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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 38th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 10 November, at 3 p.m.

Chairperson: Mr. TEXIER

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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 (agenda item 6) *(continued)*

Document submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) ((E/C.12/UNK/1); Core document (HRI/CORE/UNK/2007); List of issues to be taken up (E/C.12/UNK/Q/1); Written replies by UNMIK to the list of issues to be taken up (informal document, distributed at the meeting in English only) *(continued)*

1. *At the invitation of the Chairperson, the UNMIK delegation and the Serbian delegation resumed their seats at the Committee table.*

Articles 6 to 9 of the Covenant

2. Ms. BRAS GOMES asked what measures had been taken by the competent authorities to overcome the problem of unemployment, which seemed to disproportionately affect displaced persons, women and the most vulnerable groups. She drew attention to the adverse effects of the privatization of State enterprises and wanted to know what was being done to help people to re-join the labour market after being made redundant by such a measure. She wanted to know whether there was a law or regulation governing the minimum wage. Noting that, according to certain information sources, men earned 20% more than women for work of the same value, she wanted to hear the UNMIK delegation's opinion on how those disparities could be overcome. Lastly, Ms. Bras Gomes requested additional information on the difficulties encountered by the Kosovo population in gaining access to the social security regime, which stemmed from the fact that many people were not officially registered.

3. Ms. WILSON wanted to know whether people made redundant by the privatization of State enterprises received compensation. According to paragraph 253 of the report under consideration, there were three occupational health institutes dealing specifically with health hazards linked to lead poisoning, the generation of electricity and radiation exposure. She wanted to know whether those institutes carried out inspections in the premises of the enterprises in question. Lastly, asked the UNMIK delegation to reply to question No. 13 of the list of issues to be taken up.

4. Mr. ZHAN Daode asked why pay disparities were so wide between Kosovo's Albanians and Serbs.

5. Mr. ABDEL-MONEIM said that paragraph 185 of the report under review, in which UNMIK explained that Kosovo's economy was "still partly dependent on foreign assistance", completely contradicted paragraph 134, in which UNMIK expressed satisfaction that Kosovo enjoyed "macroeconomic stability, a financial system and a stable fiscal sector, many aspects of which surpass those in developed countries." He asked the delegation for its opinion on that point. He stressed that much remained to be done to guarantee the Kosovo people's basic right to work, and considered that no other right could be exercised if the right to work was not respected.

6. Ms. BONOAN-DANDAN asked the delegation to give a detailed reply to questions 13, 14, 15 and 30 of the list of issues to be taken up.

7. The CHAIRPERSON, speaking as a Committee member, asked what progress had been made on the draft law to recognize the right to strike. Noting the lack of legislation and regulation on that subject, he asked whether any workers had yet gone on strike in Kosovo. He referred to information provided by independent unions that complained that they were not officially recognized, and therefore were unable to exercise their right to collective bargaining.

8. Mr. TSCHOEPKE (UNMIK) said that the unemployment rate, of around 43%, differed greatly between the sexes, with levels of 60% among women and even 80% among those between 15 and 24 years of age. A draft law on employment, prepared after close consultations between UNMIK, the Ministry of Labour and Social Protection and independent unions, had been submitted to the Kosovo Assembly ; but Mr. Tschoepke feared that it would not be adopted because of its major budgetary implications. UNMIK was fully aware of the problem posed by the high rate of unemployment among displaced or repatriated persons, and other vulnerable people, but it would be a long time before the situation improved significantly.

9. People who lost their jobs following the privatization of their firm were entitled to compensation under the Privatization Framework Act. Up to 20% of the proceeds of the sale of each enterprise was earmarked specifically to compensate them. A court had been appointed to review all cases of workers made redundant who considered themselves victims of discrimination. Nonetheless, in keeping with the principle of privatization, enterprises that had changed their status were free to hire the people they chose, and neither UNMIK nor other organizations were entitled to interfere in the hiring process.

10. Mr. HAJREDINI (UNMIK) reported that the Government of Kosovo was currently drafting a law to establish a minimum wage, because there was currently no legislation or regulation on the subject. With regard to cases of lead poisoning in Roma camps located too close to industrial complexes, which had been reported before the arrival of UNMIK, it appeared that the company involved had solved the problem and that the Roma people had moved further away. A commission of inquiry set up by UNMIK would publish a report on the subject in the coming weeks.

11. Mr. Hajredini said that he had no information on health hazards arising from electricity generation at the Kosovo Electric Power Company. With regard to exposure to radiation, the armed forces in 1999 had apparently engaged in activities that caused a number of problems of that type; but, now that the military operations had ended, there was no further health hazard.

12. On steps taken to regularize the situation of workers in the informal sector, it should be noted UNMIK only had limited means available to it. It had been considered preferable and easier to tackle the problem by helping firms create jobs in the formal sector. That policy, supported by the privatization process, had given good results and had caused the informal economy to shrink. Mr. Hajredini added that, in August 2008, the Kosovo Government had adopted an official plan to combat the informal economy for 2008-2009. With regard to social assistance payments, Committee members were referred to the statistics contained in the report under consideration.

13. Mr. TSCHOEPKE (UNMIK), replying to questions and apparent contradictions regarding the economic situation of Kosovo, stressed that although it had long relied on international aid, the situation has improved considerably, partly thanks to privatizations, although the economy was essentially import dependent. At the same time, a legal framework had been set up which, in some spheres — civil aviation for example — was one of the most modern in Europe. With regard to article 8 of the Covenant and the right to strike, a large number of strikes had been held in Kosovo following the privatization of public-sector enterprises, which affected public utility providers. That right had now been incorporated in the constitutional framework and in the Constitution of Kosovo.

14. Mr. HAJREDINI (UNMIK) said that, pursuant to international conventions, Law No. 2027 gave workers the right to associate and join the organization of their choice without prior authorization, provided the organization in question was registered with the Ministry of Labour and Social Protection. Parliament would shortly pass new regulations on the right to strike, union freedom and employment.

15. Mr. TSCHOEPKE (UNMIK) noted that even before the preparation of the detailed legislative framework on privatization, in which the unions had participated, the latter were already defending workers' rights; and they continued to play a very important role, since no law relating to privatization could be enacted without their having been consulted. It was they who prepared the lists of wage-earning employees in firms being privatized, which were sent to the Kosovo Trust Agency.

Articles 10 to 12 of the Covenant

16. Ms. BARAHONA RIERA asked what budget the Government of Kosovo would provide to implement its plan of action on gender equality, and for the related programmes. In relation to article 10, she noted that several laws had been passed to protect families and combat domestic violence; but she deplored the fact that that violence was not considered a punishable criminal offence and wanted to know what the Government intended to do about that situation. She noted that children were also victims of domestic violence and asked whether the Government was taking specific steps to combat the phenomenon. Moreover, there was information to suggest that judges in cases of human trafficking were showing tolerance towards offenders, and it would be interesting to know what was being done to enforce the law more effectively. Ms. Barahona Riera also asked whether programmes and resources had been assigned to sex education and reproductive health education for all, with a view to preventing sexually transmitted diseases and undesired pregnancies, and whether any prosecutions had been brought against the perpetrators of rape, and with what results.

17. Mr. RIEDEL asked what the Government of Kosovo was doing to overcome the problem caused by the pollution of drinking water by sewage and the lack of sanitation structures. At the present time, there were few people affected by HIV/AIDS, but the experience of other countries showed that that situation would not last unless vigorous steps were taken. It would therefore be useful if the UNMIK delegation could indicate whether educational actions had been undertaken and whether local authorities were involved. In its reply to question number 32 of the list of points to be taken up, UNMIK had expressed the opinion that the new procedural law on voluntary jurisdiction applicable to persons suffering from mental illness was not sufficiently clear and was inappropriate in several respects. The

delegation could provide further details on this — it being understood that, whenever a person was hospitalized against their will, it should be done according to a legally defined procedure — and on the repercussions of the community mental health approach. It would be useful to know what the local authorities were doing to make up for the lack of facilities or personnel for rehabilitation, mentioned in paragraph 701 of the report under consideration; and what the abuse that was hindering the distribution of essential drugs consisted of. Mr. Riedel also enquired about measures taken to provide medical care to Kosovo minorities, particularly the Serbs, in view of the situations referred to in paragraphs 739 and 740 of the report.

18. Mr. PILLAY regretted the lack of a reply to question 24 of the list of points to be taken up, relating to programmes implemented to reduce the poverty rate, specially since poverty was a major problem in the country, particularly among the Albanian and Serb populations. He asked whether poverty was being tackled with a human rights approach, and from the standpoint of economic, social and cultural rights in particular. With regard to difficult housing conditions among the Roma people, he was astonished to read in the reply to question 29 of the list of points to be taken up, that no specific steps had been taken to legally ensure security of tenure to Roma people living in informal establishments ; and he asked whether forced evictions were carried out in Kosovo, and whether there were many homeless people.

19. Mr. SADI regretted the fact that three questions on the list of points to be taken up in relation to article 10 had not been replied to, especially as in countries that had experienced armed conflict, women and children were often the group whose rights were least respected. With reference to article 11, he asked about the current standard of living in Kosovo compared to the period before the armed conflict. Lastly, he asked what information UNMIK and the OSCE mission to Kosovo had drawn on to state that the Kosovo Property Claims Commission had not shown prejudice against certain minorities in carrying out their activities, and what was the current status of civil claims for compensation for injury presumably caused by KFOR, UNMIK the Provisional Institutions of Self-Government or the municipalities.

20. Ms. WILSON enquired about the results of programmes organized to combat child labour, since information received from various sources suggested that there were many children selling trinkets on the streets, for example. She also wanted to know how Roma living in lead-contaminated camps were being dealt with and what treatment they were receiving, since, in its reply to question 28 of the lists of points to be taken up, UNMIK stated that care had been discontinued in 2007.

21. Mr. ZHAN Daode said that according to the report under consideration, Kosovo had a real problem of child labour, and he wanted to know what steps the Government had taken to deal with it, and with what results.

22. There were six shelter homes in Kosovo for victims of domestic violence; and the police gave a high priority to domestic violence issues at the local, regional and central levels. The strategy in that domain aimed to prevent violence, prosecute perpetrators and protect victims. The Ministry of Labour and Social Protection had dealt with about 300 cases of that type of violence. In the case of human trafficking, Interpol data showed that there were highly organized trafficking networks in Kosovo, which also operated in neighbouring countries such as Ukraine, the Republic of Moldova, and Romania. A new strategy to combat human

trafficking had been adopted in 2007, coordinated nationally by a deputy minister. The heaviest penalty applied thus far for trafficking had been 12 months imprisonment.

23. Mr. TSCHOEPKE (UNMIK) pointed out that Kosovo was not a country of origin of human trafficking but more one of transit. The problem was being dealt with internationally in cooperation with Interpol, with some success. Legal proceedings in trafficking cases were often pursued in the countries of origin or destination rather than countries of transit.

24. Mr. Tschoepke said he understood that a number of cases of rape were being tried by the criminal courts. Nonetheless, it was possible that some cases never saw the light of day, given the traditional nature of Kosovo society in which it was largely the head of the family who decided what best to do for the victim.

25. Mr. HAJREDINI (UNMIK) stated that information and prevention campaigns on issues such as reproductive health or HIV/AIDS, implemented by government agencies, the World Health Organization or other organizations, tended to encounter obstacles owing to the still very traditional nature of Kosovo society. A commission had been set up to look at issues relating to the prevention of child labour and prepare a framework of action on children's rights in Kosovo. Poverty reduction was one of the priorities of the Ministry of Finance and Economy, which in August 2008 had set up working groups to prepare a White Paper addressing all aspects of economic and social development. The Ministry of Labour and Social Protection was also involved in other poverty-reduction initiatives.

26. Mr. RAYMUNDO (UNMIK) said that the registration of refugees and displaced persons was part of a programme run by the United Nations High Commissioner for Refugees, which provided legal assistance to the individuals concerned. Although local institutional capacities in that domain continued to be strengthened, they were still insufficient. Municipalities were applying the procedure with some flexibility, particularly by extending deadlines for the presentation of certain evidentiary documents, relating to residence, for example. The Ministry of the Interior was currently completing a review of proposals aimed at improving procedures for registering civil registry information.

27. Mr. HAJREDINI (UNMIK) said that civil-registry registration of children of the Roma, Ashkali and Egyptian communities, left much to be desired and compromised the access of those children to the social benefits to which they were entitled. The Government was currently preparing guidelines for improvement, and their implementation would be preceded by an information campaign among the communities concerned.

28. Mr. MORS (UNMIK) said that the Kosovo Property Claims Commission was an international body with members drawn from several nationalities to protect it from the risk of partiality. He believed the Commission's decisions were impartial, but UNMIK was aware of the problem. Where a decision was contested, a plaintive could appeal to the Human Rights Consultative Group.

29. Mr. TSCHOEPKE (UNMIK) said that the figures on persons evicted from their homes were relatively weak because the municipalities usually had to find social housing for the people in question before eviction took place. Several decisions by the Kosovo Property Claims Commission had not been carried out for that reason.

30. On cases involving the International Security Force for Kosovo (KFOR), Mr. Tschöpke said that, while the courts could now receive complaints, they could not prosecute because KFOR members had immunity from prosecution. In the final analysis, KFOR itself and its contributory States, rather than UNMIK, were responsible for dealing with those problems.

31. In answer to a question on waterborne diseases, Mr. Tschöpke said that a pilot wastewater treatment project had not been completed because of a lack of donor funding. Kosovo still did not have a genuine wastewater treatment system. Nonetheless, Mr. Tschöpke did not believe there was a major water quality problem in Kosovo, and he had not heard of any water-related disease. In relation to the relatively small number of people registered as zero-positive, he thought that that could be explained by Kosovo's social structure, which was less susceptible than other countries to problems of that type.

32. Mr. HAJREDINI (UNMIK) said that perinatal mortality had decreased substantially since 2000. Many steps have been taken in that area, and the Health Ministry was persevering with efforts to improve the health of mothers and children at birth.

33. Mr. TSCHOEPKE (UNMIK) said that the first version of the new draft procedural law on voluntary jurisdiction had been rejected by UNMIK, because it seemed contradictory and hard to understand, perhaps owing to translation problems. The Government was currently preparing a new text which ought to gain acceptance this time.

34. Mr. HAJREDINI (UNMIK) said that the Ministry of Health managed seven mental health centres, two of which were not yet operational but were expected to open shortly. The Government was also working on a national plan of action for the disabled, one aspect of which concerned mental health; completion was scheduled for April 2009.

Articles 13 to 15 of the Covenant

35. Mr. KERDOUN regretted that section C of the report under consideration, concerning school dropout, did not contain data with an ethnic-minority breakdown, and he asked the UNMIK to provide this. He believed the only way to prevent boys from abandoning their studies would be to provide financial support to families in difficulty, so that boys were not forced to enter the labour market to contribute to the family income. He asked whether the Kosovo Administration was willing to implement such a provision.

36. Mr. Kerdoun also wanted to know whether the various communities that coexisted in Kosovo all received teaching in their native language, and at all levels of school.

37. Ms. WILSON asked whether the violence seen in schools, which clearly involved both teachers and pupils, was linked to ethnic origin or language; whether the campaign against violence implemented between September 2006 and February 2007, had succeeded in alleviating the phenomenon, and whether it had been extended. She also enquired whether the "Friendly Schools for Children" programme, mentioned in paragraph 800 of the report under consideration had been successful in promoting intercultural and interethnic dialogue, and whether the

central and municipal authorities had implemented other similar programmes or were planning to do so.

38. Mr. MARCHAN ROMERO, noting that UNMIK had admitted making insufficient effort locally to foster a culture of tolerance and mutual respect between the different ethnic groups, said that, since it was neutral, it would nonetheless be the most suitable body to promote interethnic and intercultural dialogue.

39. Mr. Marchan Romero then asked what steps had been taken to conserve the extremely rich cultural heritage that had not been destroyed during the war, and he expressed disappointment that the reconstructed monuments were of poor quality, and work sites were inadequately protected.

40. Lastly, in view of the interim nature of UNMIK, Mr. Marchan Romero wanted to know whether, given its mission to promote human rights in the widest possible way to ensure a successful transition, mission members felt they were hostages of the circumstances that prevented them from taking significant steps to improve the long-term situation.

41. Mr. RZEPLINSKI asked what steps UNMIK had taken to preserve and protect, firstly, the cultural heritage of the Serb community in regions now controlled by the Albanian community, and, secondly, the heritage of the Albanian and Muslim communities in regions now controlled by the Serb minority.

42. As the administration mission was temporary by definition, Mr. Rzeplinski wanted to know what was going to be done in the long run to protect the cultural and religious heritage of Kosovo.

43. Mr. HAJREDINI (UNMIK) said that the Bosnian, Roma, Turkish, Ashkali and Egyptian minorities were well integrated into the education system, and that several subjects (history, art, music) were taught in their native languages at all levels, sometimes even up to higher education.

44. Ms. DEMAJ (UNMIK) said that the Ministry of Education, Science and Technology took the issue of school dropout very seriously, and had set up remedial programmes for minority-group pupils of 6-19 years old, who had been forced to abandon their studies. The aim was to help them reach the level needed to return to mainstream school courses. A total of 4,075 Roma, Ashkali and Egyptian pupils had already benefited from the programme, of whom 865 had been able to rejoin the normal education track.

45. She pointed out that special importance was accorded to school programmes that aimed to raise awareness of the various cultures and traditions of Kosovo's minorities.

46. Mr. TSCHOEPKE (UNMIK) said that the phenomenon of school violence stemmed from the fact that the use of violence as the normal means of settling a dispute was rooted in the spirit of the population. The campaign against violence between September 2006 and February 2007 had been effective, and another would be launched as soon as sufficient funding could be arranged. The donor community would again be approached for that purpose.

47. Mr. HAJREDINI (UNMIK) said that a law on cultural heritage had been adopted by the Kosovo Assembly and promulgated by UNMIK in November 2006.

Meetings between members of UNMIK, KFOR, foreign government offices in Kosovo and other agencies were organized regularly to study ways of ensuring the safety and security of religious sites. Preservation of cultural heritage was of the utmost importance in Kosovo; a budget item financed partly out of the State budget and partly by grants had also been set up to support actions in that domain.

48. Mr. MORS (UNMIK) said that many small-scale but targeted projects were being prepared and implemented at the regional and municipal levels to promote intercultural dialogue. Although those projects could certainly be improved, they had already succeeded in drawing young people from different ethnic origins and cultural backgrounds together around a single cause.

49. Mr. DEKER (UNMIK) explained that, for a long time, KFOR had been responsible for the security of cultural heritage sites, but that responsibility had since been handed over to the UNMIK police and then to the Kosovo police service. Security was now maintained by mobile patrols, and no longer by on-site teams. With regard to the reconstruction of sites that had been destroyed, particularly Orthodox Serbian monuments, the United Nations Educational, Scientific and Cultural Organization (UNESCO), which was responsible for reconstruction work directed by the European Council, had obtained funds from the Kosovo budget and from donors. A successful example of reconstruction work was a monastery at Prishtinë/Priština, which had been reoccupied by the monks who had been living there before its destruction.

50. Mr. TSCHOEPKE (UNMIK) said that UNMIK had promulgated a law creating protected zones around cultural sites, in which all construction work was prohibited.

51. Despite the interim nature of its mandate, UNMIK was still attempting to set up a solid legislative framework that could provide lasting solutions to the problems encountered, both in the economic and cultural domains and in terms of human rights.

52. Ms. DEMAJ (UNMIK) said that the Kosovo Government had requested that the Cultural Heritage Act be translated into the languages of the Albanian, Serb, Roma, Bosnian and Turkish communities. A number of public institutions were working on promoting intercultural dialogue and cultural diversity to improve the integration of minority groups.

53. Mr. STRACEVIC (Republic of Serbia) thanked the members of the Committee for their focused questions and the meticulous way they had reviewed UNMIK actions. Nonetheless, he would have liked more questions to have been asked about privatization and on the Kosovo Property Claims Commission.

54. He noted that in most of their replies, the local authorities had referred to projects currently being prepared or about to be implemented, which showed that much remained to be done in terms of protecting human rights in Kosovo.

55. Mr. Stracevic then thanked UNMIK for its action in Kosovo and called for it to stay there until the situation on the ground improved.

56. The CHAIRPERSON noted that, by speaking at that time, the Head of the Delegation of the Serbian Republic had disregarded the agreement reached with the Committee to refrain from participating in the consideration of the UNMIK report. It had also not been envisaged that four members of the delegation of the Serbian Republic would remain at the Committee table throughout the review. With regard

to the decision on whether or not UNMIK should remain in Kosovo, that did not depend on the Committee but was a matter for the Security Council or General Assembly.

57. The Chairperson declared that the Committee had completed its consideration of the document submitted by the United Nations Interim Administration Mission in Kosovo.

58. *The UNMIK delegation and the Serbian delegation both withdrew.*

The meeting rose at 6.05 p.m.