



Economic and Social Council

Distr.: General
12 November 2013

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-first session

Summary record (partial)* of the 38th meeting

Held at the Palais Wilson, Geneva, on Friday, 8 November 2013, at 3 p.m.

Chairperson: Mr. Kerdoun

later: Mr. Kedzia

Contents

Consideration of reports

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

Second periodic report of Bosnia and Herzegovina (continued)

* No summary record was prepared for the rest of the meeting.

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 3.05 p.m.

Consideration of reports

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

Second periodic report of Bosnia and Herzegovina (continued) (E/C.12/BIH/2; E/C.12/WG/BIH/Q/2 and Add.1; HRI/CORE/BIH/2011)

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) said that the Office of the High Representative had reduced its involvement in the Economic Transition Unit while the European Community had taken the lead in preparation for the country's accession to the European Union. The efficient use of resources for development was hindered by the consequences of the war, especially the destruction of industry. Nevertheless, the country should use its water and environmental resources to improve development. In accordance with the Covenant, all territories in Bosnia and Herzegovina had the right to access natural resources.

3. The legal framework provided adequate protection for women victims of sexual violence in wartime. Transitional justice was important and relevant policies were being developed to provide a consistent and adequate approach that was acceptable to victims, who also benefited from several projects. In all three entities, victims of war enjoyed adequate social rights and new draft legislation provided for their rehabilitation, although more funds were needed to improve mental health services.

4. Training for the judiciary and prosecutors covered international instruments, including the Covenant, and the Ministry for Human Rights and Refugees had prepared training modules aimed at law enforcement officials and civil servants. Furthermore, human rights training was obligatory for the police and the military and included familiarization with international instruments. Domestic legislation was applied except in cases where international instruments took precedence.

5. Although non-governmental organizations (NGOs) had called for the establishment of a national human rights institution, the country already had substantial human rights resources, particularly in the form of the Ombudsman's office. NGOs played an institutional role in receiving resources and training in order to conduct research and make recommendations. They could also participate in reporting to treaty bodies as part of the expert group appointed to draft an initial report, by commenting on the initial report during public consultation and by providing research to be used in the report.

6. Extensive measures to implement the Covenant had been adopted and she hoped that a comprehensive programme would continue until 2015, so that all cases of discrimination were covered and sufficient data could be gathered.

7. **Mr. Terko** (Bosnia and Herzegovina) said that there were significant differences concerning social protection between the different entities because the country lacked clear minimum standards, particularly in the Federation of Bosnia and Herzegovina, where coverage differed at the cantonal level. In 2011, total spending on social security had been 17.1 per cent of gross domestic product (GDP) according to the World Bank. However, three quarters of such spending came under war-related categories, which the World Bank had described as unsustainable, ineffective and unjust. When war-related categories were excluded, social protection amounted to only 1.2 per cent of GDP. Reductions in allocations for war-related categories would lead to unrest, and therefore social protection

reform should focus on improving all types of benefits. Social protection spending needed to be increased, but the difficult economic situation had put pressure on budgets at all levels of government. At any rate, the previous year had seen no reduction in social benefits.

8. In the Federation of Bosnia and Herzegovina, social protection was regulated by a framework law that each canton then translated into its own legislation, leading to significant discrepancies. In Republika Srpska and Brčko District, it was regulated by the Law on Social Protection and administered by social work centres, which were facing difficulties owing to increased requests. New legislation had been adopted in Republika Srpska that would increase allocations and reduce the gap between war-related and non-war-related categories. Additionally, work to remove the differences between the cantons of the Federation of Bosnia and Herzegovina was under way.

9. **Ms. Šantić** (Bosnia and Herzegovina) said that much attention was paid to the Roma, the largest and most vulnerable minority group in the country. Legislation and strategies protecting national minorities had been adopted, along with action plans addressing the problems of Roma employment, housing and health care. Bosnia and Herzegovina was a participant in the Roma Decade. Most of the State funds allocated for the purpose had been spent on housing and the remainder on employment and health care. From 2009 to 2012, 360 housing units had been built or renovated and more than 100 were currently being constructed. All housing projects were co-funded by the State, the entities and local communities, and improvements in that sector had been commended by the other States participating in the Roma Decade.

10. Employment and health care were addressed through memoranda of understanding with relevant institutions that had focused mainly on self-employment projects, raising awareness of health-care issues, vaccinations for children and other initiatives.

11. To facilitate planning and improve methodology, an assessment of Roma needs had been carried out and Roma representatives were included in the drafting of action plans. Regular regional meetings were held with representatives of local and Roma communities and the measures taken had achieved positive results, as reflected in the country's election as Chair of the Roma Decade from 2014 to 2015 and its role as host of the meeting of the Ad hoc Committee of Experts on Roma Issues (CAHROM) in October 2014. Funding was received from international organizations, which employed a number of Roma mediators providing assistance in several areas.

12. **Mr. Tirado Mejía** said that national human rights institutions could not be replaced by ombudsmen, because the latter were not regulated by the Paris Principles. He suggested relevant reading material that might be of interest to the delegation.

13. **Mr. Kedzia**, noting that the Government had not prohibited trade unions, said that States parties' obligations under the Covenant went beyond introducing legislation; they should also promote rights and ensure private actors' respect for rights. He would appreciate the delegation's comments on the matter.

14. **Ms. Bras Gomes** asked why the proposal that all planned regulations should be screened by the Gender Equality Agency had not yet been approved by the Council of Ministers and whether it was planned to adopt it in future. While the State party's plan for implementing concluding observations was positive, a broader action plan on human rights was needed.

15. **Mr. Martynov** asked how the small number of labour inspectors was detrimental to occupational safety and whether safety had improved over time. He requested relevant statistics disaggregated by year.

16. **Ms. Shin** (Country Rapporteur) said it was important to note that an absence of labour disputes did not equate to an absence of workplace problems. The State party needed

to examine the issue more closely in order to ensure that workers did not refrain from joining trade unions because they feared threats or reprisals on the part of employers. She was concerned that trade union representation appeared to be limited to the private sector. With regard to the issue of equal pay for work of equal value, in view of the pronounced gender segregation visible in many occupations and sectors, she urged the State party to develop a system of cross-sector, cross-occupational comparison; it was not simply a question of ensuring equal pay for men and women who performed the same job.

17. **Mr. Sadi** asked for information about the sanctions that were applied when gender equality and anti-discrimination laws were violated. He would also like to know about any affirmative action measures such as quotas for women in public office.

18. **Ms. Duderija** (Bosnia and Herzegovina) said that the Government was engaged in a far-reaching capacity-building effort that would entail the creation of a national human rights commission in compliance with the Paris Principles and a national preventive mechanism, as well as an expansion of the anti-discrimination department of the Office of the Ombudsman. It was also working to develop a comprehensive human rights action plan with a wide-ranging purview that extended beyond implementation of the recommendations of the various international human rights bodies to embrace all areas of human rights. With more sophisticated use of information technology as a central component, the plan also provided for the compilation of better statistics and indicators.

19. **Mr. Kličković** (Bosnia and Herzegovina) said that national legislation established the right to form and join trade unions and provided for sanctions to be applied whenever that right was violated. Responsibility for oversight lay with the Labour Inspectorate. The formation of trade unions was actively encouraged, trade unions were key contributors to social dialogue and collective bargaining, and employers were urged to recognize and accept the importance of their role. Trade union representation existed in some parts of the public sector but was not comprehensive. However, that situation should be rectified following ratification of the International Labour Organization Labour Relations (Public Service) Convention, 1978 (No. 151).

20. The new laws on labour inspections and public service established very strict workplace safety requirements and provided for the implementation of measures that should reduce the incidence of workplace accidents, which was worryingly high in some sectors, notably electricity and forestry. The delegation could provide the Committee with detailed statistics if required.

21. **Ms. Milinović** (Bosnia and Herzegovina) said that ministries were not under a legal obligation to consult the Gender Centres on draft legislation but that bills were submitted for an opinion in accordance with a conclusion adopted by the Council of Ministers in 2011. However, the Gender Centres would continue to lobby for a formal amendment of the rules of procedure.

22. A full range of sanctions was in place for violations of gender equality and anti-discrimination provisions, including administrative penalties and fines for legal entities that, for example, failed to provide gender-disaggregated data, and criminal penalties of up to 5 years' imprisonment for persons found guilty of gender-based violence.

23. Gender equality law set a minimum threshold for women on decision-making bodies of 40 per cent of all members, which was in line with the Council of Europe recommendation. The minimum quota for electoral lists was currently 30 per cent but was due to be raised in the near future. Other affirmative action measures included training and mentoring programmes for women standing for public office. The Gender Centres reviewed the situation every two years and submitted a set of recommendations to the Government.

24. **Ms. Smajević** (Bosnia and Herzegovina) said that there were still around 100,000 internally displaced persons living below the poverty line, many of them in collective centres. In addition to those who had lost their homes in the conflict, the collective centres also housed numerous families from marginalized groups who had been in irregular housing situations prior to the war. All citizens of Bosnia and Herzegovina were guaranteed social protection and assistance without discrimination in accordance with international treaties including the Covenant and the revised European Social Charter and national legislation, and while those provisions did not place the State under a legal obligation to build a home for every family, the authorities were required to take appropriate steps to maximize the resources available.

25. Housing policy was regulated at all levels of government and there was a broad spectrum of social housing programmes for vulnerable groups, with a specific focus on durable solutions for the residents of collective centres. Some residents had received assistance through the Return Fund administered by the State Commission for Refugees and Displaced Persons. For those with no homes to which they might return, not-for-profit social housing projects were being run in several municipalities with international donor support, notably from Hilfswerk Austria International, USAID, and Catholic Relief Services. The Ministry for Human Rights and Refugees was drafting a set of laws on public housing to prevent the privatization and misuse of social housing units.

26. **Ms. Šantić** (Bosnia and Herzegovina) said that more than 100 new housing units were being made available for Roma families each year. The Roma enjoyed the same right to return and repossession of property as all citizens did under the Dayton Agreement. The problem in their case was that their original housing units were mainly improvised shelters for which it was impossible to prove any form of legal tenure. However, progress was gradually being made and some municipalities were beginning to assign plots specifically for the construction of housing for homeless Roma. The Government had also applied to the European Union for Instrument for Pre-Accession Assistance funds and had been granted 5 million euros to date.

27. Development strategies for the Roma community were overseen by the Roma Board, which served as an advisory body to the Council of Ministers and worked in consultation with the Ministry for Human Rights and Refugees.

28. **Ms. Milinović** (Bosnia and Herzegovina) said that various plans and strategies for combating domestic violence were in place at the Federal and regional levels, including a five-year national strategy. Bosnia and Herzegovina had been one of the first countries to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and a State-level implementation strategy was currently being drawn up. The Criminal Code had already been harmonized with the standards of the Convention and judicial protocols had been adopted in many municipalities, while ongoing campaigns were helping to improve awareness of the issues.

29. Research into the incidence of domestic violence in Bosnia and Herzegovina that adhered to World Health Organization methodologies and United Nations indicators had been conducted in 2012 and had revealed that 41 per cent of women had experienced some form of violence at the hands of a former or current spouse or partner or another family member. Copies of the report were available for consultation by the Committee.

30. Programmes to raise awareness of sexual and reproductive health and gender equality issues were offered to all future and current mothers as well as to children in the senior grades of primary education and in secondary schools.

31. **Ms. Taraba** (Bosnia and Herzegovina) said that while the Ministry of Civil Affairs retained responsibility for policy and oversight, responsibility for funding and delivering health-care services had been devolved to the Federation of Bosnia and Herzegovina,

Republika Srpska and Brčko District. Each of the 10 cantons in the Federation also had a degree of autonomy under the two agreements governing the decentralized system of health-care entitlements and the transfer of entitlements between regions.

32. Over 80 per cent of citizens of Bosnia and Herzegovina were affiliated to the basic health insurance system. Approximately 340,000 citizens were uninsured but were nonetheless able to access basic services without charge. Free medical care was guaranteed to minors, persons aged over 60 and pregnant women, and the ultimate aim was to extend that guarantee to all persons in need.

33. **Ms. Jurić** (Bosnia and Herzegovina) said that young persons between the ages of 16 and 18 could marry, but only with a court's consent, if it considered that the couple was psychologically and physically mature enough and if marriage was in their best interests.

34. One survey had revealed that 5 out of 10 Roma girls and 2 out of 10 Roma boys entered into an early marriage. Responses to another survey sent to 33 municipalities where Roma formed the majority of the population had brought to light 44 early marriages and 73 juvenile pregnancies in 2012. Although local authorities had been urged to allocate resources to the investigation of early and forced marriage, there had been a general reluctance to interfere in customs which had been regarded as part of Roma tradition. However, there were plans to open centres to provide Roma mothers and girls with counselling in an effort to discourage early marriage.

35. **Ms. Duderija** (Bosnia and Herzegovina) said that her country had an efficient system for collecting data on human trafficking. Few trafficking victims came from other countries. While minors from minority and marginalized groups within the country did work as prostitutes in brothels, there was no proof that the latter were run by organized crime rings. Some of the victims of international trafficking had been brought into the country for the purpose of forced early marriage.

36. Children who begged in the street sometimes worked for criminal gangs. A number of projects had been implemented with the backing of Save the Children and the United Nations Children's Fund with a view to eliminating forced child labour and assisting victims. The main problem in that respect was a lack of resources for victim support. Teams of professionals and volunteers ran day centres for street children in six towns. Many of those children were Roma who had been forced by poverty to work on the street. In some cantons, the centres received funds from government budgets.

37. Living standards had formed the subject of a comprehensive survey in 2003. Statistics were regularly published on living standards, GDP, employment, unemployment, average wages, average income, pensions, etc. A population census, which would provide a large amount of helpful information, had been completed in October 2013.

38. In some areas of the country, drinking water was contaminated because the infrastructure had been damaged during the war, or because of faulty sewage disposal. Various programmes were being carried out to improve sanitation and protect the environment and public health. The delegation would provide a detailed written reply on those issues.

39. **Ms. Jurić** (Bosnia and Herzegovina), responding to the question regarding segregated education, explained that, under the Constitution, education was the responsibility of the entities. The Ministry of Civil Affairs had been instructed to coordinate educational activities and harmonize the plans of the various education authorities, because the 12 units all had their own laws, budgets and policies. The Federal Ministry of Education and Science played a purely coordinating role. Nine education institutes were responsible for drawing up curricula, training teachers and monitoring their work. The Ministry of Civil

Affairs had initiated the adoption of five framework laws in the field of education, which were based on the key international human rights instruments.

40. The Council of Ministers had asked all the ministries in Bosnia and Herzegovina to implement the recommendations made by the Committee on the Rights of the Child in 2012 and to harmonize legislation so as to ensure that the right to education could be exercised in a child's mother tongue. In the second half of 2013 the Ministry for Human Rights and Refugees had asked the Republika Srpska, the Federation and all the cantons to draw up a plan for giving effect to those recommendations. It was hoped that the various governments would have submitted their plans by the end of 2013. The Conference of Ministers of Education, held in September 2013, had condemned all forms of discrimination and segregation on any grounds in education. Pursuant to the country's international obligations, it was incumbent upon the competent education authorities to ascertain whether discrimination or segregation occurred in their respective communities and to eliminate any that might exist.

41. Many Roma children did not attend school and those who did had a high dropout rate. A revised Action Plan on the Education Needs of the Roma had been adopted in 2010. It had four aims: to enrol Roma children in primary education; to motivate Roma children to continue with secondary and higher education; to give Roma youth vocational training, and to preserve the Roma language, traditions and culture. A team had been set up at the Ministry for Human Rights and Refugees to monitor implementation of the plan. The team had submitted its first report and was drafting its second. The adoption of the revised action plan had led to a considerable increase in the number of Roma children enrolled in primary schools. Education authorities provided free textbooks, free transportation and free school lunches to encourage those children to remain in school. In 2012–2013, 95 per cent of Roma schoolchildren had received some form of assistance. In 2012, 30 Roma pupils had completed secondary schooling.

42. **Ms. Duderija** (Bosnia and Herzegovina) said that the education authorities of her country were facing numerous challenges. Temporary appropriations would be sought in order to enable some cultural institutions, which were currently closed, to reopen. The authorities of her country were striving to achieve better human rights standards.

43. **Mr. Sadi** asked whether, in schools, there were any courses designed to heal the psychological scars of the armed conflict.

44. **Ms. Shin** (Country Rapporteur) enquired how laws and policies to desegregate schools were enforced.

45. **Mr. Marchán Romero** asked the delegation to comment on information contained in a report by the Independent Expert on minority issues indicating that, under the Constitution of Bosnia and Herzegovina, persons from minorities had only limited possibilities of being elected to high political office and that a revision of the relevant constitutional provisions was therefore necessary.

46. **Ms. Duderija** (Bosnia and Herzegovina) said that the political authorities in her country had agreed to repeal the provisions of the Election Law and the Constitution which discriminated against ethnic minorities. They were currently seeking a means of reconciling the two systems operating in Republika Srpska and the Federation.

47. In the education sector, discrimination on ethnic grounds was prohibited. Individuals or groups could therefore file a complaint with the courts in order to challenge any practices which they considered to be discriminatory. The authorities were waiting for the courts' decisions in cases which had already been brought in order to determine what action should be taken. The Ministry for Human Rights and Refugees, the Ombudsman and the Parliamentary Committee for Human Rights were endeavouring to alter practices before

matters reached the stage of being referred to the courts, but the subject of discrimination was extremely delicate, since the problems which arose in that connection were related to recent history. The country was in a process of transition and it therefore needed the support of the international community in order to make progress.

48. *Mr. Kedzia took the Chair.*

49. **Ms. Shin** said that the complex governmental structure imposed on Bosnia and Herzegovina by the Dayton Peace Agreement should not prevent the authorities from doing more to promote and protect economic, social and cultural rights, especially those of the Roma population. She urged the delegation to provide statistical information in writing within the 48-hour time limit.

50. **Ms. Duderija** (Bosnia and Herzegovina) undertook to convey the Committee's concerns to the authorities of her country. The Committee's recommendations would help the Council of Ministers and the entities' Governments to improve the human rights situation in Bosnia and Herzegovina, despite the major economic and political challenges they were facing.

51. **The Chairperson** thanked the delegation for its detailed, frank replies.

The discussion covered in the summary record ended at 5.20 p.m.