|  |  |  |
| --- | --- | --- |
|  | United Nations | E/C.12/67/D/52/2018 |
| _unlogo | **Economic and Social Council** |  |

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

 Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning communication No. 52/2018[[1]](#footnote-1)\*

*Communication submitted by:* Rosario Gómez-Limón Pardo (represented by counsel)

*Alleged victim:* The author

*State party:* Spain

*Date of communication:* 30 August 2018 (initial submission)

*Date of adoption of Views:* 5 March 2020

*Subject matter:* Eviction of the author from her home

*Procedural issues: Admissibility ratione materiae；non-substantiation of claims*

*Substantive issue:* Right to adequate housing

*Article of the Covenant:* 11

*Article of the Optional Protocol:* 3 (2) (e) and 5

1. In the present Views, the Committee, without taking a position, first summarizes the information and arguments submitted by the parties; it then considers the admissibility and merits of the communication and, lastly, sets out its conclusions and recommendations.

2. At its meeting on 11 October 2019, the Committee on Economic, Social and Cultural Rights, having noted that despite repeated attempts it had not been possible to contact the authors, decided to discontinue its consideration of communication No. 43/2018, in accordance with article 17 of its provisional rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

 A. Summary of the information and arguments submitted by the parties

 The facts as submitted by the author

 *Before the registration of the communication*

 *After the registration of the communication*

 The complaint

 State party’s observations on the merits

 Author’s comments on the State party’s observations on the merits

 State party’s observations on admissibility and the merits

 **Author’s comments on the State party’s observations on admissibility and the merits**

 B. Committee’s consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 9 of its provisional rules of procedure under the Optional Protocol, whether or not the communication is admissible.

6.2 The Committee notes that the State party has not challenged the admissibility of the communication on the ground of non-exhaustion of domestic remedies and that there does not appear to be any remedy available to the author that she has not exhausted. The Committee concludes that, with respect to the author’s claim relating to her eviction, the case meets the requirement of exhaustion of domestic remedies set forth in article 3 (1) of the Optional Protocol.

6.3 The Committee notes that the communication meets the other admissibility requirements under articles 2 and 3 of the Optional Protocol and, accordingly, declares the communication admissible and proceeds to its consideration on the merits.

6.4 the Committee is of the view that the communication is not sufficiently founded for the purposes of admissibility and is, accordingly, inadmissible under article 3 (2) (e) of the Optional Protocol.

 C. Consideration of the merits

 Facts and legal issues

7.1 The Committee has considered the present communication taking into account all the information provided to it, in accordance with the provisions of article 8 of the Optional Protocol.

/ Protection against forced eviction

 Duty of States to provide alternative housing to persons in need

 Analysis of the proportionality of the author’s eviction

 Interim measures and eviction of the author

 D. Conclusion and recommendations

11. On the basis of all the information provided and in the particular circumstances of this case, the Committee finds that the eviction of the author without an assessment of proportionality by the authorities constituted a violation of her right to adequate housing.

12. The Committee, acting under article 9 (1) of the Optional Protocol, is of the view that the State party violated the author’s right to an effective remedy under article 11 (1) of the Covenant, read in conjunction with article 2 (1), and in accordance with the requirements of article 4. The Committee also finds that the State party has violated article 5 of the Optional Protocol. In the light of its Views on the present communication, the Committee makes the following recommendations to the State party.

13. Having considered all the information submitted to it, the Committee, acting under the Optional Protocol, finds that the communication is inadmissible under article 3 (2) (e) of the Optional Protocol.

14. The Committee therefore decides that pursuant to article 9 (1) of the Optional Protocol, the present decision shall be transmitted to the author of the communication and to the State party.

 Recommendations in respect of the author

 General recommendations

15. The Committee considers that the remedies recommended in the context of individual communications may include guarantees of non-repetition and recalls that the State party has an obligation to prevent similar violations in the future. The State party should ensure that its legislation and the enforcement thereof are consistent with the obligations established under the Covenant. In particular, the State has an obligation to:

 (a) Ensure that the normative framework allows persons in respect of whom an eviction order is issued and who might consequently be at risk of destitution or of violation of their Covenant rights to challenge the decision before a judicial or other impartial and independent authority with the power to order the cessation of the violation and to provide an effective remedy so that such authorities can examine the proportionality of the measure in the light of the criteria for limiting the rights enshrined in the Covenant under the terms of article 4;

 (b) Establish a legal framework regulating the eviction of people from their homes that incorporates a requirement for the judicial authorities to conduct an analysis of the proportionality of the aim pursued by the measure relative to its consequences for the persons evicted, and of its compatibility with the Covenant, in all cases, including when the properties are occupied without legal title;

(c) Ensure that persons subject to an eviction order are able to challenge the decision or lodge an appeal with a view to having the judicial authorities assess the proportionality of the aim pursued by the measure relative to its consequences for the persons evicted, and its compatibility with the Covenant in all cases, including when the properties are occupied without legal title;

(d) Take the necessary measures to ensure that evictions involving persons who do not have the means of obtaining alternative housing are carried out only following genuine consultation with the persons concerned and once the State has taken all essential steps, to the maximum of its available resources, to ensure that evicted persons have alternative housing, especially in cases involving families, older persons, children or other persons in vulnerable situations;

 (e) Develop and implement, in coordination with the autonomous communities and to the maximum of its available resources, a comprehensive plan to guarantee the right to adequate housing for low-income persons, in keeping with general comment No. 4. This plan should establish the resources, measures, indicators, time frames and evaluation criteria necessary to guarantee these individuals’ right to housing in a reasonable and measurable manner;

 (f) Establish a protocol for complying with requests for interim measures issued by the Committee and inform all relevant authorities of the need to respect such requests in order to ensure the integrity of the procedure.

16. In accordance with article 9 (2) of the Optional Protocol and rule 18 (1) of the provisional rules of procedure under the Optional Protocol, the State party is requested to submit to the Committee, within a period of six months, a written response, including information on the measures taken in follow-up to the Views and recommendations of the Committee. The State party is also requested to publish the Views of the Committee and to distribute them widely, in an accessible format, so that they reach all sectors of the population.

1. \* Adopted by the Committee at its sixty-seventh session (17 February–6 March 2020). [↑](#footnote-ref-1)