

ITUC Contribution to public consultation on human rights impact assessments for economic reforms

Key messages

- ✓ The ITUC welcomes the development of human rights impact assessment guidelines for economic reforms and stresses that they should fully consider impacts on the enjoyment of social rights, including labour rights. These guidelines should be applied consistently for national-level reforms. They should also be applied by international organisations in the development of their economic policies and by international financial institutions if applying economic policy conditions to their lending agreements.
- ✓ Any economic reform must ensure full recognition of workers' rights such as freedom of association, collective bargaining and the right to strike; adequate and fair wages; decent working conditions and job security; equal treatment and equal opportunities; adequate and universally accessible social protection; and access to education, health, care and other essential services. These are fundamental rights, enshrined in international covenants and ILO conventions, and moreover there is no robust economic evidence to justify their curtailment.
- ✓ Due diligence requirements should also be in place and made mandatory in order to ensure that companies comply with labour standards, in line with the UN Guiding Principles on Business and Human Rights and Tripartite declaration of principles concerning multinational enterprises and social policy.
- ✓ Economic reforms must respect collective bargaining processes and their outcomes. Economic reforms should not seek to decentralise these processes, reduce collective bargaining coverage, discourage trade union membership or allow deviations from collective agreements. Social partners should have the opportunity to renegotiate their agreements if they deem this necessary.
- ✓ The distributional impacts of economic reforms should be fully assessed. If a reform is determined to have regressive impacts – e.g., negatively affecting the poorest segments of the population the most, or providing the greatest benefit to the well-off – should be immediately reconsidered.
- ✓ Impact assessments should also systematically review the gender impacts of any reform, in particular whether they would have any potential negative effects on women's participation in the labour market or their economic independence.
- ✓ Impact assessments must be grounded on evidence, based on a clear methodology, with transparent assumptions and sources of information that are made public.
- ✓ Impact assessments should be inclusive of the views of social partners, referring explicitly to their concerns and how those concerns can be effectively addressed. Before finalisation, they should also be subject to a review of experts, social partners and other stakeholders. The conclusions of such reviews should be made publicly available and should be taken into account.
- ✓ Following the implementation of an economic reform, an ex-post evaluation should be undertaken in order to ensure the given reform has not had negative unexpected consequences.

Background

Economic reform policies implemented in recent years under the justification of restoring debt sustainability, creating jobs, increasing competitiveness and supporting macro-economic growth have not achieved their intended effects¹, but have instead had devastating impacts on wages, working conditions, social protection and the provision of essential services². These measures have often included:

- Loosened employment protection legislation and increased labour market flexibility;
- Weakened social dialogue, deviations from collective agreements and/or the decentralisation of collective bargaining to firm-level;
- Reduced levels of social protection benefits, stricter eligibility criteria and reduced duration of some benefits (e.g., unemployment benefits);
- Budgetary cutbacks in public health care, education and other social services; and
- Privatisation of public services or state-owned assets and enterprises.

Such reforms have been regularly part of lending conditions by many international financial institutions as well as widely promoted by international organisations such as the World Economic Forum, OECD and the European Commission³. These measures have often been undertaken without consideration of international labour and human rights standards⁴. Such reforms also run in conflict with internationally-agreed agendas, including the UN's Sustainable Development Goals⁵. Such reforms were moreover often not subject to social impact assessments, and in the cases where these were applied, they were often not done in a consistent, transparent nor evidence-based manner⁶. Overall, evidence also shows that many economic reform measures have contributed to worsening macro-economic and fiscal outcomes, declines in real wages, reduced aggregate demand, growing income inequality, greater informality, increased gender inequalities in the labour market, increased financial insecurity for workers and growing poverty⁷.

A comprehensive review of recent economic reform policies and their human rights effects have been documented in two reports by the UN Independent Expert on Foreign Debt and Human Rights: one on the policy response by the European Union to the sovereign debt crisis ([A/HRC/34/57/Add.1](#)) and the other on the impact of structural adjustment and fiscal consolidation policies on labour rights ([A/HRC/34/57](#)). Following these reports, Human Rights Council resolution [34/3](#) requested the Independent Expert to develop guiding principles for human rights impact assessments for economic reform policies. The Independent Expert has accordingly launched a public consultation to gather the views of key stakeholders in the development of these impact assessment guidelines.

The ITUC welcomes the development of such impact assessment guidelines and stresses that they should fully consider the effects of planned economic reforms on social rights, including labour rights, as laid down in the Universal Declaration of Human Rights, the International Covenant of Social and Cultural Rights, and ILO standards. They should be applied consistently for national-level reforms, as well as to international organisations in the development of their economic policies and international financial

¹ See for instance Baccaro and Rei (2007) *Institutional determinants of unemployment in OECD countries: does the deregulatory view hold water?* and De Grauwe and Yuemei (2013) *The Legacy of Austerity in the Eurozone*

² See for instance De Schutter and Salomon (2015) *Economic Policy Conditionality, Socio-economic Rights and International Legal Responsibility: The case of Greece 2010-2015*; Kawewe and Dibié (2000) *The impact of economic structural adjustment programs on women in children: implications for social welfare in Zimbabwe*

³ See for instance Kentikelenis, Stubbs and King (2016) *IMF conditionality and the development policy space*; OECD (2012) *What are the Best Policy Instruments for Fiscal Consolidation?*

⁴ De Schutter (2015) *Welfare State Reform and Human Rights*; Salomon (2015) *Austerity, Human Rights and International Institutions*

⁵ Notably Goal 1 to reduce poverty; Goal 8 to ensure decent work and economic growth ; and Goal 10 to reduce inequality.

⁶ One prominent example of this is the European Commission's impact assessment of the 2015 Financial Programme for Greece, which defied the Commission's own Better Regulation Guidelines by not subjecting it to any review by the Commission's Regulatory Scrutiny Board. For more information see, for instance, ETUI Policy Brief (2015) *The Variable Geometry Approach to Better Legislation*

⁷ See for instance ITUC (2013) *Economic briefing #1*; Economic Policy Institute (2015) *Unions, inequality, and faltering middle-class wages*; De Grauwe and Yuemei (2013) *The Legacy of Austerity in the Eurozone*; Public Services International (2012) *Impact of the Global Economic Crisis and Austerity Measures on Women*

institutions when they apply economic policy conditions to their lending agreements.

The ITUC's contribution to the consultation seeks to define the social and labour considerations that should be embedded such impact assessment guidelines. It also sets out the processes that are needed in order to sure that impact assessments are conducted in a transparent, evidence-based way that fully involves social partners and key stakeholders.

Embedding social and labour rights in impact assessment guidelines

Governments, international organisations and lending institutions must ensure coherence between their policies and the social rights set out in international covenants and ILO standards. These notably include workers' rights such as the freedom of association, collective bargaining and the right to strike⁸; adequate and fair wages⁹; decent working conditions and job security¹⁰; equal treatment and equal opportunities¹¹, social protection¹²; and access to education, health, care and other essential social services¹³. Impact assessment guidelines should therefore require a systematic consideration of whether or not a given reform would undermine any of the existing international instruments in these areas. If an impact assessment shows that economic reform policies would breach the provisions of these instruments, it should be immediately reconsidered. Moreover, measures to ensure companies' compliance with labour standards, in line with the UN Guiding Principles on Human Rights as well as the Tripartite Declaration of Principles Concerning multinational Enterprises and Social Policy, should be an essential part of any economic reform. This is why the ITUC has repeatedly called for diligence requirements to be made mandatory¹⁴.

Similarly, if an impact assessment shows that a reform would weaken the coverage of collective bargaining, or discourage trade union membership, these reforms should not be undertaken. Moreover, economic reforms must respect the outcomes of collective bargaining processes, especially so when social partners were able to reach agreement against a background of deep economic and financial crisis. Instead, social partners should have the opportunity to renegotiate their agreements if they deem this necessary.

The ITUC also stresses that impact assessments should systematically take into account the distributional impacts of economic reforms, to examine who would bears the brunt of economic measures. Research shows that fiscal consolidation measures have contributed in some cases to widening income inequalities, as the poorest households have often most negatively impacted by cutbacks in benefits and services as well as regressive tax reforms such as increases in Value Added Tax (VAT)¹⁵. Economic reforms that would have regressive impacts should not be undertaken.

Finally, the ITUC emphasises the necessity of anticipating possible gendered effects of economic reforms, given that fiscal consolidation measures have often contributed to worsening gender inequalities in the labour market. This has been due in part to the reduction in jobs and pay in female-concentrated sectors and cutbacks to the provisions of formal care services. The reduction of survivors' benefits, social assistance, and social services – all of which women tend to be the biggest users of –

⁸ See Article 23 of the Universal Declaration of Human Rights; Article 8 of the International Covenant of Social and Cultural Rights; ILO Convention 87 and ILO Convention 98

⁹ See Article 7 of the International Covenant of Social and Cultural Rights and ILO Convention 131

¹⁰ See Article 8 of the Universal Declaration of Human Rights; ILO Convention 158 and ILO Recommendation 119

¹¹ See Articles 21, 23 and 26 of the Universal Declaration of Human Rights; Articles 3, 7 and 13 on the International Covenant on Social and Cultural Rights; and ILO Conventions 100, 111 and 118

¹² See Article 10 of the Universal Declaration of Human Rights; Articles 9 and 10 of the International Covenant of Social and Cultural Rights; ILO Convention 102 and ILO Recommendation 202

¹³ See Articles 25 and 26 of the Universal Declaration of Human Rights; Articles 12 and 13 of the International Covenant of Social and Cultural Rights; ILO Convention 102; ILO Convention 156; ILO recommendation 165; and ILO Recommendation 202

¹⁴ See <http://www.ituc-csi.org/jobs-wages-refugees-and-workers>

¹⁵ See Figari, Paulus and Sutherland (2016) *The design of fiscal consolidation measures in the European Union: distributional effects and implications for macroeconomic recovery*

have also had devastating consequences on women's economic independence¹⁶. If an impact assessment shows that a reform would have a negative impact on gender equality, the reform should be immediately reconsidered.

Ensuring transparent, evidence-based processes

In order for human rights impact assessments to be reliable, they must first and foremost be grounded on evidence, based on a clear methodology, with transparent assumptions and sources of information that are made public.

Impact assessments must also be inclusive of the views of social partners, as well as other key stakeholders where relevant. Trade unions and employers should be thoroughly consulted for any economic reform related to labour market and social policy, given their particular knowledge of the reality of workplaces and the fact that they are most directly affected. The results of this consultation should be reflected in the impact assessment. Their concerns should be explicitly mentioned in the document along with explanations on how their concerns could be addressed¹⁷. Before finalisation, the impact assessment should also be subject to a review of experts, social partners and other stakeholders. The conclusions of such reviews should be made publicly available, and should be taken into account in the final assessment.

Finally, following the implementation of an economic reform, an *ex-post* evaluation should be undertaken in order to ensure the given reform has not had negative unexpected consequences on human rights. Such an *ex-post* evaluation should review the effects on the labour and social rights as defined above, as well as involve the consultation of social partners, relevant stakeholders and experts.

For questions on this position paper, please contact Evelyn Astor at Evelyn.Astor@ituc-csi.org

¹⁶ European Network of Experts on Gender Equality (2012) *The impact of the economic crisis on the situation of women and men and on gender equality policies*

¹⁷ Such an approach would be in line with the report by Olivier de Schutter, UN Special Rapporteur on the right to food (2011) Guiding principles on human rights impact assessments of trade and investment agreements