



Economic and Social Council

Distr.: General
6 October 2011
English
Original: French

Committee on Economic, Social and Cultural Rights

Forty-sixth session

Summary record of the 16th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 11 May, at 3 p.m.

Chairperson: Mr. Pillay

Contents

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fifth periodic report of the Russian Federation (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Fifth periodic report of the Russian Federation (continued) (E/C.12/RUS/5; HRI/CORE/1/Add.52 and Rev.1; E/C.12/RUS/Q/5; E/C.12/RUS/Q/5/Add.1)

1. *At the invitation of the Chairperson, the delegation of the Russian Federation took places at the Committee table.*

Articles 1 to 5 of the Covenant (continued)

2. **Mr. Yurakov** (Russian Federation) said that although indigenous peoples had no collective property rights in respect of their territories under prevailing Russian legislation they did have priority access to that land and the possibility of its exploitation. It was inaccurate to speak of privatization; industrial concerns generally occupied land where indigenous minorities traditionally lived because those territories were rich in fossil fuels. While the exploitation of indigenous territories inevitably posed problems, usage authorizations were provisional in that they were granted on the basis of permits that conferred temporary rights only, besides being conditional upon the adoption of compensatory measures. In order to compensate the indigenous minorities adversely affected by the economic activities of industrial and other enterprises and to repair the environmental damage caused, the Ministry of Regional Development had introduced a compensation procedure in 2009. No research aimed at achieving a precise measurement of the scale of the phenomenon had been conducted. However, it was reasonable to assume that industrial activities were under way in around half of the territories occupied by indigenous minorities.

3. Rights to hunting and fishing reserves were sold at auction by the State authorities, sometimes under fixed-term leases. Because the reserves encroached on land inhabited by indigenous minorities, in order to ensure that those minorities could continue fishing the Government had drafted a bill on amendments to the Federal Act on Fishing, which authorized traditional fishing for private consumption, without charge, but prohibited commercial fishing. A further bill provided that indigenous minorities and local authorities could use ancestral territories for traditional activities and ways of life. However, it was impossible to determine at that point whether or not the land area available for such activities would be reduced because the specially protected areas created could not be used for traditional purposes. It all depended on how proactive indigenous people's representatives were: if a large number of applications were received, the Government would look into the possibility of creating more territories of traditional natural resource use than initially envisaged.

4. **Mr. Voronin** (Russian Federation), reiterating his position on the possible adoption of a law on gender equality, explained that all gender equality provisions contained in current legislation were enforced at the federal level and that there was absolutely no question of those legislative powers being delegated to regional or municipal authorities. Historically Russian legislation had been organized by sector and issues addressed under federal legislation were incorporated into the relevant sector-specific legislation rather than becoming the subject of a specific law. All provisions on gender equality in the workplace, for example, would be incorporated into the federal laws on labour and other relevant areas on a sector-by-sector basis. Accordingly, whether the Russian Federation adopted a specific law on gender equality or gender equality issues were covered by a series of laws made little difference to whether people's rights in that area were respected.

5. In addition to the Office of the Human Rights Commissioner of the Russian Federation and the Office of the Presidential Commissioner for Children's Rights, analogous institutions had been established at the regional level. Human rights commissioners had been appointed in more than 50 regions as well as, in some cases, ombudspersons for children. The regional commissioners reported to the regional parliaments that appointed them and oversaw their activities. They had no organizational link with the federal Commissioner but a system of coordination through experience-sharing and the organization of seminars and other meetings had been introduced on the latter's initiative. There was undoubtedly a degree of overlap in the current structure in the sense that problems emerging at the regional level were also examined at the federal level by the federal Commissioner, who included them in his annual report to the President and Parliament. That report was made available for public consultation, so contributing to the harmonization of the different human rights protection mechanisms in the Russian Federation.

Articles 6 to 9 of the Covenant

6. **Mr. Ribeiro Leão** asked whether homeless persons and persons without residence permits enjoyed the social security rights recognized in article 9 of the Covenant and referred to by the State party in paragraphs 135, 143 and 145 of the report under consideration.

7. **Ms. Shin** noted that women were excluded from 456 occupations under various regulatory texts. While those exclusions were presumably guided by health and safety concerns, work that was hazardous for women was also dangerous for men. She would therefore like to know if the State party envisaged removing such exclusions which constituted an obstacle to the employment of women. She also sought information about Government plans to address the considerable gender pay gap. Lastly, noting that the report under consideration made no reference to any definition of sexual harassment or any specific legislation criminalizing such conduct, she asked whether sexual harassment was a recognized concept in the State party, distinct from rape or sexual assault, and whether it constituted grounds for filing a complaint with the Human Rights Commissioner.

8. **Mr. Texier** asked the delegation to clarify the provisions governing the broadening of the scope for use of fixed-term contracts and the simplification of the procedure for terminating contracts contained in the State party's new Labour Code adopted in 2002, since he did not believe that a reform of that kind gave workers the increased protection needed. He also urged the delegation to clarify the State party's response to the Individual Observation concerning the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) issued by the ILO Committee of Experts on the Application of Conventions and Recommendations in 2011 in relation to articles 280 and 282 of the Criminal Code, which established prison sentences entailing compulsory forced labour for persons convicted of extremist activity. A clarification of the State party's response to a similar observation in relation to the ILO Workers with Family Responsibilities Convention, 1981 (No. 156), and more specifically their right to engage in or obtain employment without being subject to discrimination, would also be appreciated. He also sought an update on the persistent, systematic delays in wage payments on the part of a number of private-sector enterprises and the disputes concerning the weekly rest days on which employees could be called in to work and the corresponding compensation due to them. Lastly, noting that the International Trade Union Confederation had identified numerous cases in which trade union rights, including the right to strike, had been violated, and that the ILO Committee of Experts on the Application of Conventions and Recommendations had noted that under the Russian Labour Code arbitration was often obligatory whereas its use was normally strictly limited to certain situations, he asked the delegation to provide clarification on those issues.

9. **Mr. Kedzia** asked the delegation to provide an estimate of the size of the informal sector. Did the informal economy pose a problem in the Russian Federation and to what extent did informal workers have access to social security and other economic, social and cultural rights? Recalling that, according to the information provided, the wages or income of the vast majority of the economically active indigenous population were only slightly above, or in some cases below, the poverty line, he asked what the State party was doing to remedy that situation.

10. **Mr. Martynov** asked whether the State party planned to introduce the system of incentives vital to the success of the currently ineffectual quota mechanism designed to increase employment opportunities for persons with disabilities, whether regional authorities would be encouraged to adopt incentive systems of that kind, and how many regions had already done so. Employment statistics for persons with disabilities, including figures disaggregated by company, would also be appreciated, as well as an explanation as to why the Federal Act on the social protection of persons with disabilities set a maximum quota of 4 per cent for the number of persons with disabilities that businesses covered by the aforementioned Act should employ. Information on any Government measures, programmes or laws adopted with a view to making public spaces more accessible to persons with reduced mobility, as well as on the number of persons employed in the informal sector and their contributions to the domestic economy would also be welcome. He would also like to know how the guaranteed minimum subsistence level for retired persons compared to the level guaranteed for persons of working age, whether it had risen in line with pensions, and whether unemployment benefits had been increased in the same proportion. Lastly, he asked why the State party had not ratified ILO Conventions No. 117 (Social Policy), 118 (Equality of Treatment) and 132 (Holidays with Pay), which were of particular importance for economic and social rights, and whether their ratification was envisaged in the future.

11. **Mr. Sadi**, noting that most countries had incorporated provisions outlawing sexual harassment in their criminal codes, asked why the State party had not followed that example. He would also like to know whether the 50 per cent salary increases agreed for certain professional categories were considered sufficient and whether the risk of an exodus of doctors and scientists, in particular, had been averted as a result. Lastly, he sought an update on the status of the measures described in paragraph 93 of the replies to the list of issues (E/C.12/RUS/Q/5/Add.1), which the State party had planned to introduce as of 2010 in order to increase pensions for all categories of retired person; had those measures since been adopted or were they still in the process of implementation?

12. **Ms. Kovyazina** (Russian Federation) said that women's exclusion from certain occupations was dictated by health and safety concerns not discrimination and that the Russian Government had no plans to lift the restrictions. While gender pay gaps undoubtedly existed, they varied from one sector to another and were generally narrowing. Fixed-term contracts gave workers the same rights as open-ended contracts. They were concluded with the agreement of the employee and were subject to strict labour legislation which limited their use to very specific circumstances, such as employing retirees and covering absences.

13. The Russian Federation had undertaken to bring its Labour Code into line with the ILO Maternity Protection Convention, 2000 (No. 183). The rights recognized to mothers had been extended to all persons raising children, and additional safeguards were envisaged to protect their right to work part-time or from home, to prevent terminations of contract during maternity leave and to ensure that the additional paid leave entitlements of mothers with children under 15 years of age were respected.

14. The wage arrears totalling 2.7 billion roubles owed to Russian workers were largely down to a large number of bankruptcies. The Labour Code established a legal obligation to

pay overtime hours and award double pay for work on holidays and rest days. The nine collective labour disputes occurring in 2010 had all been resolved without strikes. The Russian authorities would nonetheless give due consideration to the Committee's observation that the 10-day notice period required was excessively long. According to estimates, around 5 million people, equivalent to 7 per cent of the economically active population, worked in the informal sector. The Russian Government intended to accord particular attention to that problem.

15. The ILO Holidays with Pay Convention (Revised), 1970 (No. 132) had been ratified in 2010 and was due to enter into force in the coming months. The gap between the average pay of doctors and teachers and the pay of industrial sector workers had broadened from 56 per cent in 2005 to 80 per cent in 2011. The federal authorities assessed the budget situation each quarter and were endeavouring to reduce regional disparities.

16. **Ms. Taradanova** (Russian Federation) said that teachers' pay had been increased in April 2011. The increase would be funded through federal budget subsidies of 20 billion roubles in 2011, 60 billion roubles in 2012 and 40 billion roubles in 2013.

17. **Mr. Voronin** (Russian Federation) said that since registration of place of stay and place of residence was not compulsory, homeless persons could have their social security benefits or pensions paid to them at any address of their choosing and that even persons without health insurance had access to medical care. Women were excluded from certain particularly difficult and hazardous occupations to protect their health, and, more specifically, their reproductive functions, as dictated by tradition. That principle had never been challenged in regular discussions on the Labour Code with trade unions and social partners. The gender pay gap was narrowing and was connected not to legislative provisions but to economic factors. The term "sexual harassment" was not used in legislation in the Russian Federation but all sexual offences, whether or not work-related, were subject to severe penalties.

18. The new provisions concerning fixed-term employment contracts were intended to reduce informal working arrangements that offered absolutely no social security protection and were excluded from the scope of labour legislation. The Parliament was also considering a bill that would make it easier to curtail the use of civil law contracts instead of employment contracts concluded in due and proper form and would increase the applicable penalties. With regard to the provisions of article 280 (public incitement to extremist activity) and article 282 (incitement of ethnic or religious hatred or enmity and abasement of human dignity) of the Criminal Code, he believed that sentences involving a period of forced labour remunerated at the minimum wage were more humane than prison terms. They also allowed for the compensation of victims. The Constitutional restrictions on the right to strike applied only to the health sector and other areas in which lives could be endangered. They were designed to protect citizens and had not at any time been criticized by ILO. Arbitration could be used to settle labour disputes but was not compulsory. To improve social security provision in the informal economy, a mechanism that gave informal sector workers the option of making voluntary social security contributions had been established.

19. **Mr. Gadenko** (Russian Federation) said that labour legislation gave the possibility of earmarking certain positions for persons with disabilities in addition to establishing quotas. Each constituent entity of the Russian Federation set a ceiling of between 2 per cent and 4 per cent for the employment of persons with disabilities. In 2010, 87,000 persons with disabilities had found employment in the Russian Federation and numerous training programmes had been organized. The Government intended to continue offering incentives for the employment of persons with disabilities, whether in the form of vocational training programmes, psychological support or employer subsidies for each disabled person

recruited (due to be increased from 30,000 to 50,000 roubles). It also envisaged replacing the subsidy system with fixed budget allocations.

20. **Mr. Voronin** (Russian Federation), noting that catering for the interests of disabled workers as well as those of employers was a complex task, said that he shared the view that incentives for job creation were more effective than quotas. Unemployment figures for persons with disabilities were not available at that time but plans to conduct the relevant research were in place.

21. **Mr. Kolbanov** (Russian Federation) said that the Russian Federation had undertaken to align its legislation with the Convention on the Rights of Persons with Disabilities with the specific aim of guaranteeing access to all vital infrastructures. The minimum retirement pension had been set at around 5,000 roubles per month and all retirement pensions had been significantly increased in 2010, rising by 30 per cent in real terms.

22. **Mr. Soloviev** (Russian Federation) said that the measures adopted to improve the situation of retired persons were far-reaching in their scope. Social pensions must by law be sufficient to guarantee a minimum standard of living and were adjusted in line with the minimum subsistence level each year. Legal provisions introduced in 2010 provided for the payment of additional allowances, funded from both the federal and regional budgets, in order to ensure that all persons receiving some form of pension were guaranteed a minimum standard of living. Looking to the long term, the Government intended to raise the level of all benefits by indexing them to the cost of living and wage inflation.

23. **Mr. Voronin** (Russian Federation) said that a programme of specific measures had been timetabled with a view to the country's accession to international ILO conventions and that there were more than 19 conventions about to be submitted to the Duma for adoption at that time.

24. **Mr. Texier**, noting that both the ILO Committee of Experts and the trade unions had previously challenged the principle that the risks to women's reproductive health justified their exclusion from certain occupations, said that the paramount concern should be to ensure equal access to all professions for men and women alike and to guarantee a safe working environment for all. It was essential to have distinct legislation governing sexual harassment in the workplace because of the hierarchical relationships in play in that environment. Lastly, he could confirm that ILO had issued an observation concerning restrictions on the right to strike.

25. **Mr. Sadi** said that citing women's reproductive functions as justification for their exclusion from certain occupations was a violation of the Covenant provisions and constituted sexual discrimination. Women were at that time working in many occupations that had historically been reserved for men and any job considered too dangerous for a woman was also too dangerous for a man.

26. **Ms. Shin**, noting that sexual harassment did not necessarily involve sexual relations, requested that the term be more clearly defined. She asked whether those indigenous peoples who were dependent on their habitat for survival were adequately compensated following economic exploitation and environmental degradation of their land, reiterating that representatives of those affected must be involved in discussions on economic activities if indigenous rights were to be protected.

27. **Ms. Barahona Riera** (Country Rapporteur) said that she would appreciate written clarification of the distinction between natural territories and traditional territories and the implications of that distinction for indigenous rights. Noting that retirement pensions were still very meagre, she called for an escalation of the rate of increase. She would also like to know whether foreign workers' permits could be extended to make it easier for them to

access social security benefits and sought details of any action taken to address the issue of health care for undocumented workers and workers with short-term permits. While accepting that precise figures were impossible to obtain, she would appreciate a rough estimate of the number of undocumented migrant workers and an indication of the sectors in which they worked. She would also like to know whether asylum-seekers were entitled to social security benefits and basic health services and whether the Russian Government met the cost of their health care.

28. **Mr. Ribeiro Leão** asked whether undocumented foreign nationals, asylum-seekers and non-registered persons could use the services of federal employment agencies and obtain unemployed status. If not, he would like to know what action the State party was taking to redress that situation.

29. **Mr. Voronin** (Russian Federation), emphasizing the evolving nature of the Labour Code and acknowledging the need to improve working conditions for men and women alike, said that in recent years the Government had made considerable efforts to improve conditions and safeguard jobs and had implemented a complex, multidisciplinary programme of action to that end. Women's access to dangerous professions remained a question of principle only as women had never to date sought employment in positions of that nature. Since amendments to the Labour Code required consensus approval and the agreement of trade unions and employers, the Government was taking changes in the labour market into account and was working with international organizations and social partners to improve access to employment and guarantee the right to strike in accordance with international standards.

30. With regard to sexual harassment, the term "coercion" which he had used earlier, and which was the term used in Russian criminal legislation, applied not only to sexual relations but also covered harassment. Acknowledging the problems associated with hierarchical workplace relationships, he explained that criminal law had been amended to ensure legal protection for the victims of sexual harassment and guarantee that the perpetrators were prosecuted.

31. During the current times of crisis the Russian Federation had been the only country to adopt measures of a scale that not only increased retirement pensions, but in some cases increased them threefold. The Government planned to accede to the European Code of Social Security and already complied with the minimum requirements established therein, which dictated that retirement pensions must be no less than 40 per cent of the average wage and must be indexed to wage inflation, given the close correlation between the two. The Government had also embarked on a process of ongoing wage adjustments that would engender a parallel increase in retirement pensions.

32. With regard to the social security entitlements of migrant and informal sector workers, he explained that, in the absence of a formal employment relationship, employers were not able to make contributions on their behalf. However, workers in the informal economy were not entirely excluded from social security safeguards as social protection instruments were not limited to those available under the compulsory social security system. In addition to the possibility of registering to make voluntary contributions to the system, all persons, whether or not in work, were entitled to retirement, invalidity and survivors' pensions or to a social security allowance of a pre-established minimum amount.

33. Medical consultations were free for all persons. The corresponding charges were covered by employers' contributions to the compulsory medical insurance fund in the case of persons in work and by federal budget allocations to regional budgets in the case of those not working. Persons holding permanent or temporary permits, stateless persons and persons who had been granted asylum enjoyed equal rights to medical services provided they were able to prove that they were legally resident in the Russian Federation. Thanks to

the system of visas and agreements concluded between countries of the Commonwealth of Independent States, medical assistance was available for all persons needing it, including refugees.

34. **Mr. Yurakov** (Russian Federation) said that comprehensive information about the bill on the traditional territories could be found on the website of the Russian Federation's Ministry of Regional Development (www.minregion.ru) and that the text had been open for public review for the required period.

35. Indigenous peoples had the right to review plans for the industrial exploitation of their habitat in consultation with the enterprises concerned. A procedure for evaluating damage attributable to industrial activities had been developed, as well as compensation mechanisms and environmental rehabilitation measures. Protection of the ancestral environment and habitat of indigenous communities was also an important component of the State party's sustainable development implementation plan.

Articles 10 to 12 of the Covenant

36. **Mr. Dasgupta** requested an explanation of the meaning of the expression "socially unacceptable style of life" which the State party had used in paragraph 122 of the Government's replies to the list of issues, asking, in particular, whether it referred to the lifestyles of nomadic and indigenous communities. With regard to poverty, he would like to know whether the situation of the indigenous communities in the northern regions had improved and the extent to which those communities benefitted from the higher wage levels typical of the north of the country. Lastly, he asked whether the very low life expectancy of men living in rural areas was attributable to factors such as lifestyle, alcoholism and drug use, and what measures had been adopted to address that issue.

37. **Mr. Ribeiro Leão** asked whether the State party had plans to implement a long-term poverty reduction programme.

38. **Mr. Schrijver** asked for homeless figures for the Russian Federation, information on the efficacy of the State party's past efforts to reduce homelessness and details of its future plans for addressing that issue. He would also like to know what the authorities were doing to accelerate the process of adopting the anti-human trafficking bill and resolving the trafficking problem, and whether the bill reflected the provisions of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). Details of measures in place to facilitate the rehabilitation and social reintegration of child victims would also be welcomed, as well as an indication of what the authorities were doing to reduce the percentage of the Russian population living below the poverty line, which, according to sources, was between 13 per cent and 15 per cent, figures that were still high for a developed country.

39. **Mr. Riedel** asked about the operation of the ambulatory medical care system developed to provide health services to indigenous peoples living in remote areas and urged the State party to provide figures for the provision of health services disaggregated by year no later than in its next periodic report. He was interested to know whether the decline in tuberculosis morbidity in prisons referred to in paragraph 314 of the periodic report was continuing and how it had been achieved. Expressing surprise at the State party's assertion that the opioid substitution therapies used to treat drug dependence were ineffectual, in total contradiction of the findings of various specialist agencies and numerous countries including the United States of America, China, the Islamic Republic of Iran and all European Union member States, he asked whether that remained its position. Information on any lawsuits brought against medical institutions and doctors, and the results of those suits, together with supporting figures, would also be welcomed. Based on the data provided, the State party's HIV/AIDS prevention programmes appeared to have been successful in curbing the disease's spread, although the figures also indicated that the

improvement had been less pronounced and less rapid than in other regions; an explanation of the reasons behind that situation would be useful.

40. **Mr. Sadi** said that he failed to understand the State party's reluctance to support opioid substitution therapy, since its efficacy had been proven and its use made it possible to treat addicts as patients rather than criminals. He asked what the authorities were doing, 25 years after the event, to remedy the environmental and health repercussions of the Chernobyl disaster and how the pollution problem, which was particularly severe in Moscow, was being addressed. Lastly, could the delegation provide information about any campaigns launched to raise awareness of the deleterious consequences of alcohol abuse and smoking?

41. **Mr. Atangana** said that the State party's failure to provide detailed replies to the Committee's questions concerning domestic violence was regrettable, although he acknowledged that such issues were complex in a society where women's status was inferior to that of men and domestic violence remained a private matter, as was the case in Russia. Since the Criminal Code apparently contained no specific definition of domestic violence and, accordingly, established no specific penalties for such offences, it would be helpful to know how the criminal justice system punished conduct of that kind. He would also like to know whether the draft federal act on guardianship and custody submitted in 2007 had been adopted. Lastly, the documents in his possession referred to a number of problems, including early marriage, high suicide rates and large numbers of street children, for which he would appreciate additional information.

42. **Mr. Martynov** said that an update on the status of the draft federal act on amendments to the Federal Act on social assistance to orphans and children lacking parental support (additional guarantees) would be appreciated. While the decline in infant mortality and the rising birth rate were commendable, it was regrettable that the State party provided no statistics beyond 2006 in its report; more up-to-date figures were needed to enable the Committee to gauge progress. Lastly, he asked the delegation whether reports of a reduction in the health budget over recent years were accurate. Detailed budget figures for the past five years and an estimate of the size of the health budget as a percentage of gross domestic product would be useful in that connection.

43. **Mr. Abdel-Moneim**, noting that the slowing rate of inflation referred to in the State party's report was attributed to declining consumer demand, asked what measures were envisaged for handling an upturn in inflation. He also sought an explanation for the 50 per cent rise in the price of grain from the new harvest registered since the start of 2011 and expressed surprise at the 17.1 per cent increase in electricity rates programmed for 2011; despite clear progress, the rate of increase remained too high. Given the extreme income disparities that persisted between different segments of the population according to the State party, it would be interesting to know what additional measures the authorities had adopted to help low-income citizens living close to the poverty line (paragraph 121 of the Government's replies to the list of issues), and whether those measures entailed a redistribution of national income as part of domestic fiscal policy.

44. **Ms. Barahona Riera** (Country Rapporteur) said that she would like to contest the State party's assertion that, in certain areas, the traditional legal practice was to dispense with the adoption of a general legislative framework; on the contrary, many countries had in fact been able to make considerable advances by adopting a general framework for gender equality and non-discrimination, and also for sexual harassment, which, like domestic violence, honour killings and human trafficking, was not a criminal offence under Russian law. Did the State party have any plans to address that shortcoming? She also sought details of national policy on sexual and reproductive health, particularly the information and education components and those concerning the provision of specialist services, as well as information on access to contraception and the State party's stance on

abortion. She would also like to know whether the public health system covered the cost of medicines prescribed for rare diseases and palliative care, and would appreciate an outline of the cover that the compulsory health insurance system provided.

45. **The Chairperson**, speaking as a member of the Committee, said that the State party's failure to follow up on the Committee's previous concluding observations concerning homelessness and the provision of social housing for the most disadvantaged (E/C.12/1/Add.94, para. 55) was regrettable. He also noted that the delegation had not replied to Mr. Texier's question about unregistered Roma settlements.

The meeting rose at 6 p.m.