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Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

Concluding observations of the Committee on Economic, Social and Cultural Rights

Russian Federation

1. The Committee on Economic, Social and Cultural Rights considered the fifth periodic report of the Russian Federation on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/RUS/5) at its 15th, 16th and 17th meetings, held on 11 and 12 May 2011 (E/C.12/2011/SR.15–17), and adopted, at its 29th meeting held on 20 May 2011, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of the State party, which contained comprehensive and detailed information on the situation in the State party. The Committee also appreciates the comprehensive written replies to the list of issues (E/C.12/RUS/Q/5/Add.1). The Committee welcomes the frank and constructive dialogue with the high-level delegation of the State party.

B. Positive aspects

3. The Committee notes with appreciation the positive efforts made by the State party, since the last review of the State party's report, that have contributed to the promotion of the implementation of social, economic and cultural rights. The Committee welcomes in particular:

(a) The ratification in July 2010 of the ILO Convention No. 135 (1973) concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, and in April 2004 of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing it;

(b) The establishment in September 2004 of the Ministry of Regional Development of the Russian Federation with the responsibility for implementation of policies on ethnic minorities' issues;

(c) The adoption in February 2009 of a policy framework for the sustainable development of the small indigenous peoples in the North, Siberia and the Far East of the Russian Federation;

(d) The adoption in November 2010 of the Federal Strategy of Development of Rural Areas for the period until 2020.

C. Principal subjects of concern and recommendations

4. **The Committee recommends the State party to provide updated information in its next periodic report on the practical application of the Covenant, including through disaggregated data and relevant statistics on a comparative annual basis, regarding the implementation of its laws and the practical results of plans, programmes and strategies carried out in relation to the various rights enshrined in the Covenant. The Committee further recommends the State party to collect and include in its next periodic report detailed information on significant jurisprudence from domestic courts which make specific use of provisions of the Covenant.**

The Committee calls on the State party to ensure that judges, lawyers and prosecutors are trained on a regular basis about the justiciability of economic, social and cultural rights and to take other effective measures to ensure the provision of judicial or other remedies for violations of economic, social and cultural rights. In this regard, the Committee refers the State party to its general comments Nos. 3 (1990) and 9 (1998) respectively on the nature of States parties' obligations and on the domestic application of the Covenant.

5. The Committee is concerned that the information provided with regard to the work of the Office of the Human Rights Commissioner of the Russian Federation does not allow a full assessment of the effectiveness of its work, in particular it does not provide data disaggregated by sex, or disadvantaged and marginalized groups such as persons with disabilities, Roma, homeless, undocumented persons, ethnic minorities, forcibly displaced persons, migrants, refugees and asylum-seekers. The Committee is also concerned that the large number of petitions refused (half of petitions received on a yearly basis) shows either a lack of dissemination of information about the way in which the Office of the Human Rights Commissioner works, or that the requirements for acceptance of petitions do not meet the needs of those who are mostly in need of the Office as a valid alternative to judicial and administrative forms of remedies.

The Committee recommends that the State party disseminate widely among its population information about the methods of work of the Office of the Human Rights Commissioner. The Committee also urges the State party to consider reviewing the requirements for acceptance of petitions, in particular the requirement of exhaustion of local remedies, in order to make the Office an alternative means of redressing grievances, rather than a last-resort institution. In this regard, the Committee refers the State party to its general comment No. 10 (1998) as regards the role of national human rights institutions in the protection of economic, social and cultural rights.

6. While taking note of the measures undertaken by the State party, including the adoption of the Presidential Decree No. 460 of 13 April 2010 on the National Strategy to combat corruption and the National Plan to combat corruption for 2010–2011, the Committee remains concerned about the extent of corruption in the State party, and its negative impact on the full enjoyment of economic, social and cultural rights by the population of the State party (art 2, para. 1).

The Committee requests the State party to step up its efforts to take effective measures, legislative or otherwise, to combat corruption both at federal, and regional and local levels, including by allocating sufficient resources for the implementation of its national strategy and national plan to combat corruption. The Committee also encourages the State party to establish an effective monitoring mechanism and control over the use by State organs, in particular at the regional and local levels, of the resources allocated for the realization of economic, social and cultural rights.

7. While taking note of the measures taken by the State party, in particular the adoption in February 2009 of a policy framework for the sustainable development of the indigenous peoples in the north, Siberia and the far east of the Russian Federation, the corresponding action plan for 2009-2011, and the federal target programme for the economic and social development of the indigenous peoples until 2011, the Committee is concerned at the lack of concrete outcomes of the new policy, action plan and target program. The Committee is also concerned that changes to federal legislation regulating the use of land, forests and water bodies, in particular the revised Land (2001) and Forest (2006) Codes and the new Water Code, deprive indigenous peoples of the right to their ancestral lands, fauna and biological and aquatic resources, on which they rely for their traditional economic activities, through granting of licences to private companies for development of projects such as the extraction of subsoil resources (art 2, para. 2)

The Committee recommends that:

(a) The State party incorporate the right of indigenous peoples to their ancestral lands into the revised Land Code and the new revised draft Law on Territories of Traditional Nature Use, and the right to free access to natural resources on which indigenous communities rely for their subsistence into the Forest and Water Codes;

(b) Seek the free informed consent of indigenous communities and give primary consideration to their special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities;

(c) Ensure that licensing agreements with private entities provide for adequate compensation of the affected communities;

(d) Intensify its efforts to effectively implement the federal target programme for the economic and social development of the indigenous peoples, extend it to all peoples that self-identify as indigenous;

(e) Adopt and implement by the next periodic report, the new revised draft law on territories of traditional nature use of indigenous numerically small peoples of the north, Siberia and the far east of the Russian Federation;

(f) The Committee urges again the State party to consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

8. The Committee remains concerned about reports that, in practice, the enjoyment of many rights and benefits still depends on registration, despite the adoption of the Federal Act No. 5242-1 of 1993 on the right of citizens of the Russian Federation to freedom of movement and freedom to choose their place of residence within the boundaries of the Russian Federation (art 2, para. 2).

The Committee urges the State party to take effective measures, legislative or otherwise, to ensure in practice that the lack of residence registration and other personal identity documents does not hinder the enjoyment of economic, social and cultural rights in accordance with the Covenant. The Committee further recommends the State party to adopt a single registration number for each of its citizens that may give access everywhere on its territory to the enjoyment of all social benefits accorded in the State party irrespective of the place of registered residence or lack thereof, in particular with regard to the homeless, Roma and other categories of disadvantaged or marginalized groups in the State party.

9. The Committee is concerned at the continued absence of a federal plan of action addressing the social and economic marginalization of the Roma. The Committee also remains concerned at the lack of adequate response to its request (in the list of issues) to provide detailed information on the situation of Roma settlements, and the eviction of Roma from their dwellings, and the destruction of such dwellings in cities and regions of the State party, often ordered without provision of alternative housing (art. 2, para. 2).

The Committee encourages the State party to adopt a national programme of action for the promotion of economic, social and cultural rights of Roma, and to allocate sufficient resources for its effective implementation. The Committee also recommends the State party to review its policy on eviction and destruction of Roma dwellings, in line with its general comment No. 7 (1997) on the right to adequate housing: forced evictions.

10. The Committee remains concerned about the absence of a general basic law prohibiting discrimination in the State party (art. 2, para. 2).

The Committee calls upon the State party to adopt a general basic law prohibiting all forms of discrimination in the State party in addition to the laws already in existence prohibiting discrimination in specific areas, in line with the Covenant and the general comment No. 20 (2009) of the Committee on non-discrimination in economic, social and cultural rights.

11. The Committee notes with concern that, in spite of the measures taken by the State party, persons with disabilities in the State party reportedly continue to face marginalization in the enjoyment of their economic, social, and cultural rights, including in employment, education and healthcare assistance (art. 2, para. 2).

The Committee urges the State party to intensify its efforts to combat the marginalization of persons with disabilities. In particular, the Committee encourages the State party to continue to take effective measures to promote the integration of persons with disabilities into the labour market, including by strengthening the effectiveness of the system of job quotas for them, reintroducing the tax benefits as incentives for hiring persons with disabilities, and establishing an efficient enforcement procedure and remedies. The Committee refers the State party to its general comment No. 5 (1994) on persons with disabilities and encourages again the State party to consider ratifying the Convention on the Rights of Persons with Disabilities.

12. While noting the efforts of the State party, including the establishment in June 2006 of the Interdepartmental Commission on Equality between Men and Women and the

adoption of the National Strategy on Equal Rights and Equal Opportunities for Men and Women in the Russian Federation, the Committee reiterates its concerns about gender inequality in the State party, particularly with regard to participation in political and public life, which is perpetuated by harmful traditions and stereotypes about the lesser role of women in the State party (art. 3).

The Committee recommends the State party to continue its efforts to promote gender equality and to adopt the draft federal law on State guarantees of equal rights and freedoms, and equal opportunities, for men and women in the Russian Federation. The Committee urges the State party to allocate all necessary resources for the implementation of its National Strategy on Equal Rights and Equal Opportunities for Men and Women in the Russian Federation.

The Committee also recommends the State party to work with the media and other opinion makers to promote a positive, non-stereotypical and non-discriminatory portrayal of women.

13. The Committee is concerned that sections 280, 281.1, and 282.2 of the Criminal Code provide for terms of imprisonment together with forced labour (art. 6).

The Committee urges the State party to review sections 280, 281.1 and 282.2 of the Criminal Code, under which a number of acts are punishable with sanctions of imprisonment together with compulsory labour.

14. The Committee reiterates its concern, in spite of the State party's efforts, that the situation of women in employment remains precarious and that women are the overwhelming majority of workers in lower level and low-paid jobs in the various parts of both the public and private sectors. The Committee is also concerned by the wide gender pay gap, with the average income of women being 65.3 per cent of the average income of men across the country (art. 7).

The Committee encourages the State party to ensure just and favorable conditions of work for women in the labour market, in particular to step up its efforts to raise the pay of employees in the education, healthcare and other public sectors in order to reduce the pay gap between women and men in the State party.

15. The Committee remains concerned about the high incidence of sexual harassment in the work place in the State party. The Committee is also concerned at the narrow definition of sexual harassment essentially as the victim performing sexual acts against his or her will (art. 7).

The Committee urges the State party to take all appropriate measures to address the problems of sexual harassment in the State party. The Committee recommends the State party to consider introducing in the Criminal Code and the Labour Code, sexual harassment in the workplace as a separate offence, in order to strengthen the protection of women against discrimination in the workplace.

16. The Committee is concerned, that women's equal right to work is unduly restricted in the State party, with as many as 456 jobs and 36 branches of industries excluding women from certain employment sectors. The Committee is also concerned that, while this policy was originated with the intention of protecting women from unsafe work and working conditions, no assessment has been made on the real impact on women's reproductive health. The Committee is further concerned that there has been no monitoring whether these jobs are in compliance with the safety standards in the workplace (art. 7).

The Committee requests the State party to review the list of restricted jobs with a view to eliminate discrimination against women in the workplace. The Committee also requests the State party to consider reviewing resolution 162 of 25 February 2000, and section 353 of the Labour Code to ensure the equal enjoyment by women of their right to work. The Committee further requests the State party to ensure that the safety and health standards in the workplace are strictly observed for both women and men.

17. The Committee remains concerned, in spite of the efforts being undertaken, including the ratification of the treaty on protection of migrant workers with Uzbekistan on 28 June 2009, about the high levels of the informal economy in the State party and that illegal migration of labour is widespread, which means that a large number of people work without legal and social protection (art. 7).

The Committee encourages the State party to continue its efforts to protect the Covenant rights of workers in the informal labour market. The Committee also calls upon the State party to continue to undertake effective measures to regularize the situation of illegal immigrants and reduce the number of workers outside the formal economy, in order to limit the gaps in the protection accorded to them. These measures should include, but not be limited to the following:

Increase the flexibility of the registration and quota system, including by enabling migrants to legalize their stay on a declaratory basis and to obtain work permits for longer periods (three–five years) with the subsequent possibility of the regularization of their permanent residence in the country;

Ensure that migrant workers have access to effective appeals against orders of deportation and that detention and deportation of migrant workers are made in full compliance with the human rights obligations of the Russian Federation;

Exercise strict control over private entities to ensure respect for just, equally favourable social and employment conditions for migrant workers;

Increase the flexibility of access of migrant workers to the system of social benefits of the State party.

In this regard the Committee further invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

18. The Committee remains concerned, in spite of the efforts undertaken, about the low level of the minimum wage, which remains well below the minimum subsistence level and is therefore inadequate to provide workers with a decent living for themselves and their families. This problem is aggravated by the continuing practice of wage arrears in the State party (art. 7).

The Committee encourages the State party to continue to take effective measures to raise wages, prevent wage arrears and ensure the implementation of article 133 of the Labour Code, which, in line with the Covenant, stipulates that the minimum wage must not be lower than the worker's minimum subsistence level in order to enjoy a decent living.

19. The Committee is concerned that the relevant legislation of the State party still imposes restriction on the right to strike for workers of certain public sectors such as federal courier communications, railway workers and municipal employees, and others who do not exercise authority in the name of the State (art. 8).

The Committee urges the State party to amend its relevant legislative acts to ensure that all public servants who do not exercise authority in the name of the State party, can exercise freely their right to strike.

20. The Committee is concerned that section 31 of the Labour Code provides that authorization to bargain collectively can be conferred on representatives' bodies other than trade unions, and imposes compulsory arbitration in any services determined by the federal laws of the State party (art. 8).

The Committee urges the State party to amend its relevant legislation to ensure that collective bargaining is always entrusted to trade unions, where they are established in the workplace. The Committee also calls on the State party to ensure that compulsory arbitration is restricted to what are known as essential services.

21. The Committee is concerned, in spite of the information provided with regard to the various entitlements of asylum-seekers and refugees, that persons granted temporary asylum status, unlike recognized refugees, do not have access to the State healthcare facilities and services or to any social security, other than emergencies (art. 9).

The Committee urges the State party to consider extending the same social security benefits, including access to healthcare facilities and services, to persons granted temporary asylum status in the State party.

22. The Committee remains concerned, in spite of the information provided by the State party on measures undertaken, about the continued prevalence of domestic violence (art. 10).

The Committee recommends that the State party strengthen measures to combat domestic violence and its effects by, inter alia:

Adopting a specific legislative act criminalizing domestic violence;

Strengthening public-awareness campaigns against domestic violence;

Strengthening support for victims of domestic violence in order to ensure their access to adequate services for recovery, counselling and other forms of rehabilitation.

The State party should also ensure mandatory training for the police to sensitize them with regard to all forms of domestic violence. The Committee urges the State party to provide, in its next periodic report, statistics and disaggregated data on trends in the prevalence of various forms of domestic violence.

23. The Committee remains concerned, in spite of the steps taken by the State party, about continued reports of trafficking in women and children for sexual exploitation and abuse (art. 10).

The Committee encourages the State party to further strengthen measures to combat trafficking in women and children and combat the sexual exploitation, abuse and prostitution of children by, inter alia, developing programmes to address the root causes of trafficking and sexual exploitation of women and children. The Committee also again encourages the State party to adopt its comprehensive draft law on combating trafficking in human beings, which would provide for a system of bodies to combat trafficking and contain provisions concerning prevention of trafficking, as well as protection and rehabilitation of victims.

24. The Committee remains concerned about the large number of children who live and work on the streets, in particular in the informal sector where they are vulnerable to abuse,

including sexual abuse, and to other forms of exploitation to such an extent that regular school attendance is severely restricted (art. 10).

The Committee urges the State party to take all necessary measures to ensure the protection of children from social and economic exploitation. The Committee urges the State party to intensify its efforts to, inter alia:

Take effective measures to address the root causes of the phenomenon of street children;

Take effective and appropriate measures to ensure that street children have access to education, shelter and health care;

Address the sexual abuse and other exploitation of street children through the prosecution of perpetrators of abuse and the reintegration of victims into society.

The Committee recommends the State party to include information, in its next periodic report, on the measures taken to address the situation of street children and any progress made in this respect.

25. While noting the efforts undertaken to promote alternative family-based forms of placement of children, the Committee remains concerned, by the large number of children placed in care institutions in the State party (art. 10).

The Committee encourages the State party to continue to adopt measures, legislative or otherwise, to reduce the number of children living in institutions, and to intensify its efforts to develop family-based alternative care.

The Committee urges the State party to ensure adequate supervision of the children placed either in institutions, or in family-based alternative care.

26. The Committee remains concerned that, in spite of the efforts undertaken by the State party, an estimated 18.7 million people, or 13.3 per cent of the population, are denied an adequate standard of living and continue to live below the poverty line (art. 11).

The Committee encourages the State party to continue to allocate resources to combat poverty and promote an adequate standard of living for all, and to continue to reduce the number of persons below the subsistence level down to 4–8 million by the next periodic report. The Committee further recommends the State party to adopt a national strategy integrating economic, social and cultural rights to combat poverty in line with the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural rights.

27. The Committee remains concerned, in spite of the efforts undertaken, about the problem of homelessness in the State party (art. 11).

The Committee encourages the State party to step up its efforts to address the problem of homelessness, including by ensuring that adequate resources are set aside for the provision of social housing, with priority given to the most disadvantaged and marginalized groups, including the forcibly displaced persons and the Roma.

28. While noting the information about the free medical-care system coverage of all indigenous peoples in the north, Siberia and the far east, which includes a compulsory annual check-up at State and municipal healthcare facilities under the programme of State guarantees, the Committee is concerned about reported gaps in the ambulatory system coverage, which resulted from the new territorial reorganizations in the State party, in particular as it affected the small indigenous village of Pareny in Kamchatka which has reportedly had no access to ambulatory medical care for two years (art. 12).

The Committee recommends the State party to take measures to ensure that the administrative reorganization of its territory does not negatively impact on the level of healthcare assistance provided to the indigenous peoples in the north, Siberia and the far east, in accordance with the programme of State guarantees concerning the provision of free medical care to citizens of the Russian Federation.

29. The Committee remains concerned about the spread of drug addiction, including by way of injection, which is the main factor for the growing epidemic of HIV/AIDS, hepatitis C and tuberculosis in the Russian Federation. The Committee also remains concerned about the continued ban on the medical use of methadone and buprenorphine for treatment of drug dependence and the fact that the Government does not support opioid substitution therapy (OST) and needle and syringe programmes which are strongly recommended by the World Health Organization (WHO) and the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Office on Drugs and Crime and other international organizations as effective measures for prevention of HIV/AIDS among injecting drug users (art. 12).

The Committee urges the State party to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health. The Committee strongly recommends the State party to provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programmes.

30. The Committee remains concerned that, in spite of the efforts undertaken by the State party, a large number of women especially in rural areas have limited access to reproductive and sexual health services, and at the lack of reproductive and sexual health education in the State party (art. 12).

The Committee calls on the State party to continue its efforts to increase knowledge of and access to affordable contraceptive methods in the State party and to ensure that family-planning information and services are available to everyone including in the rural areas. The Committee also encourages the State party to include in the school curricula sex education among the adolescents, to prevent early pregnancy and the control of sexually transmitted infections, including HIV/AIDS, and reproductive and sexual healthcare education. The Committee further encourages the State party to include the costs of modern contraceptive methods in the public health insurance scheme.

31. The Committee is concerned about reports that in many cases victims of maltreatment in hospitals or by physicians have not been able to receive redress either administratively or judicially (art. 12).

The Committee recommends that in its next periodic report the State party gives fuller details regarding alleged cases of maltreatments brought against healthcare institutions and physicians in court proceedings, showing how successful such proceedings have been and the figures per year dealt with during the reporting cycle.

32. The Committee remains concerned about the sizeable numbers of children who do not attend school in the State party (arts. 13, 14).

The Committee urges the State party to strengthen its efforts to ensure that no child is deprived of the right to education in particular in the rural areas and

among the disadvantaged and marginalized groups including the Roma, indigenous peoples and children with disabilities.

The Committee encourages the State party to strengthen its efforts and privilege integrated schooling for all disadvantaged and marginalized groups in particular Roma and children with disabilities.

33. The Committee is concerned that, in spite of the information provided by the delegation, children living in Chechnya and the Northern Caucasus reportedly remain affected in one or other way by the prevailing consequences of the ended conflict, in particular with regard to their right to education (arts. 13, 14).

The Committee recommends that the State party take urgent measures to ensure that all children living in Chechnya and the Northern Caucasus and those internally displaced pursue their schooling in conformity with the Federal Law on education and to prevent their voluntary recruitment into military units.

34. While noting the information on measures undertaken in the State party to ensure full enjoyment and access of cultural and leisure facilities for everyone, the Committee is concerned that some of these facilities are not fully accessible for persons with disabilities. The Committee is also concerned about the lack of adequate protection in the legal system of the State party of the right of indigenous peoples in the north, Siberia and the far east, to their ancestral lands and to the traditional use of their natural resources. It is also concerned about the lack of adequate protection of their intellectual property rights and of information on intellectual property rights (art. 15).

The Committee urges the State party to extend its programme of creating a barrier-free, accessible environment to cover cultural and leisure facilities. The Committee further recommends that the State party include in the new drafts of law being developed clear and precise norms for the effective protection of the right of indigenous peoples in the north, Siberia and the far east, to their ancestral lands, natural resources and cultural heritage, including protection of their intellectual property rights to their works which are an expression of their traditional culture and knowledge.

35. **The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant.**

36. **The Committee requests information concerning the extent of the practice of discrimination against lesbian, gay, bisexual and transgender persons in particular in employment, health care and education in the State party (art. 2, para. 2).**

37. **The Committee requests the State party to provide data on right to health issues based on health indicators on an annual basis and disaggregated according to the prohibited grounds of non-discrimination in its next periodic report (art. 12).**

38. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate into the main minority languages spoken in the Russian Federation, and publicize them as far as possible and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue to engage the national human rights institution, non-governmental institutions and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.**

39. **The Committee invites the State party to update its core document, in accordance with the harmonized guidelines on reporting under the international**

human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee Meeting of the Human Rights Treaty Bodies held in June 2006 (HRI/MC/2006/3).

40. The Committee requests the State party to submit its sixth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2016.
