, and for the first time this year, Belgium. Even with the addition of Belgium to the list of pending complaints, these 9 States, including Spain, only represent a fraction of the 28 states

that have ratified the OP. Considering this, the Committee recommends ratifying the Optional Protocol in all concluding observations to States that have yet to approve it.

The totality of communications is addressed to Spain:

Although in 2023, Spain was the only State from which the Committee considered any individual communications, communications are currently pending against Argentina, Finland, France, Italy, Portugal, Uruguay, Venezuela, and for the first time this year, Belgium. Even with the addition of Belgium to the list of pending complaints, these 9 States, including Spain, only represent a fraction of the 28 states that have ratified the OP. Considering this, the Committee recommends ratifying the Optional Protocol in all concluding observations to States that have yet to approve it.

No information is available on the provisional measures provided by the Committee:

In 2023, the Committee has yet to make available any information on provisional measures granted in cases reviewed by virtue of the Optional Protocol.

2023 In Context



■ Merits ■ Inadmissibility ■ Discontinuance

Annual Committee decisions according to type of the decision rendered

	Spain	Ecuador	Portugal	Luxembourg	Argentina	Belgium	France
Amount	108	4	1	1	1	1	1

Breakdown of total Committee decisions according to respondent State.

	2015	2016	2017	2018	2019	2020	2021	2022	2023
Spain	3	5	5	1	19	12	34	13	15
Other	0	1	2	2	2	1	1	1	0

CESCR decisions each year by respondent State (Spain / Other)

Year	Total decisions	Housing	Social security	Health	Conditions of work	Work	Join a trade union	Take part in cultural life
2015	3	1	2	0	0	0	0	0
2016	6	0	4	1	0	0	0	1
2017	7	3	3	0	1	0	0	0
2018	3	1	1	0	0	1	0	0
2019	21	19	0	1	0	0	1	0
2020	13	12	0	0	1	0	0	0
2021	35	35	0	0	0	0	0	0
2022	14	13	0	0	0	0	0	0
2023	15	15	0	0	0	0	0	0

Annual committee decisions by primary right concerned

2023 Committee Backlog

Communications Continue to Take Longer to Decide

The Committee publishes its decisions an average of 48 months after the communications have initially been registered. This is a steep rise, with an increase in 10 months compared to last year's average.

These figures are the highest since the OP entered into force, with more months passing between the initial communication registration and the Committee's final decision. This fact is unsurprising, given the sharp growth in the Committee's caseload. Indeed, given the size of the Committee's current backlog, we may expect this figure to continue to rise in the coming years.

	All Decisions	Merits and Inadmissibility Decisions Only
2015	9	9
2016	19	19
2017	15	19
2018	30	30
2019	16	26
2020	20	25
2021	32	32
2022	38	37
2023	48	39

Average months between the date that a communication is registered and the date that a decision is made (approximate)

The Committee's Backlog Continues to Grow

The committee registered 339 communications under the Optional Protocol since its entry into force. In 2023, the committee registered 46 new communications, showing that the level of submissions has steadied. Considering that the Committee released 15 decisions during this period, its backlog grew by 31 more communications.

This is the sixth year in a row that the Committee's backlog has increased. However, the rate of growth of the backlog has slowed down for the first time since 2020. If the committee sustains this trend, effectively increasing the number of communications resolved annually with the growth of registered communications, it will significantly help alleviate

the current backlog. This will become more relevant and crucial as the Committee encourages more States to ratify the OP and more individuals to bring communications against those that have already done so. As such, if the Committee does not continue to address the issue, it risks becoming undermined by its own achievements.

Given the backlog and the time the Committee is taking to render its decisions, interim measures have become key to guaranteeing the rights of petitioners while the Committee evaluates the case, pursuant to Article 5(1) of the OP. However, regardless of the importance of these measures, the Committee does not publish information on interim measures.

	Registered Communications	Decided Communications	Total Pending Communications
2013	1	0	1
2014	3	0	4
2015	7	3	8
2016	8	6	10
2017	4	7	7
2018	67	3	71
2019	87	21	137
2020	24	13	148
2021	50	35	163
2022	63	14	212
2023	46	15	242

Number of communications that are registered and decided in a given year, as well as the total number that are pending at the end of each year and the rate of growth

2023 Merits Decisions

Infante Díaz v. Spain

In November 2015, the author, who was homeless at the time, verbally agreed to rent a room in a shared property in Santa Coloma de Gramenet, Barcelona, for €200 per month for herself and her son. In December 2015, the person renting the room informed the author that he was leaving and demanded €800 if she wanted to stay, which she paid despite realising she was unlawfully occupying the property. In June 2016, she received an eviction order but managed to suspend it by identifying herself as the occupant in Court. However, in June 2017, she received notice that the eviction would be enforced in October. The eviction was initially scheduled for October 2017 but was suspended. In 2018, she sought help from the Social Services Department, reporting her vulnerable situation. Despite efforts to postpone the eviction, it was rescheduled multiple times, with the final attempt set for May 2019. The author claimed to have exhausted domestic remedies and that she could not apply to local authorities for public housing because she was present at the State party without the correct permit. As such, without alternative housing, her eviction would violate her and her son's rights under Article 11 of the Covenant.

Concerning the author's status as an undocumented migrant, which restricted her ability to access benefits from public policies aimed at ensuring the full realisation of the right to housing, the Committee recalled that Article 2 (2) of the Covenant requires State parties to guarantee the exercise of rights enshrined in the Covenant without discrimination. In light of this provision and in the absence of any observations by the State party in this respect, the Committee considered that the author's situation of being unlawfully present in the territory of the State party should not, in itself, be a criterion for excluding the author and her son from public housing services.

The Committee further noted that forced evictions are prima facie incompatible with the Covenant, including of undocumented migrants, and can only be justified in the most exceptional of circumstances. It pointed out that authorities should only carry out evictions if weighing up the legitimate objective of the eviction and its consequences for the evicted persons according to general principles of reasonableness and proportionality. Moreover, the Committee stressed the importance of a distinction between properties belonging to individuals who need them as a home or to provide vital income and properties belonging to financial institutions.

The Committee concluded that the eviction orders issued in respect of the author and her youngest son, without any housing alternatives being offered, constituted a violation of the right to adequate housing under Article 11 (1) of the Covenant. Even though the author was unlawfully occupying a property owned by a bank's real estate arm for over two years, she sought assistance from the Social Services Department. She informed the Court of her vulnerable situation. Given her assertions of vulnerability, which were uncontested by the State party, the Committee deemed her socioeconomic vulnerability more significant than the property rights the State party aimed to uphold.

The Committee indicated that the State party was under an obligation to provide the author and her son with an effective remedy, in particular by (a) granting them financial compensation for the violations; and (b) assessing their level of need to provide them with alternative housing.

More generally, the Committee emphasised that the State must prevent future violations by aligning its laws and enforcement with Covenant obligations. It must guarantee access to social housing for all, including undocumented migrants facing eviction that could endanger their well-

being or violate Covenant rights. The State party was also requested to publish the Committee's views and to distribute them widely in an accessible format so that they reach all sectors of the population.

2023 Merits Decisions

Vázquez Guerreiro et al. v. Spain

The author entered into a verbal rental agreement for an apartment for herself and her two children in 2014. In July 2017, she discovered the apartment belonged to the Madrid Social Housing Agency and not the individual to whom she had been paying rent. In December 2017, she was fined and convicted of encroachment. Despite appeals, the verdict was upheld in May 2018. On 6 June 2018, the author asked, to no avail, whether it would be possible to negotiate an affordable rent for the apartment. On several occasions, she also asked the Madrid social welfare services to provide her with adequate alternative housing in the event that she was evicted, and again, received no response. Eviction orders were issued in July and September 2018, but the eviction was postponed.

Given her attempts to find alternative housing, the author claimed that evicting her and her children would be a violation of Article 11 of the Covenant, as she did not have adequate alternative housing. Following the registration of this communication, the author filed a communication with the Committee, which granted an interim measure requesting the State to avoid irreparable damage to the author and the children by suspending the eviction or providing alternative housing. Despite the Committee's request, on 25 June 2019, the author and her two children were evicted. After the eviction, they stayed in the author's sister's two-bedroom apartment for a few months, where three adults and four children lived. The author and her children then had to move to a rural dwelling belonging to the author's parents, that was more than 50 km from the author's place of work and the places around where the children's lives revolved.

The Committee identified two key issues to be addressed in the review of whether the eviction order violated the author's rights under the Covenant. Firstly, the Commission assessed if the Court considered the decision to evict the author and her children without making provision consulting or reviewing housing alternatives or, in the final instance, ensuring alternative accommodation when the eviction was ordered could constitute a violation of the right to adequate housing recognised under Article 11(1). Second, the Committee also evaluated whether, given the principle of the best interests of the child, the failure to ensure that the children could exercise their right to be heard or to take into account the disproportionate impact of eviction on a female head of household and her children could constitute a violation of Article 11(1). The latter also implied an analysis of Article 3 (equal rights of men and women to the enjoyment of economic, social, and cultural rights) and Article 10 (3) (special measures of protection and assistance on behalf of all children and young persons without any discrimination).

Emphasising the question of proportionality, the Committee drew up a list of circumstances that the Court must assess for an eviction:

- a. The availability of adequate alternative housing
- b. The personal circumstances of the occupants and their dependents
- c. The cooperation of the occupants with the authorities in seeking suitable solutions
- d. There is a distinction between properties belonging to individuals who need them as homes or to provide vital income and properties belonging to banks, financial institutions, or other entities

The Committee held the view that in light of the information provided, the eviction's proportionality should have been assessed considering the author and her children's socioeconomic vulnerability and best interests, the social purpose of the apartment they occupied, and their previous efforts to secure adequate, alternative, low-cost housing. Courts should have consulted the author effectively and sought information from administrative authorities about available housing and their socioeconomic situation. Additionally, the Committee notes that there had been no evidence of a genuine and effective judicial consultation mechanism that would have made it possible to consider alternatives to eviction. The Committee thus held that failing to analyse the eviction's proportionality thoroughly violated the author and her children's housing rights under Article 11 of the Covenant.

Concerning the "best interest of the child" assessment, the Committee held that the Courts failed to analyse how the eviction would affect the author's children, violating their rights under Article 10(3) of the Covenant. The children were not given a chance to be heard in the proceedings, contrary to the principle of progressive autonomy. Additionally, the Courts overlooked the author's status as a female head of household with two children in a precarious financial situation and the disproportionate impact the eviction would have on them due to gender discrimination and unequal access to housing and employment opportunities. Therefore, the State party violated the rights of the author and her children under Article 11 (1) of the Covenant, read separately and in conjunction with Articles 3 and 10 (3).

Separately, the Committee also noted that despite its request for interim measures, the author and her children were still evicted in June 2019 without having been granted adequate alternative housing following genuine consultation with her.

2023 Merits Decisions

Due to the lack of explanation for why the interim measures could not be complied with, the Committee also understood that the State party violated Article 5 of the Optional Protocol.

The Committee thus provided the State party with recommendations to give the author and her children an adequate remedy. This included:

- a. Reassess their housing situation and place them on the waiting list to ensure access to public housing or another suitable housing solution;
- b. Granting them financial compensation for the violations of their rights and;
- c. When submitting this communication, the author is reimbursed for the reasonable legal costs incurred at domestic and international levels.

The Committee considered that the remedies recommended in the context of individual communications may include guarantees of non-repetition and to prevent similar violations in the future.



Lucian Coman/Shutterstock.com

2023 Inadmissibility Decisions

Acosta Martínez et al. v. Spain

In 2019, the authors found themselves without adequate housing. Subsequently, they moved in with Ms Acosta Martínez's sister, who was living without legal title in an apartment and had previously been ordered to vacate the apartment in 2017. The sister had previously requested an extension of the deadline to vacate, which in turn had been dismissed with a new eviction date placed for January 2020. The author's sister moved out of the apartment on an unspecified date. The authors and their children remained, as they had no alternative accommodation. On 22 March 2021, the Court issued a new eviction order for 23 April 2021, served to the authors. The Court later suspended the order following a request for a stay of the eviction by the authors and their representative. The authors considered that, by applying for a stay of eviction, they had exhausted domestic remedies. They claimed that since they were not a party to the original eviction proceedings, they were unable to file an appeal on the merits of the eviction order.

The State party maintained that the communication was inadmissible owing to the authors' failure to exhaust domestic remedies and because it constituted an abuse of the right to submit a communication. The latter was based on the inconsistencies within the factual background submitted by the authors. According to the information available in Social Services reports, the author had found employment, thus having a positive impact on its ability to find alternative housing. Further, the State party contended that the authors had not exhausted the various domestic remedies enabling persons at risk of homelessness to apply for a stay of eviction until alternative accommodation is found. The State party held that the authors' claim that they were unable to request a stay of eviction was untrue. Subsequent events showed that there was a remedy that had allowed them to suspend

the eviction. Therefore, considering the inconsistencies and materially false information provided by the authors, the State party asserted that the communication was inadmissible because it constituted an abuse of the right to submit a communication.

While considering the State party's contentions, the Committee highlighted that the authors still needed to respond to clarify their account of the facts. Furthermore, the Committee indicated that, under the Optional Protocol, it could declare inadmissible any communication that is "manifestly ill-founded, not sufficiently substantiated or exclusively based on reports disseminated by mass media". Thus, the Committee found that the communication was insufficiently substantiated for purposes of admissibility and was inadmissible under Article 3 (2) (e) of the Optional Protocol.

Martínez Cortés v. Spain

On 25 February 2020, Mr. Martínez Cortés arrived in Spain from Colombia, seeking asylum. He was subsequently granted a provisional residence permit and permission to start working in Spain from 17 May 2021. During this time, the author entered into a verbal rent agreement with a private individual. In March 2021, Mr. Martínez Cortés received a notice order enforcing a judgement for the previous and unknown occupants to vacate the property by April 2021. On 22 March 2021, the author applied to the Barcelona Court of First Instance No. 9 for free legal aid to appeal the eviction order. He also requested the suspension of the order. At the time of submission, the author maintained that he was still waiting to be assigned a lawyer and solicitor and was thus unable to exhaust any other remedies.

The State Party argued that the submission by the author was inadmissible under the grounds of failure to exhaust

available domestic remedies as he did not appeal the judgment despite having been notified of it and did not take any legal action about the eviction before submitting the communication to the Committee. He had not sought any assistance from social services. Moreover, the State party argued that the author abused the right to submit a communication because he had received and signed the first notice of eviction on 29 October 2020, thus showing the author was aware of the order to vacate the property as early as the month in which he began to occupy it but failed to submit this information to the Committee. In addition, he did not take any action after receiving notice of the judgment, nor did he request free legal aid at that time with a view to halting the eviction; instead, he waited until he received the enforcement order. Lastly, the State party maintained that the communication should be considered inadmissible owing to lack of substantiation, considering the author failed to request assistance from the domestic authorities without justification despite having been aware of the judgment since October 2020 and despite the offers made over the telephone by social services.

In light of the observations about the procedure submitted by the State, the Committee considered that the author had not sufficiently substantiated his claim that the State party had failed in its obligations under the Covenant and found that the communication was, therefore, inadmissible under Article 3 (2) (e) of the Optional Protocol.

2023 Discontinuance Decisions

In 2023, the Committee released 11 discontinuance decisions, representing just over 73% of all decisions of 2023. Spain was the respondent State in all the discontinuance decisions related to cases concerning the right to housing.

Nine of the discontinuances were made because the Committee decided to halt the communication after they could not establish contact with the claimant. All nine decisions followed a similar path. Authors failed to respond to the Committee's requests for information after responding to the State's submissions and, thus, concluded in a loss of interest in the proceedings.

The remaining two decisions to discontinue proceedings were made following a request by the authors, who had found alternative housing. Both these positive outcomes for the families came in part as a result of the intervention of the Committee which had granted interim measures to suspend pending evictions, pursuant to Article 5(1) of the OP.



2023 Follow-Ups to Individual Communications

As of 2023, 12 individual communications submissions remain under the committee's Follow-up to Views procedure. This is an important amount given that the Committee has only found a violation of the Covenant in 13 cases. Additionally, as of 2023, the Committee has only adopted four follow-up progress reports, none of which were published in 2023. In order to encourage States to submit a report on the measures taken to implement the Committee's recommendations, the Committee should ensure that it continues publishing follow-up reports to its decisions and recommendations at a steady rate.



JJFarq/Shutterstock.com

Thematic Work in 2023

Statements and Open Letters

IAs of 2023, the Committee had adopted 34 statements. Nevertheless, none of these statements were actually released during 2023. The Chair of the Committee had also addressed open letters to States parties to the Covenant on issues of particular interest, such as economic, social, and cultural rights and the economic and financial crisis and related austerity measures.

Day of General Discussion

At its seventy-third session, the Committee held a day of general discussion on sustainable development. This meeting provided Committee members with the opportunity to discuss and hear from a wide range of different stakeholders and external experts on their views and expectations for the general comment on sustainable development to be drafted. The day of general discussion is an essential step in preparing general comments, as it provides an opportunity for different stakeholders to assist the Committee in preparing the General Comment

As such, the meeting aims to support the Committee in three overarching ways:

- a. It assists the Committee in developing in greater depth its shared understanding of the issue under discussion;
- b. It enables the Committee to encourage inputs into its work from all interested parties; and
- c. It helps the Committee to lay the basis for a future General Comment or provides the opportunity to discuss a draft General Comment.

The discussion held during this meeting focused on issues that participants identified as requiring special attention in the drafting of the general comment on sustainable development. The first issue concerns the implications of sustainable development and State obligations under the Covenant. The Committee made clear that there is generally a strong presumption against retrogressive measures. Another issue covered was the implications of sustainable development on Covenant rights. Discussions were also held on different perspectives on sustainable development, specifically from climate, economic, children, and Indigenous perspectives. Additionally, there were discussions on the links between sustainable development and the right to development, labour standards and poverty. This day of general discussion included the presence of a number of special rapporteurs of the Human Rights Council and the Chair of the Committee on the Rights of the Child, who presented their views to the Committee.



stephen reich/Shutterstock.com

General Comments Under Preparation

In 2023, the Committee continued its work on the general comment on sustainable development and the Covenant. In Addition to this, the Committee also discussed its work on two future general comments: on economic, social, and cultural rights in the context of conflicts and on the impact of drug policies on economic, social, and cultural rights

Sustainable Development

In 2023, the Committee continued the process of regional consultations for a general comment on sustainable development. The Committee focused on three regional consultations (Europe, the Middle East, North Africa, Asia and the Pacific), It continued the work with further consultations with stakeholders, including consultations with children. During the Committee's seventy-third and seventy-fourth sessions, the members of the drafting group informed the Committee about participation in the three regional consultations and their results. They updated the Committee on the other consultations held with stakeholders.

At its 73rd session, the Committee held a day of General Discussion on sustainable development ahead of work on drafting the General Comment. A wide range of external experts and Committee members shared views on the subject and expectations for the general comment on sustainable development to be drafted by the Committee. The conference included panel discussions covering specific issues relevant to the General comment being drafted.

Following this, at its 74th session, the Committee proceeded with the first reading of the draft General Comment on sustainable development and the Covenant prepared by the drafting group. This allowed the Committee to peer review the draft comment's content, scope, and format and subsequent feedback. The Committee agreed on a timeline

for submitting all input for the first draft and submitting a second draft to the Committee at its seventy-fifth session.

The Committee has not yet published information on the draft General Comment on Sustainable Development. Its intention so far is to submit a second draft at its seventy-fifth session before making the draft available for public consultation and making a call for contributions.

Economic, Social and Cultural Rights in the Context of Armed Conflicts

During the seventy-fourth session, Mr. Hennebel, as the lead rapporteur for the general comment on economic, social, and cultural rights in the context of armed conflict, updated the Committee on the ongoing preliminary work being undertaken towards drafting the general comment, as well as meetings held during the inter-sessional period. A drafting group for the general comment was established, comprising the following members from all regions: Mr. Hennebel, Mr. Joo-Young Lee, Mr. Fiorio Vaesken, Ms. Craciunean-Tatu and Mr. Caunhye.



Mohammed al-wafi/Shutterstock.com

General Comments Under Preparation

The Impact of Drug Policies on Economic, Social and Cultural Rights

During the seventy-fourth session, the Committee discussed the work undertaken by the lead General Rapporteur of the General Comment on drug policies and economic, social, and cultural rights, Committee member Mr. Nonthasoot. During the session, Committee members were briefed on a preliminary outline for the draft General Comment, alongside plans for upcoming regional consultations.

In 2023, General Rapporteur Mr. Nonthasoot published an annotated outline on the draft General Comment on the impacts of drug policies on economic, social, and cultural rights as well as a concept note. The Rapporteur identified some perceived and actual ambiguities around drug policy and control despite already being subject to several international conventions and numerous national and regional regulations.

Therefore, clarity on five issues in particular were identified, namely:

- a. Determining the scope of drug control applicability;
- b. Alternatives to criminalisation (addressing the manifest racial and class-based discrimination in the enforcement of drug laws);
- c. Sequencing of crop eradication (allowing for compensation and respect for the right to an adequate standard of living and the right to work);
- d. A move away from the patient vs. criminal dichotomy (acknowledging the rights to bodily autonomy and freedom from forced treatment) and
- e. The future/evolution of drug policy.

Within these issues, the need to recognise the direct and indirect implications of drug policies and practices for several rights enshrined in the Covenant was emphasised throughout. This is particularly true in relation to states' duty to respect by ensuring that drug control interventions do not interfere with or limit the right to enjoy cultural life and the right to health. In this way, the Rapporteur draws frequent and specific attention to States parties' obligation in reviewing their punitive drug policies for inherent biases, such as harsher punishments attached to drugs predominantly used by people who are already marginalised. Throughout both the outline and concept note, the rapporteur highlighted the particular attention that should be directed towards those who are disproportionately negatively affected by drug laws because of lack of access to resources generally, because of their traditional relationship with drugs, or because of their drug use or drug dependence (e.g., women, children, people of African descent, Indigenous peoples and peasants, people who use drugs).



Working Methods and Procedural Information

The Predictable Review Cycle and Simplified Reporting Procedure

To tackle the backlog, the Committee is planning to introduce an eight-year predictable review cycle and the generalisation of the simplified reporting procedure as soon as the required resources are secured. This would be subject to additional resources since it would result, in practice, in a third annual session. During its seventy-fourth session, the Committee provided an overview of the following steps concerning the treaty body reporting process. The Committee highlighted that States should continue to report according to the standard procedure until such a time that a decision was made within the context of the treaty body strengthening or additional resources were otherwise provided for the Committee. Further developments will depend upon the General Assembly's reaction to the Secretary-General's forthcoming report on the state of the human rights treaty body system, slated for release in 2024, and the proposal regarding the future financing of the treaty body system. This includes considerations such as the necessity for the Committee's third full annual session, an extra pre-sessional working group, an individual communications-focused pre-sessional working group, and additional time and resources for the secretariat and its corresponding functions.

Follow-Up Procedure

At its 74th session, the Committee pursued work on follow-up under the guidance of the follow-up Rapporteurs, Mr. Asraf Ally Caunhye and Mr. Mancisidor de la Fuente. At the same session, the Committee decided that Mr. Santiago Manuel Fiorio Vaesken would also serve as follow-up Rapporteur, starting in 2024.

Consultations With Actors and Coordination with Treaty Bodies

The Committee continued to regularly interact with other UN Human Rights Treaty Bodies to coordinate their work to the greatest extent possible. It also sought to draw on the expertise of different specialised agencies and bodies relevant to its work. This cooperation is essential to the Committee's work as it allows for it to draw as widely as possible on available expertise in the fields of its competence. Thus, at its 73th session, the Committee decided to operationalise increased cooperation.

Relevant consultations included meetings such as in February 2023, when the Committee held a meeting with the Head of the secretariat of the United Nations Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases and a member of the OHCHR secretariat, which highlighted the link between non-communicable diseases and the Committee's work. This was followed up with a second meeting in October 2023, specifically focused on tobacco use and the WHO Framework Convention on Tobacco. On 10 October 2023, the Committee held an informal meeting with States. The Committee provided an update on the treaty body strengthening process, reporting and follow-up, the work of the Committee under the Optional Protocol, and work on general comments. On 13 October 2023, the Committee held a meeting with the Working Group on discrimination against women and girls to gain a deeper insight into each other's work and identify opportunities for future collaboration in the light of the focus on the economic, social and cultural rights of women and girls.

Annual Civil Society Meeting

In March, the Committee members held its annual civil society meeting, a meeting with representatives of civil society organisations, in which updates and views on the work of the Committee were shared. Twenty-five participants from civil society organisations participated in the annual meeting, including 8 eight representatives from different NGOs and NHRIs who took to the floor to share their comments and concerns with the Committee. The meeting also included 13 video messages sent by organisations that were unable to attend in person. The latter was an important inclusion that allowed for greater participation from civil society, especially those not based in Geneva, amidst the decision by UNOG to cease hybrid meeting services. The decision affected the work of all Committees and has received much criticism from civil society since it severely affects and reduces the opportunity for engagement for organisations. The annual meetings are an essential feature of the Committee's work. The Committee valued these dialogues and indicated its interest in continuing to consolidate its engagement with civil society organisations, including its commitment to facilitating the participation of organisations from the Global South at the international level.

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) works to transform power relations and enable every person and community to enjoy their economic, social and cultural rights and all other human rights now and in the future.

On GI-ESCR's CESCR Jurisprudence webpage page, you can find a summary of each of the communications that the Committee has decided on, a database with statistics on all of the Committee's decisions, and an analysis of the most significant trends that have emerged from the Committee's jurisprudence.

GI-ESCR also hosts an Individual Communication Guide, which includes a step-by-step explanation of the different stages of the individual communication process and a collection of resources where additional information may be found.

For further information about our work, please consult our website at www.giescr.org. You can also contact GI-ESCR via our website or at info@gi-escr.org.

Authors

Lead research by Rose Adjoa Maginnis with contributions by José Antonio Guevara Bermúdez and Magdalena Belén Rochi Monagas.

Editorial review by Magdalena Belén Rochi Monagas, José Antonio Guevara Bermúdez, Camila Barretto Maia and Macarena Cano.

This report draws on relevant reports on the website of the Committee on Economic Social and Cultural Rights, including its Annual Report of 2023 (E/2024/22 - E/C.12/2023/3).

Graphic design by Emilia Guzmán.

Suggested citation: Global Initiative for Economic Social and Cultural Rights, 2023 CESCR Yearbook (2024).

DOI: 10.53110/PFGK7750