



Economic and Social Council

Distr.: General
20 December 2013
English
Original: French

Committee on Economic, Social and Cultural Rights Fifty-first session

Summary record of the 37th meeting

Held at the Palais Wilson, Geneva, on Friday, 8 November 2013, at 10 a.m.

Chairperson: Mr. Kedzia

Contents

Consideration of reports

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

Second periodic report of Bosnia and Herzegovina

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.

GE.13-48384 (E) 151213 201213



* 1 3 4 8 3 8 4 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 10.05 a.m.

Consideration of reports

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

Second periodic report of Bosnia and Herzegovina (E/C.12/BIH/2; E/C.12/BIH/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Duderija** (Bosnia and Herzegovina), introducing the second periodic report of Bosnia and Herzegovina, described the measures the country had taken to implement the Covenant since the submission of its initial report. A single Human Rights Ombudsman had been established for the whole country. The Gender Equality Agency and the Gender Centres in each of the Entities were working to promote gender equality, particularly in employment, and women's participation in the country's political and public life. In application of a ruling of the European Court of Human Rights describing the difference in treatment as discrimination (*Sejdic and Finci v. Bosnia and Herzegovina*), the State party was planning to address the problem of the specific rights recognized under the Constitution to the three "constituent peoples" (Bosniacs, Serbs and Croats) over other ethnic groups. The Prohibition of Discrimination Act adopted in 2009 protected citizens from discrimination in all areas of life and obliged the public authorities to combat discrimination and to create conditions conducive to equal treatment.

3. With regard to the Roma, who were the most vulnerable minority in the country, Bosnia and Herzegovina had, since 2008, been participating in the Decade of Roma Inclusion with the aim of improving their situation and was implementing an Action Plan for the Roma in the areas of employment, housing and health care. One of the problems encountered in work to eliminate all forms of intolerance was the attitude toward refugees and displaced persons. Although the rights of refugees and displaced persons, particularly their property rights, had been addressed successfully for several years, there were problems in ensuring sustainability; the persons concerned needed the basic elements that would allow them to lead a normal life: jobs, schools, primary health care, road infrastructure and electricity, in particular. The State party hoped to be able, with the assistance of the international community and donors, to resolve the issue satisfactorily in 2014.

4. **Ms. Shin** (Country Rapporteur), noting that the structure of the report did not comply fully with the Committee's guidelines, invited the State party to prepare its next periodic report in accordance with those guidelines. She commended the State party for the progress it had made in implementing the Covenant and was surprised that the report did not mention its ratification of the Optional Protocol. With regard to the challenges to implementation, she mentioned the country's complex administrative structure, which hindered the implementation of policies relating to economic, social and cultural rights, and invited the State party to carry out a fundamental review of its administrative organization. She noted that the place of the Covenant in the law of Bosnia and Herzegovina was unclear and asked whether judges received training on it. She also noted with concern that the Office of the Human Rights Ombudsman did not have sufficient resources to carry out its mandate. Finally, although the State party had made many efforts to that end, the principle of non-discrimination was still not adequately applied, as discrimination against refugees and displaced persons, in particular, still occurred; she asked what the State party planned to do to remedy the problem.

Articles 1 to 5 of the Covenant

5. **Ms. Bras Gomes** noted that the mandate of the Office of the Human Rights Ombudsman had been broadened but that the resources allocated were insufficient. She asked how much had been allocated in 2014. She called on Bosnia and Herzegovina to adopt a national human rights action plan. She asked why the Council of Ministers had not adopted a proposal, of which it had actually been in favour, for an amendment to its rules of procedure, presented by the Gender Equality Agency in 2012 as a result of a 2011 decision by the Council of Ministers that those institutions empowered to propose laws and regulations on gender equality should seek the Agency's opinion before doing so.

6. **Mr. Atangana** asked the delegation for information on cases in which the Covenant had been invoked before the courts.

7. **Ms. Cong** asked for clarification on the content and frequency of training courses provided in the context of the justice sector reform. She also asked how many judges had attended the courses and whether police officers had participated. With regard to refugees and displaced persons, she asked about the measures envisaged by the State party to expedite housing reconstruction work and thus enable the 2,700 families who were still living in collective centres to return to their homes, and the expected time frame.

8. She agreed with the analysis given in the State party's report that the problems that displaced persons encountered with resettlement were often related to discrimination (E/C.12/BIH/2, para. 20). Discrimination against displaced persons was racial discrimination, in that hate crimes were committed in the resettlement zones. In view of the fact that Parliament was considering an amendment to the Criminal Code to broaden the definition of a hate crime, she asked what progress had been made in that area. In respect of gender equality, she asked whether the Government cooperated with NGOs working for women's and children's rights and how many such organizations existed in Bosnia and Herzegovina. With regard to the fact that some authorities did not fulfil their legal obligation to compile gender-disaggregated statistics (E/C.12/BIH/2, para. 23), she asked for clarification on the measures envisaged to improve oversight in that area.

9. **Mr. Sadi** asked for more information on how the Committee's recommendations were implemented. He was of the opinion that the Dayton Peace Agreement did not set sufficient importance on economic, social and cultural rights.

10. **Mr. Tirado Mejia** believed that the enjoyment of human rights in the State party would benefit substantially from the establishment of an independent human rights commission consistent with the Paris Principles and asked what the State party's plans were in that regard. He also asked for details of civil society participation in the preparation of the report.

11. **Mr. Abdel-Moneim** asked for clarification on the role of the Economic Transition Unit of the Office of the High Representative and whether it took account of the Covenant in its work. He also wished to know, given that Bosnia and Herzegovina could not realize the economic, social and cultural rights of its population if it did not receive the international assistance needed for its reconstruction, to what extent the international community was fulfilling its commitments, and whether the State party was adopting a rights-based approach in its use of the aid received.

Articles 6 to 9 of the Covenant

12. **Ms. Ravenberg** asked whether people living in all the country's cantons were able to benefit on an equal footing from the social protection system mentioned in the written replies of the State party.

13. **Ms. Bras Gomes** noted with concern that 80 per cent of displaced persons and returnees were living below the poverty line, particularly because they did not have adequate access to employment, means of subsistence or social protection. She inquired about the supplementary measures that the State party was planning to take to improve the situation of that population group. Discrimination against pregnant women in employment was a form of direct discrimination and she asked how the State party was remedying the problem. She invited the State party, which had admitted in its written replies that its social protection system was inefficient and had very little impact on poverty reduction, to review its priorities in dealing with the situation and asked what measures it was proposing to take. She also asked what the State party was planning to do to build up the social welfare centres, which had a constantly growing workload but still did not have access to sufficient resources or staff.

14. **Mr. Martynov** noted with concern that the unemployment rate remained very high. He asked for information on the effects of the State's three major employment programmes. He also requested age- and gender-disaggregated statistics on the unemployment rates of vulnerable population groups, specifically women, young people and persons with disabilities, for 2010–2012. In view of the growing number and increasing seriousness of attacks on workers' rights, he also asked for statistics on the trends in staff numbers and resources allocated to the Labour Inspectorate. Recalling that persons working in the informal sector had, in the past, been removed from the Employment Agency's lists and not allowed to re-enrol for 12 months, he was surprised to see that, although the Committee had recommended that the measure be fully revoked, the State party had merely reduced that waiting period to 6 months. As the State party had indicated in its periodic report that it would give full effect to the recommendation, he asked what efforts were currently being made in that direction.

15. He asked what the exact amount of the minimum wage was, and whether it applied to both the public and the private sector. He also wished to know whether that amount was enough to provide an adequate standard of living and whether there was a system for adjusting the minimum wage in line with the cost of living. Bearing in mind the restrictions that the State imposed on trade union activities, he asked whether the Government was intending to improve the relevant legislation. Finally, he wished to know what proportion of the population received pensions and whether the minimum pension allowed an adequate standard of living.

16. **Ms. Shin** asked if the State intended to apply the principle of equal pay for work of equal value in order to bring down the higher female unemployment rate and to reduce the differences in pay between women and men. She also asked whether, as part of its efforts to establish a system of social protection for victims of war, the State party was prepared to recognize victims of sexual violence perpetrated in time of war as victims of war.

17. **Mr. Sadi** inquired about the effects of the State party's privatization policy on the right to work, the right of any person to form a trade union with others and the right to strike, the extent to which the policy might have contributed to the country's high unemployment rate, and the State party's plans in respect of austerity measures.

18. **The Chairperson**, speaking in his individual capacity, recalled that the Committee had sent all States parties a letter concerning the impact of austerity measures on economic, social and cultural rights, and asked to what extent the letter had helped in defining the measures to be adopted in response to the crisis.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

19. **Mr. Prica** (Bosnia and Herzegovina) explained that, although complex, the State structure established subsequent to the Dayton Agreement had nevertheless made it possible to restore peace to the country. Negotiations were continuing both in society and in

the political bodies with a view to reaching a consensus on ways of reducing the complexity of the administrative structure.

20. **Ms. Duderija** (Bosnia and Herzegovina) said that all the international instruments ratified by Bosnia and Herzegovina, including the Covenant, had been transposed into domestic law and, in most cases, were directly applicable by the courts and the public authorities. Their provisions had already been invoked in many cases. Furthermore, all bills were examined in the light of the international instruments. The State had already established an operational human rights action plan that took account of all the recommendations made by the different United Nations treaty bodies that had been accepted by the Council of Ministers. It had furthermore drawn up an action plan to implement the Prohibition of Discrimination Act, which also took account of the treaty bodies' recommendations. She said that implementation of the Committee's recommendations had made it possible to improve the situation of vulnerable population groups, including victims of war, minorities and women. In addition, Bosnia and Herzegovina was, with the support of the European Commission, preparing to give effect to the judgement in the case of *Sejdic and Finci v. Bosnia and Herzegovina*. Negotiations were under way to find, before the next election, a solution to ensure that minorities were not excluded from the electoral system. With regard to the financial resources allocated to the Office of the Ombudsman, she explained that the State had frozen the budgets, but hoped that the negotiations taking place between the Ministry of Finance and the Office of the Ombudsman would ensure that it received the funding it needed to fulfil its mission.

21. **Mr. Klickovic** (Bosnia and Herzegovina) said that special projects were being drawn up to promote employment for returnees. As a population group, they faced many difficulties, particularly in the area of housing, which did not make it easy for them to join the labour market, and particularly the agricultural sector. On maternity rights, he said that women had the right to maternity leave and benefits. In Republika Srpska, the authorities had put in place a central child protection fund which paid benefits to pregnant women; in the Federation of Bosnia and Herzegovina, the benefits were paid by the cantons. Legislation expressly prohibited the dismissal of employees when on maternity leave or working reduced hours in order to care for their children; the right to maternity leave could not, however, be invoked to extend a work contract.

22. The delegation did not have data disaggregated by year and by population group for the 2010–2012 unemployment rates, but the overall unemployment rate, according to the definition of the International Labour Organization, at the end of 2012 was 28 per cent. To combat unemployment, the State had a specific budget for the employment of young people, women and people with disabilities. It had passed laws that were fully consistent with the provisions of the relevant United Nations instruments on the recruitment and employment of persons with disabilities; institutions had also been set up to help persons with disabilities who wished to find a job or to set up their own business, and the State was trying to provide other financial assistance.

23. He said that the Labour Inspectorate of the Federation of Bosnia and Herzegovina, which was responsible for monitoring the application of labour laws, had very few staff (eight inspectors). Despite that, it had conducted no fewer than 1,117 inspections and delivered 120 decisions in 2012. The Labour Inspectorate of the Republika Srpska had a staff of 35 inspectors, which was still inadequate. It had nevertheless carried out 6,746 inspections and issued 25 bans on activities in 2012. Throughout the country, bans were issued in cases of serious and repeated violations, including of the rights of young people and women. With regard to the sanctions imposed on persons working in the informal sector (the six-month waiting period before they were allowed to re-enrol with the Employment Agency), he explained that working in the parallel economy was harmful not only to the worker concerned, but also to the public interest. However, consultations had

been planned with three socioeconomic agencies to decide on measures that might be better adapted to combating the phenomenon.

24. The minimum wage in the Federation of Bosnia and Herzegovina was 343 convertible marka (KM) and was to be raised to 378 KM. It was lower in the Republika Srpska (270 KM). Those amounts were far from enough to ensure a decent standard of living for a family of four persons (the reference unit). In Republika Srpska, it was proposed to increase the minimum wage to 50 per cent of the average wage. With regard to the restrictions imposed by the State and employers on trade union activities, he stated that there were not currently any labour conflicts that might suggest that the authorities or companies were an obstacle to trade union activities. Furthermore, the Constitution and other legislation prohibited any interference in the activities of trade unions. In addition, under legislation on the right to strike, prior notice of a strike was required only in sectors of public interest.

25. The two Entities were responsible for the pension system (retirement and disability pensions, death grants and family allowances). The amount of the pension depended on the person's age and the contributory period; if that was small, the local authorities would grant supplementary benefits. He confirmed that there was legislation that defined and established the principle of equal pay for work of equal value, and that the privatization policy adopted by the State had resulted in a rise in the unemployment rate. The low level of trade union activities in privatized companies could be explained by the employees' lack of initiative. The right to strike was still applicable in privatized companies.

26. **Ms. Milinovic** (Bosnia and Herzegovina) said that, pursuant to the Gender Equality Act, when drawing up new legislation, the legislator was required to consult the authority responsible for gender equality. It was also possible to refer the matter to the Parliamentary Commission on Gender Equality, which would make the appropriate amendments to the text concerned as soon as possible. Furthermore, the State had been cooperating effectively and increasingly over the previous 10 years with a large number of NGOs working in the field of gender equality, and measures had been taken to combat gender-based violence, promote the economic empowerment of women and ensure the social inclusion of all women, in particular.

27. **Ms. Taraba** (Bosnia and Herzegovina) said that the Office of the Human Rights Ombudsman, which came under the Ministry for Human Rights and Refugees, was responsible for ensuring the application of the 1999 law prohibiting discrimination. In 2012, the department responsible for dealing with complaints sent to the Human Rights Ombudsman had recorded, *inter alia*, 81 complaints concerning psychological harassment in the workplace, 26 complaints concerning discrimination against national minorities, 14 complaints related to political affiliation and 13 concerning gender-based discrimination. According to the High Council of the Judiciary, 75 cases of discrimination in employment and 11 cases related to employment conditions had been recorded between 2011 and 2013.

28. Pursuant to the Prohibition of Discrimination Act, each public body, whatever its field of competence, must create its own database of cases of discrimination identified and communicate the data collected to the Ministry of Human Rights and Refugees, which in turn reported it to the Council of Ministers. Work was under way to bring the legislative corpus into compliance with the Prohibition of Discrimination Act and the Gender Equality Act to ensure their uniform application throughout the country. Discrimination against displaced persons was racial discrimination and was prohibited by the Criminal Code, which had recently been modified to cover hate crimes. The Labour Code, the Health Care Act and the Social Security Act provided guarantees in the area of maternity benefits, including for women who were self-employed. In Bosnia and Herzegovina, those matters fell within the mandate of the cantons and it was planned to standardize the provision of

maternity benefits in line with the federal Family Protection Act. Brčko District and Republika Srpska had enacted their own laws on the subject.

29. **Ms. Smajevic** (Bosnia and Herzegovina) said that the efforts to promote the return and resettlement of returnees and displaced persons in their communities of origin were continuing. Even before the implementation of the revised strategy on the return of displaced persons, which provided for the reconstruction of housing and the closure of collective centres in application of Annex VII of the Dayton Agreement, most of those people had recovered their pre-war properties. However, according to the Ministry of Human Rights and Refugees, some 160,000 people were still waiting to be rehoused and were still not receiving the social benefits provided for under the Dayton Agreement, the implementation of which was estimated at 1.2 billion KM.

30. Funds had been allocated by the Entities for compensation for returnees, and the authorities were now focusing on closing down the collective centres and providing housing for persons in difficult circumstances. With the support of the United Nations High Commissioner for Refugees and the Council of Europe Development Bank, 80 per cent of the collective centres (121 centres) would be closed down in the near future and approximately 2,000 housing units would be built, at a total cost of €87 million, to be divided between Bosnia and Herzegovina and the international partners. Loans granted by the Organization of Petroleum Exporting Countries (OPEC) and the Saudi Fund for Development would help to accelerate implementation of the projects already under way. A donor conference had been held in Sarajevo in April 2012 to discuss sustainable housing solutions for the refugees and displaced persons currently in neighbouring countries who had been invited to take steps to return voluntarily to Bosnia and Herzegovina. The conference had resulted in the drafting of a regional plan for the construction of social housing that would allow the repatriation and rehousing of 5,400 families (14,000 persons) living in Croatia and in Serbia, including 2,400 refugee families (5,000 persons).

Articles 10 to 12 of the Covenant

31. **Mr. Pillay** was surprised that, almost 18 years after the end of the war, more than 8,600 displaced persons were still living in temporary shelters in the country and hoped that the State party's efforts to rehouse them in suitable conditions would produce results. He asked what measures had been taken to improve the standard of living of the 100,000 displaced persons, most of whom were living below the poverty line. He also wished to know whether rehousing solutions and compensation had been offered to Roma whose inadequate housing without property titles had been destroyed during the war, and if the Roma housing action plan had helped to improve their living conditions.

32. **Mr. Schrijver** asked whether the third Action Plan to Combat Trafficking had produced good results, which were the main countries of origin of the victims of trafficking, and to what extent trafficking was linked to transnational organized crime. He also wished to know whether the State party had sought the assistance of the international community to solve the problems of poverty and access to drinking water that affected a large part of the population.

33. **Mr. Atangana** asked whether the results of the 2009–2011 strategy to combat domestic violence had been assessed.

34. **Mr. Martynov** asked if the State party had statistics on the number of children living on the streets.

35. **Ms. Bras Gomes** asked whether the strategies adopted to reduce pregnancy rates among teenage girls had produced the desired results and whether a mechanism had been put in place to provide minimum health protection for the poorest and the most vulnerable. She wished to know whether the agreement between the Entities concerning the rights to

health insurance of refugees who moved from one Entity to another had been brought into force.

36. **Mr. Sadi** inquired whether the State party paid attention to the fate of children conceived of rape during the war and what measures of rehabilitation and psychosocial support had been offered to women victims of forced pregnancies.

37. **Ms. Shin** asked whether the State party intended to explicitly prohibit marriage between persons under the age of 18 in order to bring down the proportion of early marriages and to combat the trafficking of children.

Articles 13 to 15 of the Covenant

38. **Mr. Kerdoun** was concerned about the practice of “two schools under one roof”, as mentioned in the previous concluding observations (E/C.12/BIH/CO/1), and asked whether it was planned to provide one and the same education for all pupils, regardless of their ethnicity. He also wished to know what was being done to increase the school attendance rates and reduce the dropout rates of Roma children. Finally, he inquired about the results of the policies put in place in the framework of the Decade of Roma Inclusion (2005–2015).

39. **Mr. Schrijver** asked if culture was a way of facilitating the peacebuilding process.

40. **Mr. Marchán Romero**, recalling that the Special Rapporteur in the field of cultural rights, during her mission in Bosnia and Herzegovina in May 2013, had found that the country’s cultural landscape was becoming poorer, particularly after the closure of several cultural centres and the national museum, asked whether the State party intended to remedy the situation.

41. **Mr. Abashidze** asked how, given the lack of statistical data on the different ethnic groups, the State party implemented the rights enshrined in article 15.

The meeting rose at 1 p.m.
