CHAPTER THREE

INTERPRETATION AND APPLICATION OF ARTICLE 27

1. Article 27(1): Scope and Content of the Right

39. Article 27(1) reads: ‘[...] the right of the child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’.

40. As noted in Chapter II, the right to an adequate standard of living is contained also in the Article 25 of the UDHR and Article 11 of the CESCR.18 The term in Article 25 of the UDHR is ‘adequate for the health and well-being of himself and of his family’ and it includes ‘food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’. Article 11 of the CESCR includes ‘adequate food, clothing and housing’, while the right to the highest attainable standard of health including medical care in the CESCR is placed in Article 12.

There is no further definition within any of these instruments of what the term ‘adequate standard of living’ should mean, but the CESCR Committee has sought to clarify the content of the right to adequate housing and the right to adequate food, which are two key components of the right to an adequate standard of living.

41. By its General Comment 4, adopted in 1991, the CESCR Committee has elaborated on the concept of an adequate standard of living in regard to housing. The Committee holds that adequate housing requires sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.19

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18 Cf. supra No. 27–28.
19 CESCR Committee, General Comment No. 4, o.c. (note 14), para. 8(b).
Adequate housing must also be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors, and the physical safety of occupants must be guaranteed as well.\(^{20}\)

Adequate housing must furthermore be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.\(^{21}\) All of the above are relevant also to determine whether the housing standards are sufficient to guarantee to the child the adequate conditions for its development.

42. In its General Comment No. 12, the CESCR Committee has defined the adequate standard regarding food as follows:

‘The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients’.\(^{22}\) The Committee further points out that the core content of the right to adequate food implies the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture. Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that is in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation.’

The CESCR Committee also points out also that the food must be both available and accessible. The latter has two dimensions: an economic and a physical one. The economic accessibility depends on the situation of the parents or guardians, see further below. Physical accessibility, according to the Committee, implies that adequate food must be accessible to everyone,

\(^{20}\) Ibid., para. 8(d).
\(^{21}\) Ibid., para. 8(f).
\(^{22}\) CESCR Committee, General Comment No. 12, o.c. (note 16), para. 6.