

Economic, Social and Cultural Human Rights
in the context of limited economic resources
ICC 27 Side Event

Panel 1: Experiences with austerity measures and violations in human rights in times of limited economic resources

The side event will address the issue of state obligations in times of limited economic resources. It will address questions related to setting priorities in time of limited resources, but also the issue of mixed human rights obligations, particularly in situations where national policy space is influenced by external actors, either other states or by intergovernmental organizations.

The topic has recently come under the headline of “austerity measures and human rights”, a compelling issue within Europe and beyond. Therefore the first Panel will be devoted to an exchange of experiences: The impact of austerity measures in Greece, Spain and Latvia are drastic and will be highlighted in the side event by the respective National Human Rights Institutions. These experiences will be compared with those made in countries that were severely affected by limited economic resources some years ago. We will consider if the right lessons have been drawn from the examples of the Asian Crisis or the structural adjustment policies in Latin America, through input from NHRI representatives from Argentina and Malaysia.

Mr. Juris Jansons, Ombudsman, Ombudsman Office of the Republic of Latvia

Ladies and gentlemen!

Operation of the national human rights’ institutions in the international environment is basically concerned with the civil and political rights of population, while addressing economical and culture rights and issues remains solely the task of national level. The austerity measures pursued by national governments in recent years under the burden of economical crisis have seriously affected the fundamental rights of population, and it is my opinion that such issue reaches beyond national scale.

We are united together not only by membership of international bodies and communication networks but also by shared space of values. The Member States have reflected in the Treaty on European Union the desire to ensure the improvement of welfare in accordance with the principles enshrined in the Charter of the United Nations. The Treaty contains a commitment of the EU to set and pursue their policy and activities with due regard to the requirements related to provision of adequate social protection and combating of social exclusion. It is crucial to ensure that such commitment is not only included in policy-planning documents and declarations but also implemented in reality.

Social rights are not absolute, and they are subject to restrictions. The following two basic principles have to be ensured in providing social rights of population, however, if even austerity measures have to be pursued in the conditions of economical crisis:

- 1) Social rights have to be ensured at least on the minimum level. Moreover, the minimum may not only be set formally; it must be economically substantiated by certain estimates, and such estimates must ensure that such minimum received or earned by individuals can provide decent living conditions to themselves and to their family members;
- 2) Provision of social rights must follow the principle of progressive development so that the national government is obligated spend as much as possible of the available financial resources to provide social rights.

It is my opinion that during the conditions of austerity in Latvia none of such principles has been followed by the national government. Let me illustrate it by just a few figures: 40% of the population of Latvia was subject to the risk of poverty and social exclusion in 2011,¹ including 43% of children and 33% of seniors. The number of households in Latvia is about 860 thousands. The following proportion of households lacked financial resources for covering certain costs:

- 23.0 % - *could not afford to make utility payments;*
- 22.4% - *to pay for heating;*
- 75.3% - *to afford unforeseen costs (including health care costs).*

The essential point is that those exposed to the risk of poverty include not only continuously unemployed individuals but also the most vulnerable groups of society: children, persons with disabilities and seniors, who are not in the position to change notably their situation, and who are therefore dependent on the social allowances and pensions allocated by the State.

The fact that employed persons who gain the minimum wages fixed in the State are also exposed to the risk of poverty is also alarming. It demonstrates that the Government has failed to follow the principle of social rights when fixing the minimum (either the social allowances or the minimum wages), and that the fixed minimum is inadequate.

No one can deny the achievements made by Latvia in terms of economical indices, yet such achievements have been made on the account of absolute ignorance of priorities such as the human rights and social security. It is my opinion that the two priorities must be balanced, and that economical growth and achievement of certain economical objectives may not take place on the account of vulnerable groups of society. It is also my opinion that austerity measures may affect neither health care nor education of social security.

Latvia continues to stand out against other Member States of the European Union in terms of the lowest proportional of the GDP in terms of health care as well as in terms of social support measures.²

In the capacity of Ombudsman, I feel obligated in the field of protection of social rights to draw again and again the attention of national government to the key element of social rights: to see that living and working conditions provided for our people are sufficient to ensure at least minimum level of life that corresponds with human dignity.

In the context of protection of the rights of individual it is important to be aware of the fact that no compensation can be available to individuals in the field of social and economical rights, in contrast to the field of civil and political rights where an individual can seek protection of their rights from the European Court of Human Rights, for example. It may be therefore reasonable to open discussion of establishment of an international, eventually a regional court available to individuals for protection of their fundamental rights also in the field of social rights.

¹ Eurostat, available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_peps03&lang=en;

Central Statistics Agency of the Republic of Latvia, available at: www.csb.gov.lv.; National Social Report.

² Eurostat, General government expenditure in 2011 – Focus on the functions ‘social protection’ and ‘health’; available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-13-009/EN/KS-SF-13-009-EN.PDF