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Committee on Economic, Social and Cultural Rights

Fifty-first session

Summary record of the 53rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 20 November 2013, at 10 a.m.

Chairperson: Mr. Kedzia

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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 *(continued)*

Fourth periodic report of Austria ((E/C.12/AUT/4); core document (HRI/CORE/1/Add.8); list of issues (E/C.12/WG/AUT/Q/4); written replies of the Government of Austria to the list of issues (E/C.12/WG/AUT/Q/4/Add.1))

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

2. **Ms. Sporrer** (Austria) said that Austria attached great importance to fully complying with its international human rights obligations and to cooperating with NGOs, and that it was engaged in a structured dialogue with the latter on the implementation of the universal periodic review recommendations adopted by Austria.

3. A national action plan for the equality of women and men in the labour market had been adopted in 2010 and included 55 measures aimed at reducing wage gaps and increasing the number of women in leadership positions. The Equal Treatment Act had been amended to ensure greater transparency regarding incomes in the private sector. In addition, the federal authorities had made a commitment to increase the proportion of women in supervisory bodies of enterprises in which the Government held a 50 per cent or larger share; as at March 2013, the proportion of women had reached 33 per cent on average. In order to combat the unequal sharing of care responsibilities between women and men, the federal Government had increased its investments in childcare facilities and had introduced a one-month paternity leave in the federal civil service and other public institutions.

4. As for the labour market, the unemployment rate in Austria was about 5 per cent, one of the lowest rates in the European Union. The Labour Market Promotion Act was aimed at achieving and maintaining full employment. In order to combat poverty, the Government provided additional social benefits under the general social security schemes, including for large families. The needs-based minimum benefit system, established in 2010, constituted a reform and harmonization of the regional social assistance schemes. Despite the financial crisis, no reductions had been made to social benefits. Lastly, the Federal Constitutional Act on the Rights of Children, which had entered into force in 2011, enshrined core elements of the Convention on the Rights of the Child, which therefore had constitutional status in the national legal order.

Articles 1 to 5 and 6 to 9 of the Covenant

5. **Mr. Pillay** (Country Rapporteur) noted with satisfaction the State party's commitment to economic, social and cultural rights and the large number of human rights provisions in force. He asked the delegation to clarify whether any specific mechanism was used to facilitate dialogue with NGOs and whether civil society had been consulted during the preparation of the periodic report. He wished to know what measures the State party planned to take to give full effect to all the provisions of the Covenant, and he asked how the State party ensured that the various Länder effectively complied with the obligations under the Covenant. He asked what was preventing the State party from ratifying the Optional Protocol to the Covenant.

6. **Mr. Ribeiro Leão** requested further information about the Ethnic Groups Act and about the purpose of cooperation projects and how they were chosen and carried out.

7. **Ms. Shin Heisoo** wished to know whether there was a mechanism in place to ensure the systematic implementation throughout the State party of concluding observations issued by the various treaty bodies, and whether there was a strategy to raise awareness among marginalized groups, particularly immigrants, about their rights. She asked whether the human rights impact of the State party's official development assistance was evaluated and whether there was a mechanism to monitor the activities of transnational corporations in countries that received such assistance. Noting that the State party did not intend to establish a national human rights institution that was in compliance with the Paris Principles, and that the mandate of the Austrian Ombudsman Board did not cover the private sector, she wondered how discrimination could be combated in that sector. She also wished to know how many fathers applied for the one-month paternity leave.
8. **Ms. Sporrer** (Austria) said that the dialogue with NGOs on matters pertaining to the Covenant was not yet as structured as the dialogues on other international instruments. The periodic report had not been sent to NGOs for their views because, although the authorities and the NGOs did engage in open dialogue, it was still a State report. With regard to the applicability of the Covenant in Austria, parliament was responsible for ensuring that the rights set out in the international instruments ratified by Austria were guaranteed by law. Although the courts could cite articles of international instruments ratified by Austria, they needed to refer to national laws that guaranteed the rights invoked, rather than to the corresponding international instruments.
9. The ratification of the Optional Protocol would be determined by the national human rights strategy to be adopted by the new National Council, whose members had been elected in September. The Ethnic Groups Act recognized five indigenous groups (Slovenians, Slovaks, Hungarians, Roma and Czechs), who received aid from the federal Government and the Länder. An advisory board had been established to liaise between the authorities responsible for such issues at the federal and Land levels.
10. **Ms. Werther-Pietsch** (Austria) said that development cooperation was based on a three-year programme (2013–2015) that focused on security, the rule of law and human rights, including as they related to the activities of transnational corporations.
11. **Ms. Sporrer** (Austria) said that bills drafted by the Länder on matters within their jurisdiction were always sent to the federal ministries, which verified that they were compatible with federal laws and with the Constitution. A network of human rights coordinators established in 1999 (by decision of the Council of Ministers) within federal ministries and regional governments ensured that follow-up was given to the concluding observations of all treaty bodies.
12. **Mr. Ruscher** (Austria) said that a State secretariat for integration had been established within the Ministry of the Interior; integration projects were financed through the federal budget or the European Refugee Fund. Since 2009, all police officers were required to attend a three-day seminar on cultural differences. In 2010, the Vienna police force had launched a campaign against prejudice that had since been expanded to other regions of the country.
13. **Ms. Sporrer** (Austria) said that an integration programme for migrants had been set up in Vienna, through which migrants in a regular situation received information, advice and social assistance from some 30 counsellors specialized in migration issues.
14. The mandate of the Ombudsman Board had been extended to cover human rights. The Board chose the members of the commissions that carried out its work, ensuring a gender balance and representation of various professions (lawyers, doctors, psychologists, etc.). The Board and the commissions served as a national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. They were assisted by the Human Rights

Advisory Council, which comprised representatives of ministries and NGOs. The Government was of the view that, although the Ombudsman Board was appointed by the National Assembly under its reorganized structure, it nevertheless fully complied with the Paris Principles. The Ombudsman Board's mandate to protect human rights also extended to private institutions such as children's homes or retirement homes. Cases of discrimination or human rights violations that occurred in other contexts were brought before the courts.

15. **Mr. Atangana** asked the delegation to provide the Committee with examples of Court decisions in which the Covenant rights had been invoked. He wished to know whether Austria planned to reconsider its position with regard to the reservation it had entered, in the light of general comment No. 9 on the domestic application of the Covenant.

16. **Ms. Bras Gomes** asked whether Austria intended to adopt a comprehensive anti-discrimination law that incorporated all the Covenant rights as well as general comment No. 20 on non-discrimination, thereby covering all possible situations, especially complex cases of multiple or systemic discrimination. With regard to the State party's extraterritorial obligations, she asked what remedy was offered to persons whose economic, social and cultural rights were violated in a country where Austria helped fund development projects, such as Sierra Leone.

17. **The Chairperson**, speaking in his capacity as a Committee member, asked whether Austria had a system in place to assess the human rights impact of projects it planned to fund.

18. **Ms. Cong Jun** asked what measures the Government had taken in order to reach its targets regarding the number of women in certain positions, and whether there was a body that monitored the implementation of decisions on gender parity within government ministries.

19. **Ms. Sporrer** (Austria) said that her delegation did not have at hand a list of the many laws implementing the articles of the Covenant but could provide one at a later time. General non-discrimination provisions were contained in the Constitution. She did not foresee any changes in the near future to the reservation made by Austria concerning the direct applicability of the provisions of the Covenant in national law, as the issue involved a principle of constitutional law. That position applied to all international treaties.

20. **Ms. Niavarani** (Austria) said that the one-month paternity leave applied only to civil servants. More than 300 men had taken up the option since it had been first offered to new fathers. Of those, 35 per cent were civil servants in the Ministry of the Interior. Awareness-raising campaigns had been conducted to encourage companies in the private sector to offer the same entitlement to their employees. Another campaign had been carried out as part of the State's efforts to combat stereotypes, aimed at showing girls that the range of jobs open to them was much broader than that to which they were accustomed. With regard to promoting the employment of women in government ministries, every two years each ministry was required to establish specific targets and the means of achieving them.

21. **Ms. Sporrer** (Austria) said that the new minimum benefit system adopted by the Länder for unemployed persons who did not receive any other social benefits had been harmonized by the federal Government on the basis of a constitutional rule that allowed it to conclude agreements with the Länder to harmonize social benefits.

22. **Ms. Amon-Konrath** (Austria) said that the Equal Treatment Act dated from 1979 and that the Office of the Ombudsman for Equality had been established in 1981. The Act's scope of application was very broad; it was not limited to employment but also included training, trade union membership and the setting up of businesses. The Act also prohibited sexual harassment and harassment based on other grounds such as race, sexual orientation,

age or religion. The Office of the Ombudsman was an independent body that could advise or assist individuals.

23. **Ms. Werther-Pietsch** (Austria) said that Austria's support for development projects aimed to promote equitable economic growth that reduced poverty and created jobs, subject to environmental and social standards, which required a systematic approach respectful of human rights. With regard to private sector participation in development cooperation, a group of business persons had been tasked with drafting principles on the implementation of economic, social and cultural rights and corporate social responsibility in that area. In Sierra Leone the Development Bank of Austria, which was leading the project undertaken in that country by Austria, applied international standards of environmental and social sustainability. If it found that any violation of the provisions of the Covenant or other international legal instruments had occurred, the cooperation project would be suspended and its funding would be cut.

24. **Mr. Dasgupta** noted that Austria had made a commitment to devote 0.7 per cent of its gross national income to official development assistance. However, the actual percentage had stood at only 0.5 per cent in 2007 and had then fallen to 0.27 per cent in 2011. He asked whether that halving of the amount of official development assistance indicated that Austria had taken a step backward in the implementation of its obligations.

25. **Mr. Sadi** noted that one of the reasons Austria had given for not applying the provisions of the Covenant directly at the national level was that their wording was too vague. In that regard, the State party might refer to the Committee's general comments, which were intended to clarify the provisions of the Covenant so as to make them easier for the courts to apply. The State party could also ratify the Optional Protocol as another way of promoting the implementation of the Covenant at the national level. He asked the Government to give the same attention to the Committee's recommendations as it gave to those made by the Human Rights Council in the course of the universal periodic review.

26. **Mr. Kerdoun** wished to know the amount of official development assistance provided by Austria through bilateral and multilateral cooperation and its reasons for not ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

27. **Mr. Abdel-Moneim** requested further details about the share of the budget and of the country's gross domestic product that was devoted to implementing each of the Covenant rights in Austria.

28. **Ms. Werther-Pietsch** (Austria) said that the Government was determined to meet its commitment to allocate 0.7 per cent of its gross national income to official development assistance, to which it had allocated 6.6 million euros in 2012. In order to make such assistance more effective, the Government was seeking to build partnerships in order to develop joint programmes that could benefit from the know-how and good practices it had gleaned from its experience on the ground in countries where it had liaison offices.

29. **Ms. Sporrer** (Austria) said that the Committee's general comments did indeed provide a better understanding of the provisions of the Covenant, but that the courts could not in any case directly apply the principles enshrined therein. She would provide the Committee with a list of national laws that made the Covenant rights enforceable. In view of the obligations that would arise from ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, particularly the obligation to open up the job market to them, Austria was currently not in a position to ratify that Convention.

30. **Mr. Ribeiro Leão** asked whether the legislation on remuneration, which stipulated that wages must be calculated according to the position held, also applied to foreigners — particularly those in an irregular situation — and to refugees and asylum seekers.

31. **Ms. Shin Heisoo** said that she understood that some unemployed persons, such as those attending a training course, were not counted as unemployed, and she asked how the State party calculated the unemployment rate, which was particularly low at 5 per cent. Noting that job seekers could be penalized in certain cases, she asked whether the State party had established a consultation mechanism to listen to complaints job seekers might have about the jobs they had been offered and their contacts with the relevant administrative offices. In view of the fact that women were often confined to certain job categories, she also asked whether the State party had sought to establish comparisons between different types of jobs so as to align salaries accordingly. She asked whether the State party's policy with regard to persons with disabilities consisted in encouraging their institutionalization and their placement in specialized schools or integrating them within the community.

32. **Ms. Bras Gomes** asked whether it was true that young migrants were excluded from apprenticeship programmes and that the number of apprenticeship places in general had greatly diminished between 2008 and 2010. She wished to know whether the Government planned to allow all young people to benefit from such training without any discrimination. She asked whether it was true that persons involved in asylum procedures did not have access to the job market, which limited their chances of integrating given that such procedures were generally very lengthy. The delegation might indicate whether the State party intended to raise the minimum wage, which, according to a report issued by a group within the Federal Ministry of Labour, Social Affairs and Consumer Protection, was thought to be out of touch with the real cost of living. It should also explain how the State party justified the deduction of certain social security contributions from the minimum benefit, which seemed illogical and unfair.

33. **Mr. Martynov**, noting the high youth unemployment rate, asked whether the State party had evaluated the effectiveness of its apprenticeship programmes and whether it planned to take any corrective action. Referring to paragraphs 61 to 63 of the State party's report, he asked whether the measures taken by the State party to reduce the number of unregistered workers — who were not covered by social security — had produced results, and he requested statistics in that regard. It would also be useful to know the unemployment rate for all migrants as well as for migrants from countries outside the European Union over the past five years.

34. He wished to know how many employers were required to comply with the framework agreement on the implementation of a monthly minimum wage of 1,000 euros as described in paragraph 76 of the report, and he also wished to know the average net salary in 2012 for comparison purposes. Lastly, he asked whether persons who had been denied social benefits could appeal that decision, whether it was true that as from 1 January 2014 partial disability pensions would be abolished for persons under 50 years of age, and, if so, whether those persons would be compensated for the resulting loss of income.

35. **Ms. Fehringer** (Austria) said that the labour laws applied to all workers without discrimination, regardless of whether they were Austrian or foreign and whether they were in a regular or irregular situation. To calculate the unemployment rate, Austria used the method recommended by the International Labour Organization (ILO) and the European Union. There were few cases in which sanctions had been imposed on the long-term unemployed; it was a measure used as a last resort where the records showed that a person had shown no interest in finding a job. Advisers were sent out to companies to establish comparisons between different types of jobs so as to ensure equal pay for work of equal value. That having been said, it was the unions that were empowered to negotiate wages

with employers' associations, in order in particular to ensure that women received wages equal to those received by men for an equivalent job. The recent increase in wages in the retail sector, which employed a considerable proportion of women, constituted important progress in that respect.

36. The apprenticeship programme had achieved very positive results and was available to migrants on the same terms as to other young people, especially since migrants suffered from multiple forms of discrimination in the job market. Mentoring and support programmes had even been developed to help them. In addition, efforts were being made to ensure better recognition of diplomas from foreign universities in Austria, which would allow young immigrants to enter the job market more easily, find employment in their field of expertise and earn a higher salary.

37. The Government was making every effort to combat informal employment and to ensure that workers' rights were recognized, particularly with regard to social security. Employers were therefore required to register their employees on their first day of work (as opposed to the previous deadline of one week), and laws had been adopted to combat labour exploitation. Any employer who paid wages below a certain minimum was liable to prosecution and very high fines. That law also applied to foreign employers who employed their nationals in Austria and paid them a salary lower than that which an Austrian would have received.

Articles 10 to 12 of the Covenant

38. **Mr. Pillay** asked whether the poverty rate really stood at 5.2 per cent, and what measures the State party had taken to improve the daily lives of the 12,000 people who depended on the food bank for their survival. He wished to know the root causes of homelessness in Austria and asked what guarantees the State party had established to ensure that the housing allowance provided was determined on the basis of people's real needs and not arbitrarily set by the Länder. He asked the delegation to provide further details of the living conditions in refugee reception centres, which, according to information from reliable sources, offered inadequate infrastructure, hygiene, psychological support and access to education.

39. **Ms. Ravenberg**, referring to paragraph 233 of the State party's written replies to the list of issues, asked which population group was not covered by the mandatory health insurance scheme, whether migrant workers, poor people and Roma had access to adequate health care, and whether persons living in rural areas with increasingly poor public transport connections also had access to health services. She asked whether it was true that migrants — particularly those from the countries of the former Yugoslavia and Turkey — were not sufficiently informed about the workings of the Austrian health-care system, and whether asylum seekers, especially those who were poor, truly had access to treatment given that they had to pay health-care costs up front. Lastly, she asked why there had been such an increase in drug-related deaths between 2000 and 2012, and whether former drug users received psychological follow-up.

40. **Mr. Martynov** asked to what extent the demand for nursery services for children under 3 years of age had been met in 2012, and whether it was true that the number of poor people had almost doubled between 2005 and 2010. He would appreciate more detailed statistical data on the employment of persons with disabilities as well as further information on the social protection they received. He wished to know in particular whether the State party planned to amend its general building code to incorporate standards on the accessibility of private buildings for persons with disabilities, as it had done in the case of public buildings.

41. **Mr. Abdel-Moneim** asked about changes in the consumer price index — particularly the price of foodstuffs — and indirect taxes during the reporting period.

42. **Mr. Sadi** asked whether it was true that in some cases child victims of prostitution were considered to be offenders in Austria.

The meeting rose at 1 p.m.