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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 29 April 2008, at 3 p.m.

Chairperson: Ms. BARAHONA RIERA (Vice-Chairperson)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of France (E/C.12/FRA/3; E/C.12/FRA/Q/3 and Add.1; HRI/CORE/1/Add.17/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of France resumed their places at the Committee table.

Articles 6 to 9 of the Covenant (continued)

2. The CHAIRPERSON invited the delegation to answer the questions posed at the previous meeting.

3. Mr. MOLGO (France) said that the High Authority against Discrimination and in favour of Equality (HALDE) made recommendations to the Government, including recommendations concerning changes in legislation. The Government was not bound by those recommendations, but the publicity surrounding them generated public pressure to implement them. HALDE could also submit complaints of discrimination and represent victims of discrimination before the courts. It was not a judicial body in its own right, however, and had no power to impose sanctions for discrimination.

4. Ms. MOURANCHE (France) said that, although the unemployment rate in France remained relatively high, it had been falling for three years and had dropped to 7.5 per cent of the economically active population in 2007. The downward trend had been even more marked among young people and the long-term unemployed. The decline in unemployment could be attributed partly to significant growth in job creation in recent years and partly to government policies aimed at improving the quality and effectiveness of employment services.

5. It was true that unemployment among young people was very high (more than double the rate in the general population in 2007), but the proportion of unemployed among the young was the same as the proportion of unemployed in the general population. The Government had launched various initiatives to help young people find jobs. A youth employment plan introduced in 1997 had offered incentives for employers to hire young workers. The results after five years had been positive, especially among young people with university degrees, many of whom had found work in the public sector. Current initiatives focused on assisting the young people who experienced the greatest difficulty entering the labour market and finding permanent employment - those without secondary school qualifications or university degrees - through the development of apprenticeships, hiring incentives, new contractual arrangements and welfare benefits for young job-seekers, and efforts to ensure that the training pursued by young people was suited to labour market needs. The "Espoir Banlieues" plan aimed to increase employment opportunities for young people living in suburban and marginalized areas.

6. Mr. LEFEUVRE (France) said that young people who were immigrants or children of immigrants faced a number of barriers to employment, including lower levels of education and

training than their non-immigrant peers and discrimination by potential employers who preferred to hire workers with French names and French nationality. Measures to address those barriers included better occupational counselling in schools, internships and apprenticeships, assistance to enable young immigrants to attend universities and professional schools, and initiatives to promote diversity and prevent discrimination in employment. Measures to address the problem of unemployment and underemployment among immigrant youths with university degrees included internships and sponsorships, employment forums and assistance in preparing for competitive examinations for public-sector jobs.

7. Ms. MOURANCHE (France) said that the term “informal work” was not used in France. The preferred terms were “hidden” or “illegal” work. The latter included both employment of undocumented workers and illicit activities such as prostitution and drug-trafficking. She undertook to provide the Committee with data on the extent of such work at a later date. The Government was endeavouring to combat the phenomenon of hidden work through stricter controls on employers and initiatives aimed at discouraging such employment by demonstrating the benefits of social protection for both employees and employers.

8. A system was in place to encourage employers to hire persons with disabilities. Employers that did not do so were liable to financial sanctions. She undertook to provide the Committee with further information on that subject.

9. Mr. MOLGO (France) said that some 800,000 “new-hire contracts” had been signed since the introduction of that form of contract. That modality would shortly be eliminated, however, as the result of a social dialogue and negotiation process that had led to an agreement on contractual arrangements that would provide greater security for employees. The agreement would be reflected in new legislation currently under discussion in Parliament, which would bring about major labour market reforms.

10. Mr. MATTEI (France) said that one of the aims of the new legislation was to bring France into compliance with International Labour Organization Convention No. 158 (Termination of Employment Convention, 1982).

11. Mr. NOBLET (France) said that the minimum income allowance (RMI) was intended for people who had no other source of income and were not eligible for disability, old age or other benefits. Young people aged 18 to 25 were not normally covered by the RMI, although there were exceptions, for example in the case of those who were parents. Other forms of assistance were available for young people who were unemployed or whose incomes were not sufficient to meet their needs. The minimum wage (SMIC) was the amount needed to ensure that a worker lived above the poverty line - currently about €1,000. Nine categories of minimum social benefits were available to assist the unemployed and the working poor. Reform of the social benefits system was needed in order to reduce its complexity and in order to encourage beneficiaries to continue seeking employment.

12. Mr. MOLGO (France), answering questions about occupational health and safety, said that the Government had launched a plan in 2005 aimed at increasing awareness of occupational risks and tightening controls through more frequent workplace inspections of small and medium-sized enterprises in particular, in sectors with especially high rates of occupational risk and injury.

13. Ms. ROUSSEL (France) said that a plan had been introduced in 2005 with a view to increasing the availability of affordable housing over a five-year period. Since then, the construction of housing for underprivileged populations had doubled. The plan also sought to improve the quality of housing.

14. Ms. DIEGO (France), said that the European Court of Human Rights had found a violation of article 4 of the European Convention on Human Rights in the Siliadin case; the working conditions of Ms. Siliadin, a foreign minor employed by a family in France as a domestic worker, fell within the definition of servitude. The family had been acquitted on appeal in the domestic courts because French criminal law at the time had been more restrictive than article 4 of the European Convention. New legislation on modern forms of slavery had subsequently entered into force in March 2003, and the Criminal Code had been amended to provide for penalties for offences related to trafficking in persons. The Siliadin ruling had been posted on the Ministry of Justice Intranet to raise awareness of the issue among France's judges.

15. Mr. SADI said that the Committee had been informed of cases of domestic workers being employed in conditions of servitude by diplomats in France, and asked what mechanisms were in place to prosecute those pleading diplomatic immunity and protect the victims.

16. Ms. BRAS GOMES said that the State party's assertion that structural unemployment had decreased in the past five years was not in line with other information available to the Committee. She would welcome the relevant data, disaggregated by sex and age, for the past three years. She would be interested to hear the Government's position on informal employment and whether people in irregular employment were afforded basic human rights, social security and health care. She requested further information on the 7 million jobs from which first- and second-generation immigrants from low-income suburbs were excluded. She asked what was being done to combat and sanction discrimination on the grounds of non-French names.

17. Mr. MATTEI (France) said that diplomats found to be employing domestic workers in conditions of servitude could be prosecuted, as the Government had the option of lifting diplomatic immunity.

18. Ms. DEMIGUEL (France) said that the Government had recently incorporated a European Union directive to protect victims of servitude into French law. Victims received police protection and were granted residence permits allowing them to work in France. If the perpetrator was convicted, the victim was granted a 10-year renewable residence permit. As those provisions were recent, work was currently under way to inform the relevant authorities.

19. Mr. MATTEI (France) said that the 7 million jobs in question were jobs for which French nationality was a prerequisite. As to discrimination on the grounds of non-French-sounding names, the High Authority against Discrimination and in favour of Equality (HALDE) was taking measures in that regard.

20. Mr. LEFEUVRE (France) said that the 7 million jobs referred to by Ms. Bras Gomes were in the civil service and State enterprises, and also in the fields of law and medicine. The Government had entered into negotiations on broader access with some of those enterprises, and that had resulted in the recruitment of some young people of immigrant origin from

disadvantaged neighbourhoods. It was necessary not only to make jobs accessible, but also to offer a genuine possibility of recruitment, and measures had therefore been adopted to provide training to certain groups for civil service competitive exams.

21. Ms. MOURANCHE (France) said that the delegation would provide the Committee with the latest unemployment figures. On the question of irregular work, she said that it was necessary to distinguish between undeclared work carried out by French or foreign workers legally resident in France and work done by illegal residents, and also work done by illegal residents who were in regular work obtained using false papers. It was a complex situation, in which labour inspections played an important role. Employers in such cases faced criminal convictions, including prison sentences. The question of regularization of illegal workers was currently being debated in France.

22. Ms. DEMIGUEL (France) said that, as from July 2007, employers were obliged to check the status of new foreign employees with the police.

Articles 10 to 15 of the Covenant

23. The CHAIRPERSON invited the members of the Committee to put questions to the delegation on the remaining articles of the Convention.

24. Mr. ATANGANA, referring to question 17 on the list of issues, said that he would welcome more detailed information on the impact of measures taken to address the problem of domestic violence and on convictions under the new legislation.

25. Mr. PILLAY said that there were 3 million working poor in France and there appeared to have been no significant reduction in poverty levels. Anti-exclusion legislation did not seem to be having the desired effect. He suggested that that might be because a rights-based approach to poverty had not been adopted and asked whether anti-poverty policies integrated economic, social and cultural rights. He was concerned that the poor appeared to have no say in the elaboration of the policies that affected them. Other issues were the criminalization of poverty, the fact that the poor were treated as though they were responsible for their own poverty, and the relationship between poverty and discrimination against minorities. He asked why the solidarity benefit appeared to target only the least poor.

26. In the area of housing, the legislation appeared not to be implemented in practice and little was being done to provide alternative accommodation to evicted families, including Roma families evicted from camps, which ran counter to the Committee's general comment No. 7 on the right to adequate housing. He asked the State party to include data on the number of forced evictions in its next periodic report.

27. Recalling that the Committee had already expressed its concern at the extent of homelessness in its 2001 concluding observations, he said that there appeared to have been no reduction in the number of homeless persons since then. Shelter and care were inadequate, there was a shortage of places in emergency shelters, and facilities were substandard. In order to combat the problem, it would be necessary to collect data on homelessness at regular intervals.

28. He expressed concern that, even if the State party met its targets for the construction of low-cost housing, there would still be a major deficit. There was also a problem in the allocation of the few low-cost units available and long waiting lists. The fact that around 1 million people were affected by substandard housing was also a major concern, as was discrimination against people with disabilities and members of visible minorities in access to housing.

29. He welcomed the fact that the right to housing was a justiciable right, but financial resources were necessary to make it effective.

30. Mr. RIEDEL commended the State party on its report and written replies. He welcomed the fact that State Medical Assistance had been extended to undocumented or unaccompanied foreign minors and asked the delegation to comment on the effects of the unprecedented rise in budget expenditure in that area.

31. He commended the laudable efforts to combat HIV/AIDS and the remarkable decrease in prevalence. He welcomed the State party's candid analysis of the major problem of suicide in France but regretted that there was little specific information on concrete steps taken. He would be interested to hear whether the Government would be prepared to set targets in that regard for the next reporting period.

32. He wondered what was being done to address mental health problems in prisons and asked for disaggregated figures to enable the Committee to assess whether there had been any improvements in that regard. He invited the delegation to comment on the system whereby psychiatric beds were set aside for prisoners in the prison itself, which might not provide the same level of treatment as a hospital.

33. He understood that the National Consultative Commission on Human Rights could not take up cases directly but must wait for referrals from the Government, and he would like more information on that point.

34. Ms. WILSON asked what measures were in place to protect children from corporal punishment at school, at home and in care institutions. Did criminal law explicitly prohibit corporal punishment at school? She asked whether it was true that light corporal punishment was allowed in the home, and whether the situation had improved since 2005, when the European Committee of Social Rights had expressed concern.

35. She asked whether the 2003 law on modern forms of slavery covered trafficking in children and women, child pornography and sexual exploitation. Noting that, in its 2006 concluding observations, the Committee against Torture had expressed concern at the light sentence imposed in the Selmouni v. France case, she asked whether more stringent penalties had been introduced since then for public officials found guilty of torture.

36. Mr. SADI said that the conditions of eligibility for Universal Health-Care Coverage referred to in the State party's report (E/C.12/FRA/3, para. 294) seemed arbitrary, and he wondered what the justification was.

37. The fact that suicide was the second cause of death among 15 to 44-year-olds meant that the situation had reached crisis point and required more effective preventive measures.

38. On the right to food, he wondered whether the Government had considered reassessing the position of agriculture in the national economy in view of the global food crisis.

39. He suggested that the Government should make a greater effort to promote and support regional languages, such as Basque and Breton, that were associated with particular group cultures, irrespective of the status of those groups. He asked whether the Government made a distinction between the language rights of immigrants and those of indigenous groups: in his view, regional languages warranted greater rights.

40. Mr. ZHAN Daode, reflecting that suicide had accounted for 2 per cent of total deaths in 2003, asked whether the situation had changed since then and whether more recent statistics were available.

41. Mr. MARCHÁN ROMERO commended the format of the report, which was concise and to the point and provided responses to the Committee's 2001 recommendations. He disagreed with the State party's argument that the principle of universal equality enshrined in the French Constitution was an impediment to the recognition of minorities. Such a position ignored the dual nature of cultural rights, which could be exercised individually or collectively within a specific community. The Committee was of the view that minorities had the right to be recognized as such if they so wished. By denying their existence, there was the risk of creating a unidimensional, assimilationist society. He reiterated the concerns expressed by the Committee in its 2001 concluding observations in that regard.

42. Mr. KERDOUN expressed concern that, despite the measures adopted by the State party to reduce school dropout rates, they remained high. Given the link between academic success, employment and social integration, he wondered whether the State party envisaged adopting any other measures to reduce dropout rates, in particular for children of immigrants in the suburbs. He was also concerned about the poor reading skills of young people, even among those who had completed secondary school, and he asked whether the new plan on educational priorities had led to any improvement in students' reading skills. Was there a mechanism for measuring results?

43. He noted that, according to the written replies to item 29 of the list of issues, regional languages had the same status as foreign languages in the education system and he wondered whether it would not be more appropriate for them to have special status. Likewise, the Constitution could be amended to grant them national or official language status in recognition of France's linguistic diversity. More could be done to promote the teaching and use of the languages of France's large immigrant population.

44. Ms. WILSON wondered whether the State party considered minority rights to be collective rights requiring special protection. The teaching of minority languages did not seem to be a priority and in some cases the State party seemed to be backsliding; for example, the Breton language was no longer being taught at the University of Nantes. Recalling article 13, paragraph 4, of the Convention, which guaranteed individuals and bodies the liberty to establish educational institutions, she asked whether minorities in fact had the right to establish their own educational institutions and whether there were schools where teaching was done in minority languages. She also asked whether, in regions where there was sufficient demand, minority languages were at least taught in the schools, even if the entire curriculum was not taught in the minority language.

45. Ms. BRAS GOMES asked whether the decrease in the number of refugees and asylum-seekers was due to the introduction of new administrative and regulatory barriers to the granting of refugee status or asylum. She noted positive measures such as the improvement of holding areas at airports and the increase in the number of centres for refugees and asylum-seekers but wondered what could be done to speed up the family reunification process, which currently might take more than a year. She requested more information on the State party's policy on return of immigrants and expressed concern at reports of an official policy of returning at least 25,000 individuals per year. She stressed that files should be reviewed on a case-by-case basis. She had received reports of poor conditions in detention centres and wondered what was being done to address that situation.

46. She was concerned that migrant women and single mothers, especially those living in sensitive neighbourhoods, did not have adequate access to social services and suggested that special measures should be introduced to meet their needs and protect their human rights. It was not clear whether the poverty threshold was 50 per cent or 60 per cent of the median income (E/C.12/FRA/3, para. 103). More information on efforts to meet the needs of the Roma population would be welcome, in particular with regard to employment and living standards.

47. She was concerned at reports from NGOs that measures aimed at tackling the problems of vagrancy and delinquency, for example by giving mayors quasi-judicial powers to deal with vagrancy, effectively transferred responsibilities and powers from the judiciary to the police and local authorities.

48. Turning to article 15 of the Convention, she noted that, according to the European Bureau for Lesser-Used Languages, children of regional linguistic minorities should be able to study in their own languages and bilingual education should be subsidized at the same level as regular schools. Furthermore, public services and institutions should make use of regional languages, for example through the use of bilingual signs.

49. The CHAIRPERSON requested information on bilateral conventions between the State party and Algeria and Morocco. It was a cause for concern that, if a Moroccan woman living in France wished to divorce her husband, she would be subject to Moroccan and not French civil law. In addition, although progress had been made in reducing violence against women, by criminalizing trafficking in persons, and raising the minimum age of marriage, she wondered whether the State party intended to introduce specific provisions in the Criminal Code to make domestic violence an offence.

50. Ms. ROUCH (France), replying to the questions on domestic violence and the protection of children, said that victims of domestic violence were assisted by the local authorities, who reviewed the situation and referred victims to the services described in France's reply to item 17 of the list of issues (E/C.12/FRA/Q/3/Add.1, paras. 165-188). Administrative protection measures could for example be ordered for child victims, and income supplements could be provided to disadvantaged families to help them care for their children. Serious cases were referred to the family courts.

51. According to the most recent statistics the courts had identified approximately 18,000 cases of child abuse; 52 per cent of those children had been placed in specialized institutions

and 24 per cent in foster families. The Government had spent €5 billion in 2004 on care for child victims of domestic violence. Educational measures were available to help child delinquents and children at risk of coming into conflict with the law. In addition, a special service for the protection of children up to the age of 6 had more than 700 offices across the country.

52. Ms. DIEGO (France) said that, while the Criminal Code made no specific provision for corporal punishment, there was sufficient provision to ensure that serious cases did not go unpunished. Pursuant to article 222 of the Criminal Code, relatively minor acts of violence were punishable by up to three years' imprisonment and a fine and acts of violence against a minor, in particular on the part of a parent or a person in authority, such as a teacher, were considered aggravating circumstances. The attitude of the courts was that parents had a right to punish their children in an appropriate and proportionate manner so long as the punishment did not result in any lasting physical or psychological harm.

53. With regard to human trafficking, in particular child trafficking, she said that France had ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and there were specific provisions in the Criminal Code on the sale and prostitution of minors and child pornography. In September 2007 the Committee on the Rights of the Child had commended France for its comprehensive legislation protecting children from trafficking and pornography.

54. Mr. KURKDJIAN (France) said that in 2006 12,000 men and 202 women had been found guilty of domestic violence. Measures imposed by the courts could include eviction of the guilty partner from the home or the provision of alternative, low-cost housing to victims. Low-cost housing could also be provided to victims who had fled their homes pending the outcome of court cases and, if no such housing was available, they could be placed temporarily in shelters. The 2008-2010 plan of action to combat domestic violence included measures to counsel perpetrators as well as children who had witnessed domestic violence, with a view to preventing them from becoming abusers themselves. He stressed that his Government considered domestic violence to be a serious crime.

55. Mr. BOUGNERES (France), replying to Mr. Pillay, said that while in 1992 5 per cent of the population had been living in what was considered to be inadequate housing, the current figure was around 1 million households or 2 per cent of the population. An acceptable standard was defined as housing with a toilet, a bathroom and heating. He noted that some two thirds of those housing units that were deemed substandard were individual homes in rural areas and he did not believe therefore that inadequate housing was a major factor in tensions in urban areas. Legislation adopted in 2004 gave tenants living in inadequate housing the right to go to court to force landlords to make renovations or obtain a reduction in their rent.

56. In order to reduce the number of evictions, a charter defining alternative measures had been drafted. Mediation services were available to help tenant and landlord come to an agreement and low-income tenants had a longer grace period between the landlord's filing of notice of eviction and referral of the case to the courts, in order to allow for mediation and intervention by social workers. Low-income households were eligible for assistance from the national and local authorities. In addition, pursuant to the Act of 18 January 2005, special temporary rental contracts could be signed in cases where the courts had cancelled a lease; to

date approximately 10,000 households had taken advantage of that mechanism. Lastly, he described the rent guarantee programme which exempted tenants from the requirement to pay two or more months' deposit while protecting landlords against the risk of unpaid rents; to date some 50,000 households had taken advantage of that mechanism.

57. He said that his Government was aware of the need to increase the availability of low-cost housing. Low-cost housing was allocated by local commissions made up of the social services, civil society organizations and municipal authorities. Once a decision was taken regarding a request for housing, the Prefect had three months to allocate a housing unit. Applicants had the right of appeal, in which case the commission had three to six months to respond. Applicants could further appeal to the courts. Nearly 20,000 appeals had been filed and a decision taken in approximately 3,000 cases, half of them in favour of the applicant.

The meeting rose at 5.55 p.m.